

CDCP TOLLWAYS OPERATION EMPLOYEES AND WORKERS UNION IN BEHALF OF REYNALDO MIRANDA AND GUILLERMO CARIÑO, JR., PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, CONSTRUCTION A...

G.R. Nos. 76818-19. July 03, 1992

Ponente: NOCON, J.

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NOCON, J.:

This is a petition for certiorari seeking to annul and set aside the November 27, 1986 decision of the public respondent National Labor Relations Commission (NLRC) in holding that Danilo Estanislao and Guillermo Cariño, Jr., whose complicity in the pilferage of private respondent corporation's toll collection was established beyond cavil, are not entitled to separation pay while Lily Maglunog and Reynaldo Miranda are only entitled to separation pay equivalent to one-half month's pay for every year of service, a fraction of at least six months being considered as one whole year.

It appears from the records that petitioners Reynaldo Miranda and Guillermo Cariño, Jr. were toll tellers of private respondent corporation Construction and Development Corporation of the Philippines (now Philippine National Construction Corporation) at its Balintawak Toll Gate, Caloocan City.

At around 1:45 P.M. of July 7, 1983, Victoria Robles, a field auditor of private respondent Corporation saw Rosario Sanchez, a toll teller reliever of said Corporation, come out of Booth No. 5 which was being manned by petitioner Miranda and, thereafter, entered Booth No. 3 manned by petitioner Cariño where she was seen folding a piece of paper into her pocket. Suspecting said piece of paper to be a cash count sheet, Robles told her co-auditor Arnel Sequitin to seek permission from the collection supervisor Leonardo Santos to conduct a body search on Sanchez who was at that time inside Booth No. 12 which was being manned by Lily Maglunog.

Sanchez, initially, refused to be searched but relented upon being informed that the collection supervisor had already given his permission. However, as they were passing the powerhouse on their way to the sub-office where the search would be conducted, Sanchez suddenly stepped inside the powerhouse, pulled out from her pocket the folded cash count sheet and threw it inside the powerhouse. Danilo Estanislao, a technician of private respondent Corporation, who was at that time inside the powerhouse, grabbed said piece of paper and put it inside his pocket.

Upon Robles' demand to turn over to her said piece of paper, Estanislao refused claiming that said piece of paper was a love letter for Sanchez' boyfriend. When Robles insisted, Estanislao threw said piece of paper toward Rodolfo Palad, an incoming security guard of private respondent Corporation, who was then dressing up inside the powerhouse. Believing said piece of paper fell inside the drawer of the security guard, Robles asked Palad to open said drawer. But the security guard refused to follow Robles' order alleging that he shared said drawer with two other security guards and he would only open it with the permission of the Collector Supervisor.

When said drawer was eventually opened, petitioner Cariño, who was standing beside the powerhouse, grabbed

from Robles the folded cash count sheet found inside the guard's drawer. The former crumpled said cash count sheet and put it inside his pocket. When said cash count sheet was finally retrieved from petitioner Cariño, Jr., it yielded P590.00 in paper bills.

Robles also found inside the guard's drawer a carton box which when placed on the floor of the powerhouse was immediately picked up by Estanislao claiming said box is trash which he is throwing out. When Estanislao brought said box outside the powerhouse, auditor Sequitin followed the former and retrieved said box. When said box was opened inside the powerhouse, 47 invalidated patron tickets amounting to P646.00 wrapped in a white plastic were found.

As a result of said incident, Estanislao and Cariño, Jr. were dismissed on August 8, 1983 and August 23, 1983,[1] while Maglunog and Miranda were also dismissed on October 8, 1983 on grounds of loss of trust and confidence.[2]

Thereafter, Estanislao, Cariño, Jr., Maglunog and Miranda filed separate complaints for illegal dismissal, damages and attorney's fees with the Regional Office of the Ministry of Labor and Employment in San Fernando, Pampanga, which were consolidated upon the agreements of the parties.

After the parties submitted their respective position papers and supporting evidence, a decision was rendered on June 27, 1986 by the labor arbiter sustaining the dismissal of the complainants but awarding them separation pay equivalent to one month's salary for every year of service.

On November 27, 1986, respondent NLRC affirmed the order of dismissal of the four employees with the modification that only Maglunog and Miranda may be granted a separation pay of one-half month's pay for every year of service.

As a result, petitioners instituted this petition for certiorari.

Petitioners' contention that the decision of the public respondent NLRC finding Cariño's attempt to cover up the alleged irregularity in private respondent Corporation's toll collection is based on hearsay and not supported by competent and substantial evidence since it gave weight and credence to the investigation report of Amadeo San Antonio, Jr. who was not even an eye-witness to the incident is without merit.

Under the Rules of the National Labor Relations Commission, proceedings before a labor arbiter are summary and non-litigious in nature. The parties, by agreement, may submit their case for decision on the basis of position papers and their supporting evidence. In the case at bar, the investigation report of Amadeo San Antonio, Jr. is one of the supporting evidence submitted by the private respondent Corporation which is attached to its position paper. Although Amadeo San Antonio, Jr. was not an eye-witness to the incident, said fact should not in any way render his report based on mere hearsay and conjecture since said report was based on the testimonies of witnesses who had direct knowledge of the incident. Likewise, the affidavit of Atty. Arnulfo Villanueva which was attached to private respondent Corporation's position paper stated that the cash account sheet containing the amount of P590.00 was handed by petitioner Cariño, Jr. to Sanchez which was corroborated by the field auditor Robles who stated in her affidavit that she saw Sanchez pocket the cash account sheet as she was leaving Booth No. 3 manned by petitioner Cariño, Jr. It should be noted that an administrative proceeding requires only substantial evidence and not proof beyond reasonable doubt as in a criminal proceeding. Furthermore, well-entrenched is the rule that when the conclusions of the labor arbiter are sufficiently corroborated by the evidence on record, the same should be respected by appellate tribunals since he is in a better position to assess and evaluate the credibility of the contending parties.[3]

Petitioners' contention that they should be reinstated with backwages instead of merely being awarded separation

pay because of the findings of the public respondent NLRC that the evidence against them are shaky and weak is also unmeritorious.

Inasmuch as the respondent NLRC stated in its decision that:

"On the issue of sufficiency of evidence raised by the complainants to firm up a finding of guilt on their part, we would say that, except for Estanislao and Cariño, Jr. whose complicity (attempt to cover-up) in the irregularity could hardly be doubted, we share the impression that the evidence linking the two other complainants (Maglunog and Miranda) to the pilferage of the company's collection was rather weak and shaky. But that does not make their termination less valid and unjustified. For loss of confidence is a valid ground for dismissing an employee. And proof beyond reasonable doubt of the employee's misconduct is not required, it being sufficient that there is some basis for the same or that the employer has reasonable ground to believe that the employee is responsible for the misconduct and his participation therein renders him unworthy of the trust and confidence demanded of his position (Villadolid vs. Inciong, G.R. Nos. L-52364 and 53349).

Reiterating this principle, the Supreme Court in the case of SMC vs. Deputy Minister of Labor, et al., G.R. No. 61232-33, 29 December 1983, ruled:

'Loss of confidence is a valid ground for dismissing an employee, and proof beyond reasonable doubt of the employee's misconduct - apparently demanded by the Minister of Labor - is not required to dismiss him on this charge.' "[4]

Consequently, there is no doubt about the legality of petitioner's dismissals. In the case of petitioner Miranda, although his participation in said irregularity may not have been sufficiently established, yet there existed sufficient basis for the private respondent Corporation to lose its confidence in him, which is a valid ground for dismissing an employee and proof beyond reasonable doubt of the employee's misconduct is not required. It is sufficient if there is some basis for such loss of confidence or if the employer has reasonable ground to believe or to entertain the moral conviction that the employee concerned is responsible for the misconduct and that the nature of his participation therein rendered him unworthy of the trust and confidence demanded by his position.[5]

Finally, petitioners contend that they were deprived of due process since they were not informed of the specific or particular cause of their dismissal nor afforded ample opportunity to defend themselves.

The records show that petitioners were notified by the private respondent Corporation of the specific charges against them. In fact, they were apprised of the specific cause in their notices of suspension, that is, on their possible involvement in the conspiracy to commit fraud against respondent Corporation on July 7, 1983. Likewise, said Corporation informed them again in their notices of dismissal of the cause of their dismissals which is their involvement in the conspiracy to commit fraud against respondent Corporation and their willful breach of the trust reposed upon them by the latter. Moreover, in the private Corporation's notice of investigation regarding said incident, all those suspected of complicity in said incident were instructed to appear before a panel of investigation at 1:30 P.M. on July 22, 1983 to testify and present evidence. Since petitioners were given all the opportunity to know the causes of their dismissals and to defend themselves in connection with said incident, they cannot anymore complain that they were deprived of due process of law.

"The law in protecting the rights of the labor, authorizes neither oppression nor self-destruction of the employer. While the Constitution is committed to the policy of social justice and the protection of the working class, it should not be supposed that every labor dispute will be automatically decided in favor of labor. Management also has its own right, which, as such, are entitled to respect and enforcement in the interest of simple fair play. Out of its concern for those with less privileges in life, the Supreme Court has inclined more often than not toward the worker and upheld his cause in his conflicts with the employer. Such favoritism, however, has not blinded the Court to the rule that justice is in every case for the deserving, to be dispensed in

the light of the established facts and applicable law and doctrine.”[6]

WHEREFORE, the assailed decision of the National Labor Relations Commission is affirmed and the petition for certiorari is hereby dismissed for lack of merit.

SO ORDERED.

Narvasa, C.J., (Chairman), Paras, Padilla and Regalado, JJ., concur.

[1] Annex "B".

[2] Annex "A".

[3] Philippine Telegraph and Telephone Corporation vs. NLRC, 183 SCRA 451 (1990).

[4] NLRC's decision, pp. 6-7; Rollo, pp. 59-60.

[5] Sajonas vs. NLRC, 183 SCRA 182 (1990).

[6] Mercury Drug Corporation vs. NLRC, 177 SCRA 580 (1989).

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