

## SECOND DIVISION

**[ G.R. No. 119935, February 03, 1997 ]**

**UNITED SOUTH DOCKHANDLERS, INC., PETITIONER,  
VS. NATIONAL LABOR RELATIONS COMMISSION (FOURTH  
DIVISION) AND BEATO SINGURAN, RESPONDENTS.  
D E C I S I O N**

**PUNO, J.:**

Petitioner United South Dockhandlers, Inc. (USDI) seeks to reverse the decision of the National Labor Relations Commission, dated December 19, 1994, for awarding Beato Singuran separation pay equivalent to 15 months per year of service despite his alleged serious misconduct.

USDI provides arrastre, stevedoring and other related cargo-handling services to all domestic vessels berthed at the government-owned Port of Cebu.

Respondent Beato Singuran worked for USDI for about seventeen (17) years. He was its foreman/timekeeper when he was dismissed on May 25, 1993.

The records show that two (2) metal lamp posts in the custody of USDI were reported missing. The lamp posts were part of the bad order cargoes (discargadas) unloaded from a vessel of Sulpicio Lines, Inc., a client of USDI, and kept at the pier area where respondent Singuran was assigned. On February 20, 1993, without the consent of USDI, Singuran ordered his subordinates to load the lamp posts into a cargo truck and had them delivered to Adelfa Homeowners Association.

Petitioner put respondent under preventive suspension pending his investigation which was set on March 26, 1993 and April 13, 1993. Singuran admitted he took the subject lamp posts and manifested that it was unnecessary to conduct an investigation. He returned the lamp posts upon USDI's demand. On May 25, 1993, he received his letter of dismissal.<sup>[1]</sup>

In return, Singuran filed a complaint for illegal dismissal with prayer for reinstatement and backwages against USDI before the Regional Arbitration Branch of the National Labor Relations Commission.<sup>[2]</sup>

On April 29, 1994, Labor Arbiter Dominador A. Almirante dismissed respondent's complaint. He ruled that Singuran occupied a position of trust and confidence; that he was afforded procedural due process; and that there was a valid cause to dismiss him based on loss of trust and confidence due to dishonesty. Despite said findings, the labor arbiter found the dismissal too severe a penalty. Thus, Singuran was awarded separation pay.<sup>[3]</sup> The rationale for the award is quoted below:

"Ordinarily, an employee who has been dismissed from the service on a legal ground does not deserve an award of separation pay. In this case, considering the length of service of the complainant of almost 18 years without any prior derogatory record, we feel that the extreme penalty of dismissal is disproportionately imposed. Respondent did not suffer any material damage by the infraction committed by complainant, the lump [sic] posts subject of the offense having been returned by him to respondent (USDI). The value of the subject items, although not having been alleged, can be gleaned to be minimal x x x"

"x x x  
x

x x x  
x x x"

Petitioner appealed to the NLRC.

On December 19, 1994, the labor arbiter's decision was affirmed by the Fourth Division (Cebu City) of the National Labor Relations Commission.<sup>[4]</sup> It held:

"We find no reversible error in the appealed Decision.

"The complainant is a long-service employee and his small misdeed herein should not be used to sever his right to tenurial security and lifeline not only for himself but likewise for his family. Moreover, as the Labor Arbiter has found, this is a case of a first offense and the lamp post, apparently of small value, was returned. In other words, there was no damage done.

"Discipline to be meaningful must be corrective and progressive, not punitive.

"However, the complainant did not question the award of the Labor Arbiter.

"WHEREFORE, the instant appeal is hereby DISMISSED for lack of merit. Consequently, the appealed Decision is hereby AFFIRMED.

"SO ORDERED."

USDI's motion for reconsideration was denied.<sup>[5]</sup> Hence, this petition.

Petitioner contends that Singuran was dismissed for a valid cause, and considering the nature and gravity of his offense, he should not have been given separation pay by public respondents.

In its Comment filed on November 17, 1995,<sup>[6]</sup> the Solicitor General supported the stand of petitioner that respondent Singuran is not entitled to separation pay because of his misconduct. Nonetheless, NLRC maintains that equity and compassionate justice demand that Singuran be awarded separation pay equivalent to 15 days month pay per year of service.<sup>[7]</sup>