

SECOND DIVISION

[G.R. No. 179428, January 26, 2011]

PRIMO E. CAONG, JR., ALEXANDER J. TRESQUIO, AND LORIANO D. DALUYON, PETITIONERS, VS. AVELINO REGUALOS, RESPONDENT.

D E C I S I O N

NACHURA, J.:

Is the policy of suspending drivers pending payment of arrears in their boundary obligations reasonable? The Court of Appeals (CA) answered the question in the affirmative in its Decision ^[1] dated December 14, 2006 and Resolution dated July 16, 2007. In this petition for review on *certiorari*, we take a second look at the issue and determine whether the situation at bar merits the relaxation of the application of the said policy.

Petitioners Primo E. Caong, Jr. (Caong), Alexander J. Tresquio (Tresquio), and Lorian D. Daluyon (Daluyon) were employed by respondent Avelino Regualos under a boundary agreement, as drivers of his *jeepneys*. In November 2001, they filed separate complaints ^[2] for illegal dismissal against respondent who barred them from driving the vehicles due to deficiencies in their boundary payments.

Caong was hired by respondent in September 1998 and became a permanent driver sometime in 2000. In July 2001, he was assigned a brand- new *jeepney* for a boundary fee of P550.00 per day. He was suspended on October 9-15, 2001 for failure to remit the full amount of the boundary. Consequently, he filed a complaint for illegal suspension. Upon expiration of the suspension period, he was readmitted by respondent, but he was reassigned to an older *jeepney* for a boundary fee of P500.00 per day. He claimed that, on November 9, 2001, due to the scarcity of passengers, he was only able to remit P400.00 to respondent. On November 11, 2001, he returned to work after his rest day, but respondent barred him from driving because of the deficiency in the boundary payment. He pleaded with respondent but to no avail. ^[3]

Tresquio was employed by respondent as driver in August 1996. He became a permanent driver in 1997. In 1998, he was assigned to drive a new *jeepney* for a boundary fee of P500.00 per day. On November 6, 2001, due to the scarcity of passengers, he was only able to remit P450.00. When he returned to work on November 8, 2001 after his rest day, he was barred by respondent because of the deficiency of P50.00. He pleaded with respondent but the latter was adamant. ^[4]

On the other hand, Daluyon started working for respondent in March 1998. He became a permanent driver in July 1998. He was assigned to a relatively new *jeepney* for a boundary fee of P500.00 per day. On November 7, 2001, due to the scarcity of passengers, he was only able to pay P470.00 to respondent. The

following day, respondent barred him from driving his *jeepney*. He pleaded but to no avail. [5]

During the mandatory conference, respondent manifested that petitioners were not dismissed and that they could drive his *jeepneys* once they paid their arrears. Petitioners, however, refused to do so.

Petitioners averred that they were illegally dismissed by respondent without just cause. They maintained that respondent did not comply with due process requirements before terminating their employment, as they were not furnished notice apprising them of their infractions and another informing them of their dismissal. Petitioners claimed that respondent's offer during the mandatory conference to reinstate them was an insincere afterthought as shown by the warning given by respondent that, if they fail to remit the full amount of the boundary yet again, they will be barred from driving the *jeepneys*. Petitioners questioned respondent's policy of automatically dismissing the drivers who fail to remit the full amount of the boundary as it allegedly (a) violates their right to due process; (b) does not constitute a just cause for dismissal; (c) disregards the reality that there are days when they could not raise the full amount of the boundary because of the scarcity of passengers.

In his Position Paper, respondent alleged that petitioners were lessees of his vehicles and not his employees; hence, the Labor Arbiter had no jurisdiction. He claimed that he noticed that some of his lessees, including petitioners, were not fully paying the daily rental of his *jeepneys*. In a list which he attached to the Position Paper, it was shown that petitioners had actually incurred arrears since they started working. The list showed that Caong's total arrears amounted to P10,315.00, that of Tresquio was P10,760.00, while that of Daluyon was P6,890.00. He made inquiries and discovered that his lessees contracted loans with third parties and used the income of the *jeepneys* in paying the loans. Thus, on November 4, 2001, he gathered all the lessees in a meeting and informed them that, effective November 5, 2001, those who would fail to fully pay the daily rental would not be allowed to rent a *jeepney* on the following day. He explained to them that the *jeepneys* were acquired on installment basis, and that he was paying the monthly amortizations through the lease income. Most of the lessees allegedly accepted the condition and paid their arrears. Petitioners, however, did not settle their arrears. Worse, their remittances were again short of the required boundary fee. Petitioner Daluyon's rent payment was short of P20.00 on November 5, 2001 and P80.00 on November 7, 2001. On November 6, 2001, it was Tresquio who incurred an arrear of P100.00. On November 7 and 9, 2001, petitioner Caong was in arrear of P50.00 and P100.00, respectively. Respondent stressed that, during the mandatory conference, he manifested that he would renew his lease with petitioners if they would pay the arrears they incurred during the said dates. [6]

On March 31, 2003, the Labor Arbiter decided the case in favor of respondent, thus:

WHEREFORE, judgment is hereby rendered, DISMISSING the above-entitled cases for lack of merit. However, respondent Regualos is directed to accept back complainants Caong, Tresquio and Daluyon, as regular drivers of his passenger jeepneys, after complainants have paid their respective arrearages they have incurred in the remittance of their

respective boundary payments, in the amount of P150.00, P100.00 and P100.00. Complainants, if still interested to work as drivers, are hereby ordered to report to respondent Regualos within fifteen (15) days from the finality of this decision. Otherwise, failure to do so means forfeiture of their respective employments.

Other claims of complainants are dismissed for lack of merit.

SO ORDERED. [7]

According to the Labor Arbiter, an employer-employee relationship existed between respondent and petitioners. The latter were not dismissed considering that they could go back to work once they have paid their arrears. The Labor Arbiter opined that, as a disciplinary measure, it is proper to impose a reasonable sanction on drivers who cannot pay their boundary payments. He emphasized that respondent acquired the jeepneys on loan or installment basis and relied on the boundary payments to comply with his monthly amortizations. [8]

Petitioners appealed the decision to the National Labor Relations Commission (NLRC). In its resolution [9] dated March 31, 2004, the NLRC agreed with the Labor Arbiter and dismissed the appeal. It also denied petitioners' motion for reconsideration. [10]

Forthwith, petitioners filed a petition for *certiorari* with the CA.

In its Decision [11] dated December 14, 2006, the CA found no grave abuse of discretion on the part of the NLRC. According to the CA, the employer-employee relationship of the parties has not been severed, but merely suspended when respondent refused to allow petitioners to drive the *jeepneys* while there were unpaid boundary obligations. The CA pointed out that the fact that it was within the power of petitioners to return to work is proof that there was no termination of employment. The condition that petitioners should first pay their arrears only for the period of November 5-9, 2001 before they can be readmitted to work is neither impossible nor unreasonable if their total unpaid boundary obligations and the need to sustain the financial viability of the employer's enterprise--which would ultimately redound to the benefit of the employees--are taken into consideration. [12]

The CA went on to rule that petitioners were not denied their right to due process. It pointed out that the case does not involve a termination of employment; hence, the strict application of the twin-notice rule is not warranted. According to the CA, what is important is that petitioners were given the opportunity to be heard. The meeting conducted by respondent on November 4, 2001 served as sufficient notice to petitioners. During the said meeting, respondent informed his employees, including petitioners, to strictly comply with the policy regarding remittances and warned them that they would not be allowed to take out the *jeepneys* if they did not remit the full amount of the boundary. [13]

Dissatisfied, petitioners filed a motion for reconsideration, but the CA denied the motion in its Resolution dated July 16, 2007. [14]