

SECOND DIVISION

[G.R. No. 172601, April 16, 2009]

AILEEN G. HERIDA, PETITIONER VS. F & C PAWNSHOP AND JEWELRY STORE/MARCELINO FLORETE, JR., RESPONDENTS.

DECISION

QUISUMBING, J.:

Petitioner seeks the reversal of the Decision^[1] dated September 16, 2005 and the Resolution^[2] dated April 21, 2006 of the Court of Appeals in CA-G.R. SP No. 82553 which affirmed the Resolution^[3] dated October 23, 2003 of the National Labor Relations Commission (NLRC) in NLRC Case No. V-000177-2000.

The antecedent facts of the case are as follows:

Petitioner Aileen G. Herida was an employee of respondent F & C Pawnshop and Jewelry Store owned by respondent Marcelino Florete, Jr. She was hired as a sales clerk and eventually promoted as an appraiser in the Bacolod City Branch.

On August 1, 1998, management issued an office memorandum^[4] directing petitioner to report to the Guanco Branch in Iloilo City. As petitioner refused to follow the directive, she was preventively suspended from work on August 10, 1998 for a period of 15 days effective August 7, 1998. She was also directed to report to her new assignment on August 24, 1998.^[5]

On August 10, 1998, petitioner filed a complaint^[6] for illegal dismissal, underpayment of wages, non-payment of separation pay, 13th month pay, as well as for payment of moral and exemplary damages and attorney's fees.

On August 26, 1998, management informed petitioner that it will conduct an investigation on September 7, 1998^[7] which petitioner failed to attend. In a letter dated September 7, 1998, management terminated her services on the grounds of willful disobedience, insubordination and abandonment of work as well as gross violation of company policy.^[8]

In a Decision^[9] dated July 19, 1999 in RAB Case No. 06-08-10525-98, the Labor Arbiter dismissed petitioner's complaint for lack of merit. The Labor Arbiter ruled that petitioner was not dismissed from her job and that she deliberately refused to obey management's directive for her to report to the Iloilo City Branch. The Labor Arbiter noted that petitioner filed the complaint as a retaliatory act to secure an award of separation pay.

On September 20, 2001, the NLRC affirmed the Labor Arbiter's finding that there

was no illegal dismissal. However, due to petitioner's long service with respondents, the NLRC awarded her separation pay as well as service incentive leave pay. The decretal portion of the decision reads:

WHEREFORE, the assailed decision is **SET ASIDE** and a new one **ENTERED** declaring that there was no illegal dismissal. Conformably with the preceding discussion however, complainant is entitled to separation pay computed on the basis of her one-half month salary per year of service for nine (9) years, or the amount of SEVENTEEN THOUSAND ONE HUNDRED PESOS (P17,100.00).

Complainant is likewise entitled to service incentive leave pay for a total of fifteen (15) days, or the amount of TWO THOUSAND ONE HUNDRED NINETY PESOS (P2,190.00).

No pronouncements as to damages and attorney's fees.

SO ORDERED.^[10]

Both petitioner and respondents moved for reconsideration. On October 23, 2003, the NLRC issued a resolution partially reconsidering its decision, in this wise:

WHEREFORE, we reconsider Our Decision of September 20, 2001 by declaring that there was no illegal dismissal; affirming Our award for separation pay, and deleting Our award for service incentive leave pay.

SO ORDERED.^[11]

Aggrieved, petitioner filed a petition for certiorari with the Court of Appeals. In dismissing the petition, the appellate court upheld management's prerogative to transfer an employee from one office to another within the business establishment provided there is no demotion in rank or diminution in salary, benefits and other privileges. It ruled that as long as management's exercise of such prerogative is in good faith to advance its interest and not for the purpose of defeating or circumventing the rights of the employee under the laws or valid agreements, such exercise will be upheld. The appellate court noted that there was no proof that respondents were motivated by bad faith in transferring petitioner. Petitioner never alleged anything that would defeat her rights as an employee by reason of the transfer. Hence, her transfer cannot be deemed a constructive dismissal since it is not unreasonable, discriminatory nor attended by a demotion in rank or diminution in pay. Petitioner's refusal to obey the transfer therefore constituted willful disobedience of a lawful order of her employer which was a just cause for her dismissal. Thus:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us **DISMISSING** the petition filed in this case and **AFFIRMING** the Resolution dated October 23, 2003 of the public respondent NLRC in NLRC Case No. V-000177-2000.

SO ORDERED.^[12]

In this petition before us, petitioner alleges that the Court of Appeals erred in:

I.

... HOLDING THAT THERE WAS NO ILLEGAL SUSPENSION AND DISMISSAL.

II.

... HOLDING THAT PETITIONER'S TRANSFER FROM BACOLOD CITY TO ILOILO CITY WAS A MANAGEMENT PREROGATIVE AND THAT IT WAS A PROMOTION.

III.

... NOT GRANTING THE RELIEF FOR REINSTATEMENT, BACKWAGES, MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES.^[13]

The basic issue to be resolved is whether petitioner's transfer from the Bacolod City Branch to the Iloilo City Branch was valid.

Petitioner contends that her transfer was never discussed by the parties at the start of her employment. Thus, it should only be done with her consent. She adds that the transfer was unnecessary, inconvenient and prejudicial.

Respondents counter that petitioner's transfer was made in good faith and in compliance with management's policy to reshuffle or transfer its employees. They also argue that petitioner will be given transportation and lodging allowance, hence, she will not incur any additional expense.

As it is, the question raised in this recourse is basically one of fact. Hornbook is the rule that in a petition for review, only errors of law may be raised.^[14] Furthermore, factual findings of administrative agencies that are affirmed by the Court of Appeals are conclusive on the parties and not reviewable by this Court. This is so because of the specialized knowledge and expertise gained by these quasi-judicial agencies from presiding over matters falling within their jurisdiction. So long as these factual findings are supported by substantial evidence, this Court will not disturb the same.^[15]

In this case, the Labor Arbiter, the NLRC, and the Court of Appeals were unanimous in their factual conclusions that petitioner's transfer from the Bacolod City Branch to the Iloilo City Branch was valid and that she was not illegally dismissed. We sustain such findings.

Jurisprudence recognizes the exercise of management prerogative to transfer or assign employees from one office or area of operation to another, provided there is no demotion in rank or diminution of salary, benefits, and other privileges, and the action is not motivated by discrimination, made in bad faith, or effected as a form of punishment or demotion without sufficient cause.^[16]

To determine the validity of the transfer of employees, the employer must show that the transfer is not unreasonable, inconvenient, or prejudicial to the employee; nor does it involve a demotion in rank or a diminution of his salaries, privileges and