

FIRST DIVISION

[G.R. No. 216599, September 16, 2020]

**VERIZON COMMUNICATIONS PHILIPPINES, INC., PETITIONER,
VS. LAURENCE C. MARGIN, RESPONDENT.**

DECISION

LOPEZ, J.:

Assailed in this Petition for Review (Rule 45) are the following: (1) the Decision^[1] dated August 18, 2014; and (2) the Resolution^[2] dated January 29, 2015, both rendered by the Court of Appeals^[3] (CA), which declared the dismissal of respondent as valid and subsequently denied petitioner's motion for reconsideration.

Antecedents

On March 28, 2012, respondent Laurence C. Margin (Laurence) filed a complaint for illegal dismissal and damages against petitioner Verizon Communications Philippines, Inc. (Verizon).^[4] In his Position Paper,^[5] Laurence alleged that he was hired by Verizon as network engineer on September 3, 2007.^[6] Sometime in January 2012, he noticed a decline in his health and experienced constant nausea, difficulty in breathing, colds and cough with spots of blood. Laurence consulted a doctor who advised him to undergo chest x-ray. The results showed that he was suffering from "*PTB vs. Pneumonia*,"^[7] for which he was recommended to be in isolation and bed rest for 60 days. Laurence informed his manager, Joseph Benjamin Quintal, of his medical condition, and did not report for work from February 3, 2012 to recuperate from his illness. He went to Guimaras Island to quarantine himself and avoid the spread of his disease. On March 14, 2012, he received a notice to explain forwarded from his residence in Cavite.^[8] Laurence then called Joseph to ask why he was being made to explain. Allegedly, Joseph answered that his employment was already terminated on March 12, 2012. On the same day that Laurence filed his complaint, Verizon sent him a letter of termination.^[9]

Laurence claimed to have been illegally dismissed and entitled to his money claims. He alleged that there was no just or authorized cause for his dismissal and Verizon failed to observe the requirements of due process. Laurence did not abandon his work since he was able to notify Verizon of his illness and the need for medical treatment on isolation. Laurence's absence is justified due to his sickness that needs a long period of rest and quarantine to prevent the spread of the disease to his co-workers.^[10]

For its part,^[11] Verizon narrated that, on February 3, 2012, Laurence sent his supervisor, Joseph, a text message notifying of his absence, but did not indicate the

duration of his leave.^[12] Joseph tried to call Laurence wanting to remind the latter to submit a medical certificate and to ask how long he would be out of the office, but Laurence did not take his call. On February 6, 2012, Joseph, through a text message, asked Laurence for his medical certificate and test results,^[13] but Laurence did not reply. After more than a month of not hearing from Laurence, or on March 8, 2012, Verizon sent its company nurse to the house of Laurence to check on him, as well as, serve a notice^[14] requiring him to explain his unauthorized absence and why he should not be considered to have abandoned his work. The notice was received by Laurence's cousin, Melrose Anne Basillas.^[15] It was only on March 14, 2012 that Laurence called Joseph regarding the notice and explained that he had no cellphone reception in the place where he was. On the same day, Laurence sent an email in which he admitted his mistake, apologized for his unauthorized absence, and sought reconsideration of his dismissal.^[16] In view of Laurence's admission, Verizon terminated his employment on March 28, 2012.^[17]

Verizon further averred that Laurence was aware of the company's policies on attendance and absences. Nonetheless, he failed to notify the company of the duration of his leave. The notice he gave to his supervisor is not enough because he did not mention how long he will be absent and did not submit a medical certificate or medical test results. Therefore, Laurence's 38-day absence, from February 3 to March 8, 2012, warrant the termination of his employment. More so, Laurence admitted his mistake in his explanation dated March 14, 2012. There being valid cause to dismiss Laurence, he is not entitled to his monetary claims.

In its Decision^[18] dated February 11, 2013, Labor Arbiter (LA) dismissed the complaint, and reasoned as follows:

Time and again this Office held that in an illegal dismissal case, the onus probandi rests on the employer to prove that the dismissal of an employee is for a valid cause. Failure to show this necessarily means that the dismissal was unjustified and therefore illegal.

Consistently, while the employee's security of tenure is guaranteed by law, it is also well-organized that employers have the right and prerogative to regulate every aspect of the business affairs in accordance with their discretion and judgement subject to the regulation of the State.

The free will o[f] the management to conduct its own business includes the promulgation of policies, rules and regulations on work-related activities. The policies and regulations so promulgated, unless shown to be grossly oppressive or contrary to law are generally valid and binding on the parties and must be complied with until finally revised or amended, unilaterally or through negotiation, by competent authority. x x x.

Undisputed is the fact that respondent company set-forth a rule against absenteeism. As shown by the evidence, the company ha[s] a rule that unauthorized absences for five (5) consecutive days is considered abandonment which carries a penalty of dismissal, x x x

While this tribunal is mindful that complainant notified his Manager Mr. Quintal about his illness on February 3, 2012 and his intention not to report to work that day, this fact does not excuse [sic] him from at least notifying the company of his extended absences. It bears to point out that complainant is a Network Engineer. As admitted by complainant, he is tasked to perform work with the Network Operation Center environment supporting and manage[s] services customer that strongly utilizes DSL and EVDO transport fault analysis and resolution of network anomalies. He was also tasked to diagnose and troubleshoot problems and drive application responsible parties to perform repair activities and drive applicable vendors through escalations and provide ongoing status updates to customer and management x x x. By the nature of his position, the operation of the company evidently] relies greatly on his presence in the site.

Going on prolonged unauthorized absences for thirty eight (38) days indubitably hamper the operation of the company.

Considering that complainant went on prolonged absence without official leave for thirty eight (38) consecutive days, without informing his immediate supervisor or the company about it and without even offering any reasonable explanation for his failure to inform the company of his prolonged absences, the company cannot be faulted to apply its rule on absenteeism.

The contention of complainant that he was waiting for the instruction of his Manager on what to do after he went on leave will not exonerate him of his failure to file an application for leave of absence or at least inform the company of his intention to extend his absence from work, more so, that the company rule which include the rule on absenteeism was made known to all its employees during orientation and the same is even uploaded in the company's web site.^[19] (Citations omitted.)

Aggrieved, Laurence appealed before the National Labor Relations Commission (NLRC), pointing out that the arbiter's Decision did not clearly and distinctly set forth the facts and law from which their conclusion was made. Verizon failed to present sufficient evidence to prove just or authorized cause for the dismissal nor was Verizon able to show that it observed the requirements of due process. Laurence's prolonged absence was due to health reasons and he did not intend to abandon his work.^[20]

The NLRC, in its Decision^[21] dated May 30, 2013, reversed the arbiter's ruling, to wit:

WHEREFORE, the Complainant's Appeal is GRANTED and the Decision dated 11 February 2013 of the Labor Arbiter is SET ASIDE. Respondent-Verizon Communication Philippines Incorporated, Inc. [sic] is hereby ORDERED to pay the Complainant:

1. Backwages from the time he was dismissed or on 28 March 2012 until

the Decision of this case attains finality, based on his last pay before he was dismissed x x x;

x x x x

2. Separation pay equivalent to one month for every year of service, based on his latest salary, from the start of his employment or on 3 September 2007 until the finality of the Decision in this case. A fraction of at least six (6) months shall be considered as one (1) whole year x x x;

x x x x

3. Attorney's fees equivalent to 10% of the total award of backwages and separation pay in the amount of P97,893.01.

SO ORDERED.^[22]

The NLRC held that Laurence was illegally dismissed because of Verizon's failure to show just cause to terminate his employment. There is no showing that Laurence's absence was unauthorized. The company's rules do not require an employee to tender proof of sickness or illness, before or during the time while he/she is sick. What the rules mandate is for an employee to notify his/her manager four hours before sick leave and to submit his/her medical certificate upon return. Laurence was able to notify his immediate supervisor, Joseph Quintal, through text message about his sickness and his leave on February 3, 2012. The NLRC likewise held that Verizon did not give Laurence an opportunity to be heard before he was dismissed.

Unable to secure^[23] a reconsideration,^[24] Verizon files a petition for *certiorari* before the CA reiterating its allegations in the pleadings filed before the labor tribunals.^[25] Consequently, in its Decision^[26] dated August 18, 2014, the CA upheld the Decision of the NLRC that Laurence was illegally dismissed. The CA ruled that Laurence was able to give sufficient information of his absence when he sent a text message to his supervisor. The length of his absence is justified considering that it is common knowledge that pulmonary tuberculosis and pneumonia are serious infectious diseases. And, in implementing the dismissal, Verizon denied Laurence his right to be heard. Verizon moved for reconsideration,^[27] but was denied.^[28] Hence, this petition.

Parties' Arguments

Verizon contends that Laurence was validly dismissed because of his deliberate violation of company rules on unauthorized absences and excessive absenteeism. The CA erroneously interpreted petitioner's company rules and applied the rule on unauthorized absences, and disregarded the provisions on absenteeism and unauthorized absences. Excessive absenteeism is one of the grounds for corrective actions under Verizon's policies. Verizon validly exercised its management prerogative in applying its rules. Finally, it granted Laurence ample opportunity to be heard.

On the other hand, Laurence maintains that he was illegally dismissed. There was

no just or authorized cause for his dismissal nor was he accorded due process. He did not go on absence without leave nor abandoned his work since he notified his supervisor about his sickness. His failure to work was caused by his medical condition, pulmonary tuberculosis, which even to an ordinary person is known to be serious and requires isolation during treatment. Moreover, Laurence contends that he was not apprised of the charges leveled against him. He was not made to explain his absence before he was out rightly dismissed by Verizon.

The Court's Ruling

We partly grant the petition.

Rule 45 of the Rules of the Court limits us to the review only questions of law raised against an assailed Decision.^[29] As a general rule, the Court will not review the factual determination of administrative bodies, as well as, the findings of fact by the CA. The rule though is not absolute as the Court may, in labor cases, review the facts where the findings of the CA and of the labor tribunals are contradictory,^[30] as in this case. The factual findings of the LA, and those of the NLRC and CA are contrasted, giving us sufficient basis to review the facts. Notably, the arbiter concluded that Verizon validly dismissed Laurence for excessive absenteeism sanctioned under its company policies. Laurence's absence was unauthorized because of his failure to notify his supervisor of the nature of his illness and the intended length of his leave of absence. Conversely, the NLRC and the CA ruled that under Verizon's policies, an employee is not required to submit proof of illness while he is on sick leave. It is sufficient that Laurence was able to notify his supervisor that he was diagnosed with tuberculosis before his absence. Thus, the question of whether Laurence was illegally dismissed is a question of fact, the determination of which entails an evaluation of the evidence on record.

*Laurence did not violate
Verizon's rules on authorized
and unauthorized absences.*

In an illegal dismissal case, the employer has the burden of proving that an employee's dismissal from service was for a just or authorized cause.^[31] Otherwise, the employer's failure shall result in a finding that the dismissal is unjustified.^[32] Here, Verizon dismissed Laurence because of his deliberate violation of company rules; the pertinent portion of which is hereunder quoted:

ATTENDANCE AND PUNCTUALITY

You are expected to report to work on time and on a regular basis. Excessive absenteeism and tardiness will be grounds for corrective action, including termination.

Excessive absenteeism and tardiness adversely affect productivity, disrupt normal operating effectiveness, and overburden other employees who must cover for the employee who is absent.

ATTENDANCE AND ABSENCES - An employee is expected to report for work on the days and time required by their respective positions.