

## SECOND DIVISION

[ G.R. No. 189947, January 25, 2012 ]

**MANILA PAVILION HOTEL, OWNED AND OPERATED BY ACESITE  
(PHILS.) HOTEL CORPORATION, PETITIONER, VS. HENRY  
DELADA, RESPONDENT.**

### D E C I S I O N

**SERENO, J.:**

Before the Court is a Petition for Review on *Certiorari* filed under Rule 45 of the Revised Rules of Court, assailing the 27 July 2009 Decision and 12 October 2009 Resolution of the Court of Appeals (CA).<sup>[1]</sup>

#### *Facts*

The present Petition stems from a grievance filed by respondent Henry Delada against petitioner Manila Pavilion Hotel (MPH). Delada was the Union President of the Manila Pavilion Supervisors Association at MPH. He was originally assigned as Head Waiter of *Rotisserie*, a fine-dining restaurant operated by petitioner. Pursuant to a supervisory personnel reorganization program, MPH reassigned him as Head Waiter of *Seasons Coffee Shop*, another restaurant operated by petitioner at the same hotel. Respondent declined the inter-outlet transfer and instead asked for a grievance meeting on the matter, pursuant to their Collective Bargaining Agreement (CBA). He also requested his retention as Head Waiter of *Rotisserie* while the grievance procedure was ongoing.

MPH replied and told respondent to report to his new assignment for the time being, without prejudice to the resolution of the grievance involving the transfer. He adamantly refused to assume his new post at the *Seasons Coffee Shop* and instead continued to report to his previous assignment at *Rotisserie*. Thus, MPH sent him several memoranda on various dates, requiring him to explain in writing why he should not be penalized for the following offenses: serious misconduct; willful disobedience of the lawful orders of the employer; gross insubordination; gross and habitual neglect of duties; and willful breach of trust.

Despite the notices from MPH, Delada persistently rebuffed orders for him to report to his new assignment. According to him, since the grievance machinery under their CBA had already been initiated, his transfer must be held in abeyance. Thus, on 9 May 2007, MPH initiated administrative proceedings against him. He attended the hearings together with union representatives.

Meanwhile, the parties failed to reach a settlement during the grievance meeting concerning the validity of MPH's transfer order. Respondent then elevated his grievance to the Peers Resources Development Director. Still, no settlement between the parties was reached. Respondent appealed the matter to the Grievance

Committee level. The committee recommended that he proceed to the next level of the grievance procedure, as it was unable to reach a decision on the matter. Consequently, on 20 April 2007, Delada lodged a Complaint before the National Conciliation and Mediation Board. On 25 May 2007, the parties agreed to submit the following issues for voluntary arbitration:

- I. WHETHER OR NOT THE TRANSFER OF THE UNION PRESIDENT FROM HEAD WAITER AT ROTISSERIE TO HEAD WAITER AT SEASONS RESTAURANT IS VALID AND JUSTIFIED;
- II. WHETHER OR NOT THE PREVENTIVE SUSPENSION OF THE COMPLAINANT IS VALID AND JUSTIFIED;
- III. WHETHER OR NOT THE PREVENTIVE SUSPENSION OF THE COMPLAINANT IS A VALID GROUND TO STRIKE;
- IV. WHETHER OR NOT THE RESPONDENT MAY BE HELD LIABLE FOR MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES; AND
- V. WHETHER OR NOT THE COMPLAINANT MAY BE HELD LIABLE FOR MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES. [2]

While respondent's Complaint concerning the validity of his transfer was pending before the Panel of Voluntary Arbitrators (PVA), MPH continued with the disciplinary action against him for his refusal to report to his new post at *Seasons Coffee Shop*. Citing security and safety reasons, petitioner also placed respondent on a 30-day preventive suspension. On 8 June 2007, MPH issued a Decision, which found him guilty of insubordination based on his repeated and willful disobedience of the transfer order. The Decision imposed on Delada the penalty of 90-day suspension. He opposed the Decision, arguing that MPH had lost its authority to proceed with the disciplinary action against him, since the matter had already been included in the voluntary arbitration.

On 14 December 2007, the PVA issued a Decision and ruled that the transfer of Delada was a valid exercise of management prerogative. According to the panel, the transfer order was done in the interest of the efficient and economic operations of MPH, and that there was no malice, bad faith, or improper motive attendant upon the transfer of Delada to *Seasons Coffee Shop*. They found that the mere fact that he was the Union President did not "put color or ill motive and purpose" to his transfer. On the contrary, the PVA found that the real reason why he refused to obey the transfer order was that he asked for additional monetary benefits as a condition for his transfer. Furthermore, the panel ruled that his transfer from *Rotisserie* to *Seasons Coffee Shop* did not prejudice or inconvenience him. Neither did it result in diminution of salaries or demotion in rank. The PVA thus pronounced that Delada had no valid and justifiable reason to refuse or even to delay compliance with the management's directive.

The PVA also ruled that there was no legal and factual basis to support petitioner's imposition of preventive suspension on Delada. According to the panel, the mere assertion of MPH that "it is not far-fetched for Henry Delada to sabotage the food to

be prepared and served to the respondent's dining guest and employees because of the hostile relationship then existing" was more imagined than real. It also found that MPH went beyond the 30-day period of preventive suspension prescribed by the Implementing Rules of the Labor Code when petitioner proceeded to impose a separate penalty of 90-day suspension on him. Furthermore, the PVA ruled that MPH lost its authority to continue with the administrative proceedings for insubordination and willful disobedience of the transfer order and to impose the penalty of 90-day suspension on respondent. According to the panel, it acquired exclusive jurisdiction over the issue when the parties submitted the aforementioned issues before it. The panel reasoned that the joint submission to it of the issue on the validity of the transfer order encompassed, by necessary implication, the issue of respondent's insubordination and willful disobedience of the transfer order. Thus, MPH effectively relinquished its power to impose disciplinary action on Delada.<sup>[3]</sup>

As to the other issues, the panel found that there was no valid justification to conduct any strike or concerted action as a result of Delada's preventive suspension. It also ruled that since the 30-day preventive suspension and the penalty of 90-day suspension was invalid, then MPH was liable to pay back wages and other benefits.

The CA affirmed the Decision of the PVA and denied petitioner's Motion for Reconsideration. Consequently, MPH filed the instant Petition.

### ***Issue***

Despite the various issues surrounding the case, MPH limited its appeal to the following:

- I. Whether MPH retained the authority to continue with the administrative case against Delada for insubordination and willful disobedience of the transfer order.
  
- II. Whether MPH is liable to pay back wages.

### ***Discussion***

Petitioner argues that it did not lose its authority to discipline Delada notwithstanding the joint submission to the PVA of the issue of the validity of the transfer order. According to petitioner, the specific issue of whether respondent could be held liable for his refusal to assume the new assignment was not raised before the PVA, and that the panel's ruling was limited to the validity of the transfer order. Thus, petitioner maintains that it cannot be deemed to have surrendered its authority to impose the penalty of suspension.

In *Sime Darby Pilipinas, Inc. v. Deputy Administrator Magsalin*,<sup>[4]</sup> we ruled that the voluntary arbitrator had plenary jurisdiction and authority to interpret the agreement to arbitrate and to determine the scope of his own authority - subject only, in a proper case, to the certiorari jurisdiction of this Court. In that case, the specific issue presented was "the issue of performance bonus." We then held that the arbitrator had the authority to determine not only the issue of whether or not a performance bonus was to be granted, but also the related question of the amount