G.R. No. 126230

SECOND DIVISION

[G.R. No. 126230, September 18, 1997]

CARMEN ARRIETA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, CENTRAL NEGROS ELECTRIC COOPERATIVE, INC. (CENECO) AND CHRISTOPHER RIOS, RESPONDENTS.

D E C I S I O N

REGALADO, J.:

Petitioner Carmen Arrieta started in the employ of private respondent Central Negros Cooperative, Inc. (CENECO) on January 16, 1988 as Executive Secretary to the President and the Board of Directors, under the cooperative's 1987 plantilla with a grade of 7-B and a basic monthly salary of P2,360.00. [1] On April 16, 1988, petitioner was appointed for an indefinite period to the Office of the Board of Directors as its Executive Secretary under Grade 9 and Rank 9-B of the same plantilla, with a basic rate of P3,325.00. [2]

While still enjoying the perquisites and status of an Executive Secretary, petitioner was detailed to the Engineering Department as its Secretary on August 28, 1989. [3] On April 19, 1991, petitioner was upgraded to Rank 9-1 and she started receiving a monthly salary of P4,947.00 (Basic - P3,685.00; CBA - P900.00; Longevity - P250.00; Longevity Pay - P112.00). [4]

On December 18, 1991, the Board of Directors of CENECO passed Resolution No. 5446 abolishing all positions in the 1987 plantilla and adopting a new plantilla submitted and proposed by CENECO's Steering Committee for Reorganization.[5] The reorganization was undertaken to streamline the cooperative's operation and to place the employees in proper positions or groupings. The committee studied the possible reorganization of the cooperative's staffing pattern and assignment of employees in accordance with their educational attainment, qualifications, aptitude and competence. [6]

Under the new plantilla, the Office of the Board of Directors no longer had an Executive Secretary. What was provided for the said office was a Secretary/Stenographer with the grade of 7-9 and an Assistant Secretary with the grade of 5-5. Only Senior Linemen of CENECO were eligible to petitioner's former rank of 9-1 under the new personnel setup of the cooperative. [7]

Pursuant to the resolution of the Board, petitioner was permanently appointed as Secretary in the Engineering Department effective December 1, 1991, with a new grade of 6-5 but with the same monthly rate of P4,947.00 (Basic - P3,243.80; CBA - P900.00; Longevity Pay - P250.00; Holiday Pay - P112.00; Salary differential - P441.20). [8] The grade of 6-5 was assigned to all department secretaries of the cooperative and had a salary scale of P4,505.80 (Basic - P3,243.80; CBA - P900.00;

Longevity Pay - P250.00; Holiday Pay - P112.00). [9]

Petitioner refused to accept her new grade assignment and signed her appointment under protest. [10]

On January 24, 1992, she sent a letter to the General Manager of CENECO, private respondent Christopher Rios, demanding that she be restored to her previous position of Executive Secretary with a rank of 9-1 and a salary rate of P3,325.00. [11]

As the cooperative refused to accede to her demands, petitioner filed a complaint to compel private respondents to restore her to her former position without loss of rank, grade or seniority rights.

The Labor Arbiter found for petitioner and declared private respondents guilty of constructive dismissal. It then directed private respondents to reinstate petitioner to her former position or a substantially equivalent position with a salary grade of 9 and a rank of 9-B, and further ordered them to pay petitioner salary differentials, moral damages, exemplary damages and attorney's fees. [12]

When private respondents brought the case before respondent Commission on appeal, the labor tribunal reversed the decision of the Labor Arbiter and dismissed the complaint against private respondents upon a finding that there was no constructive discharge. [13]

In the instant special civil action, petitioner reiterates her claim before the Labor Arbiter that private respondents are guilty of constructive dismissal because there was a reduction in her basic monthly salary and a demotion in her rank and grade. [14]

She claims that while she received a monthly salary of P3,325.00 as Executive Secretary, she now receives a basic rate of only P3,243.00 under the new appointment, hence her new salary is lower by P81.20.

She contends that there is a demotion because from her previous grade of 9 and rank of 9-B as Executive Secretary, she only enjoys the pay class/step of 6-5 as Secretary of the Engineering Department. Coupled with this, petitioner avers that she was demoted from a "position of dignity (Executive Secretary) to a mere servile or menial position (Department Secretary) which is unreasonable, humiliating or demeaning to say the least."

She insists that her appointment as Secretary of the Engineering Department was carried out by private respondents as a ploy to remove her as Executive Secretary. She supported this claim by pointing to Resolution No. 5619, Series of 1993, of the Board of Directors wherein the grade of Secretary in the Office of the Board of Directors was upgraded to 9-B from 7-9 and the grades of Secretary in the Office of the General Manager and Assistant Secretary in the Office of the Board of Directors to 6-5 from 5-5 effective March 10, 1993. [15]

Being a regular employee, petitioner is of the view that she had already acquired a vested right to the position of Executive Secretary, together with its corresponding

grade, rank and salary, which cannot be impaired by the 1991 reorganization of CENECO.

Unfortunately for her, petitioner's claims fall in light of the validity and legitimacy of the management prerogatives exercised by private respondents.

Much has been said about petitioner's transfer in position but the fact that petitioner's former position had been abolished has not been stressed or amply discussed by the parties. Our considered view is that what actually transpired in petitioner's case is a new appointment in her employment brought about by the reorganization of the cooperative, and not a mere transfer of work assignment.

In Aurelio vs. National Labor Relations Commission, et al., [16] we upheld the power of the board of directors of a corporation to implement a reorganization, including the abolition of various positions, as implied or incidental to its power to conduct the regular business affairs of the corporation. In recognition of the right of management to conduct its own business affairs in achieving its purposes, we declared that management is at liberty, absent any malice on its part, to abolish positions which it deems no longer necessary.

This Court, absent any finding of bad faith on the part of management, will not deny it the right to such initiative simply to protect the person holding that office. In other words, where there is nothing that would indicate that an employee's position was abolished to ease him out of employment, the deletion of that position should be accepted as a valid exercise of management prerogative. [17]

In the instant case, there is nothing in the record to indicate that the abolition of the position of Executive Secretary and petitioner's subsequent appointment to the Engineering Department was adopted by private respondents to force her out of employment. We cannot find any arbitrary act on the part of private respondents that is so unbearable or oppressive as to leave petitioner with no alternative but to give up her employment.

No ill will can be ascribed to private respondents as all the positions specified in the old plantilla were abolished and all other employees were given new appointments. [18] In short, petitioner was not singled out. She was not the only employee affected by the reorganization. The reorganization was fair to petitioner, if not to all of the employees of CENECO.

It should be remembered that petitioner's new appointment was made as a result of valid organizational changes. A thorough review of both the indispensable and the unessential positions was undertaken by a committee, specifically formed for this purpose, before the Board of Directors abolished all the positions. Based on the qualifications and aptitude of petitioner, the committee and, subsequently, private respondents, deemed it best to appoint petitioner as Secretary of the Engineering Department. We cannot meddle in such a decision lest we interfere with the private respondents' right to independently control and manage their operations absent any unfair or inequitable acts.

If the purpose of a reorganization is to be achieved, changes in the positions and rankings of the employees should be expected. To insist on one's old position and