

## FIRST DIVISION

[ G.R. No. 205727, January 18, 2017 ]

**RUTCHER T. DAGASDAS, PETITIONER, VS. GRAND PLACEMENT  
AND GENERAL SERVICES CORPORATION, RESPONDENT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

Before us is a Petition for Review on *Certiorari* assailing the September 26, 2012 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 115396, which annulled and set aside the March 29, 2010<sup>[2]</sup> and June 2, 2010<sup>[3]</sup> Resolutions of the National Labor Relations Commission (NLRC) in NLRC LAC OFW-L-02-000071-10, and concomitantly reinstated the November 27, 2009 Decision<sup>[4]</sup> of the Labor Arbiter (LA) dismissing the Complaint for lack of merit.

Also challenged is the January 28, 2013 Resolution<sup>[5]</sup> denying the Motion for Reconsideration filed by Rutchter T. Dagasdas (Dagasdas).

#### ***Factual Antecedents***

Grand Placement and General Services Corp. (GPGS) is a licensed recruitment or placement agency in the Philippines while Saudi Aramco (Aramco) is its counter part in Saudi Arabia. On the other hand, Industrial & Management Technology Methods Co. Ltd. (ITM) is the principal of GPGS, a company existing in Saudi Arabia.<sup>[6]</sup>

In November 2007, GPGS, for and on behalf of ITM, employed Dagasdas as Network Technician. He was to be deployed in Saudi Arabia under a one year contract<sup>[7]</sup> with a monthly salary of Saudi Riyal (SR) 5,112.00. Before leaving the Philippines, Dagasdas underwent skill training<sup>[8]</sup> and pre departure orientation as Network Technician.<sup>[9]</sup> Nonetheless, his Job Offer<sup>[10]</sup> indicated that he was accepted by Aramco and ITM for the position of "Supt" Dagasdas contended that although his position under his contract was as a Network Technician, he actually applied for and was engaged as a Civil Engineer considering that his transcript of records,<sup>[11]</sup> diploma<sup>[12]</sup> as well as his curriculum vitae<sup>[13]</sup> showed that he had a degree in Civil Engineering, and his work experiences were all related to this field. Purportedly, the position of Network Technician was only for the purpose of securing a visa for Saudi Arabia because ITM could not support visa application for Civil Engineers.<sup>[14]</sup>

On February 8, 2008, Dagasdas arrived in Saudi Arabia.<sup>[15]</sup> Thereafter, he signed with ITM a new employment contract<sup>[16]</sup> which stipulated that the latter contracted him as Superintendent or in any capacity within the scope of his abilities with salary of SR5,112.00 and allowance of SR2,045.00 per month. Under this contract, Dagasdas shall be placed under a three month probationary period; and, this new

contract shall cancel all contracts prior to its date from any source.

On February 11, 2008, Dagasdas reported at ITM's worksite in Khurais, Saudi Arabia.<sup>[17]</sup> There, he was allegedly given tasks suited for a Mechanical Engineer, which were foreign to the job he applied for and to his work experience. Seeing that he would not be able to perform well in his work, Dagasdas raised his concern to his Supervisor in the Mechanical Engineering Department. Consequently, he was transferred to the Civil Engineering Department, was temporarily given a position as Civil Construction Engineer, and was issued an identification card good for one month. Dagasdas averred that on March 9, 2008, he was directed to exit the worksite but Rashid H. Siddiqui (Siddiqui), the Site Coordinator Manager, advised him to remain in the premises, and promised to secure him the position he applied for. However, before Dagasdas' case was investigated, Siddiqui had severed his employment with ITM.<sup>[18]</sup>

In April 2008, Dagasdas returned to Al-Khobar and stayed at the ITM Office.<sup>[19]</sup> Later, ITM gave him a termination notice<sup>[20]</sup> indicating that his last day of work was on April 30, 2008, and he was dismissed pursuant to clause 17.4.3 of his contract, which provided that ITM reserved the right to terminate any employee within the three-month probationary period without need of any notice to the employee.<sup>[21]</sup>

Before his repatriation, Dagasdas signed a Statement of Quitclaim<sup>[22]</sup> with Final Settlement<sup>[23]</sup> stating that ITM paid him all the salaries and benefits for his services from February 11, 2008 to April 30, 2008 in the total amount of SR7,156.80, and ITM was relieved from all financial obligations due to Dagasdas.

On June 24, 2008, Dagasdas returned to the Philippines.<sup>[24]</sup> Thereafter, he filed an illegal dismissal case against GPGS, ITM, and Aramco.

Dagasdas accused GPGS, ITM, and Aramco of misrepresentation, which resulted in the mismatch in the work assigned to him. He contended that such claim was supported by exchanges of electronic mail (e-mail) establishing that GPGS, ITM, and Aramco were aware of the job mismatch that had befallen him.<sup>[25]</sup> He also argued that although he was engaged as a project employee, he was still entitled to security of tenure for the duration of his contract. He maintained that GPGS, ITM, and Aramco merely invented "imaginary cause/s" to terminate him. Thus, he claimed that he was dismissed without cause and due process of law.<sup>[26]</sup>

GPGS, ITM, and Aramco countered that Dagasdas was legally dismissed. They explained that Dagasdas was aware that he was employed as Network Technician but he could not perform his work in accordance with the standards of his employer. They added that Dagasdas was informed of his poor performance, and he conformed to his termination as evidenced by his quitclaim.<sup>[27]</sup> They also stressed that Dagasdas was only a probationary employee since he worked for ITM for less than three months.<sup>[28]</sup>

### ***Ruling of the Labor Arbiter***

On November 27, 2009, the LA dismissed the case for lack of merit.

The LA pointed out that when Dagasdas signed his new employment contract in Saudi Arabia, he accepted its stipulations, including the fact that he had to undergo probationary status. She declared that this new contract was more advantageous for Dagasdas as his position was upgraded to that of a Superintendent, and he was likewise given an allowance of SR2,045.00 aside from his salary of SR5,112.00 per month. According to the LA, for being more favorable, this new contract was not prohibited by law. She also decreed that Dagasdas fell short of the expected work performance; as such, his employer dismissed him as part of its management prerogative.

Consequently, Dagasdas appealed to the NLRC.

### ***Ruling of the National Labor Relations Commission***

On March 29, 2010, the NLRC issued a Resolution finding Dagasdas' dismissal illegal. The decretal portion of the NLRC Resolution reads:

WHEREFORE, the decision appealed from is hereby REVERSED, and the respondent[s] are hereby ordered to pay the complainant the salaries corresponding to the unexpired portion of his contract amounting to SR46,008 (SR5112 x 9 months, or from May 1, 2008 to January 31, 2009), plus ten percent (10%) thereof as attorney's fees. The respondents are jointly and severally liable for the judgment awards, which are payable in Philippine currency converted on the basis of the exchange rate prevailing at the time of actual payment.

SO ORDERED.<sup>[29]</sup>

The NLRC stated that Dagasdas, who was a Civil Engineering graduate, was "recruited on paper" by GPGS as Network Technician but the real understanding between the parties was to hire him as Superintendent. It held that GPGS erroneously recruited Dagasdas, and failed to inform him that he was hired as a "Mechanical Superintendent" meant for a Mechanical Engineer. It declared that while ITM has the prerogative to continue the employment of individuals only if they were qualified, Dagasdas' dismissal amounted to illegal termination since the mismatch between his qualifications and the job given him was no fault of his.

The NLRC added that Dagasdas should not be made to suffer the consequences of the miscommunication between GPGS and ITM considering that the government obligates employment agencies recruiting Filipinos for overseas work to "select only medically and technically qualified recruits."<sup>[30]</sup>

On June 2, 2010, the NLRC denied the Motion for Reconsideration of its Resolution dated March 29, 2010.

Undeterred, GPGS filed a Petition for *Certiorari* with the CA ascribing grave abuse of discretion on the part of the NLRC in ruling that Dagasdas was illegally dismissed.

### ***Ruling of the Court of Appeals***

On September 26, 2012, the CA set aside the NLRC Resolutions and reinstated the

LA Decision dismissing the case for lack of merit.

The CA could not accede to the conclusion that the real agreement between the parties was to employ Dagasdas as Superintendent. It stressed that Dagasdas left the Philippines pursuant to his employment contract indicating that he was to work as a Network Technician; when he arrived in Saudi Arabia and signed a new contract for the position of a Superintendent, the agreement was with no participation of GPGS, and said new contract was only between Dagasdas and ITM. It emphasized that after commencing work as Superintendent, Dagasdas realized that he could not perform his tasks, and "[s]eemingly, it was [Dagasdas] himself who voluntarily withdrew from his assigned work for lack of competence."<sup>[31]</sup> It faulted the NLRC for failing to consider that Dagasdas backed out as Superintendent on the excuse that the same required the skills of a Mechanical Engineer.

In holding that Dagasdas' dismissal was legal, the CA gave credence to Dagasdas' Statement of Quitclaim and Final Settlement. It ruled that for having voluntarily accepted money from his employer, Dagasdas accepted his termination and released his employer from future financial obligations arising from his past employment with it.

On January 28, 2013, the CA denied Dagasdas' Motion for Reconsideration.

Hence, Dagasdas filed this Petition raising these grounds:

[1] THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT REVERSED THE FACTUAL FINDINGS OF THE NATIONAL LABOR RELATIONS COMMISSION.<sup>[32]</sup>

[2] THE HONORABLE COURT OF APPEALS PATENTLY ERRED WITH ITS FINDINGS THAT THE CONTRACT SIGNED BY DAGASDAS IN ALKHOBAR IS MORE ADVANTAGEOUS TO THE LATTER AND THAT IT WAS [H]IS PERSONAL ACT OR DECISION [TO SIGN] THE SAME.<sup>[33]</sup>

[3] THE HONORABLE COURT OF APPEALS ALSO GRAVELY ERRED IN FAULTING THE NLRC FOR HS FAILURE TO INVALID ARE OR DISCUSS THE FINAL SETTLEMENT AND STATEMENT OF QUITCLAIM SIGNED BY [DAGASDAS].<sup>[34]</sup>

Dagasdas reiterates that he was only recruited "on paper" as a Network Technician but the real agreement between him and his employer was to engage him as Superintendent in the field of Civil Engineering, he being a Civil Engineering graduate with vast experience in said field. He stresses that he was terminated because of a "discipline mismatch" as his employer actually needed a Mechanical (Engineer) Superintendent, not a Civil Engineer.

In addition, Dagasdas insists that he did not voluntarily back out from his work. If not for the discipline mismatch, he could have performed his job as was expected of him. He also denies that the new employment contract he signed while in Saudi Arabia was more advantageous to him since the basic salary and allowance stipulated therein are just the same with that in his Job Offer. He argues that the new contract was even disadvantageous because it was inserted therein that he still had to undergo probationary status for three months.

Finally, Dagasdas contends that the new contract he signed while in Saudi Arabia was void because it was not approved by the Philippine Overseas Employment Administration (POEA). He also claims that CA should have closely examined his quitclaim because he only signed it to afford his plane ticket for his repatriation.

On the other hand, GPGS maintains that Dagasdas was fully aware that he applied for and was accepted as Network Technician. It also stresses that it was Dagasdas himself who decided to accept from ITM a new job offer when he arrived in Saudi Arabia. It further declares that Dagasdas' quitclaim is valid as there is no showing that he was compelled to sign it.

### **Issue**

Was Dagasdas validly dismissed from work?

### **Our Ruling**

The Petition is with merit.

As a rule, only questions of law may be raised in a petition under Rule 45 of the Rules of Court. However, this rule allows certain exceptions, including a situation where the findings of fact of the courts or tribunals below are conflicting.<sup>[35]</sup> In this case, the CA and the NLRC arrived at divergent factual findings anent Dagasdas' termination. As such, the Court deems it necessary to re-examine these findings and determine whether the CA has sufficient basis to annul the NLRC Decision, and set aside its finding that Dagasdas was illegally dismissed from work.

Moreover, it is well-settled that employers have the prerogative to impose standards on the work quantity and quality of their employees and provide measures to ensure compliance therewith. Non-compliance with work standards may thus be a valid cause for dismissing an employee. Nonetheless, to ensure that employers will not abuse their prerogatives, the same is tempered by security of tenure whereby the employees are guaranteed substantive and procedural due process before they are dismissed from work.<sup>[36]</sup>

Security of tenure remains even if employees, particularly the overseas Filipino workers (OFW), work in a different jurisdiction. Since the employment contracts of OFWs are perfected in the Philippines, and following the principle of *lex loci contractus* (the law of the place where the contract is made), these contracts are governed by our laws, primarily the Labor Code of the Philippines and its implementing rules and regulations,<sup>[37]</sup> At the same time, our laws generally apply even to employment contracts of OFWs as our Constitution explicitly provides that the State shall afford full protection to labor, whether local or overseas.<sup>[38]</sup> Thus, even if a Filipino is employed abroad, he or she is entitled to security of tenure, among other constitutional rights.<sup>[39]</sup>

In this case, prior to his deployment and while still in the Philippines, Dagasdas was made to sign a POEA-approved contract with GPGS, on behalf of ITM; and, upon arrival in Saudi Arabia, ITM made him sign a new employment contract. Nonetheless, this new contract, which was used as basis for dismissing Dagasdas, is