

FIRST DIVISION

[G.R. No. 165268, November 08, 2005]

CHALLENGE SOCKS CORPORATION, PETITIONER, VS. COURT OF APPEALS (FORMER FIRST DIVISION), NATIONAL LABOR RELATIONS COMMISSION (FIRST DIVISION), HON. ANTONIO R. MACAM, IN HIS CAPACITY AS LABOR ARBITER AND ELVIE BUGUAT, RESPONDENTS.

D E C I S I O N

YNARES-SANTIAGO, J.:

This petition for review on certiorari under Rule 45 of the Rules of Court assails the May 11, 2004 Decision^[1] of the Court of Appeals in CA-G.R. SP No. 75761, and its September 13, 2004 Resolution^[2] denying the motion for reconsideration.

The antecedent facts show that respondent Elvie Buguat was hired on January 17, 1997 by petitioner Challenge Socks Corporation as knitting operator.^[3] In the course of her employment, she incurred absences and tardiness without prior approval and had been neglectful of her duties.^[4] On May 25, 1998, she failed to check the socks she was working on causing excess use of yarn and damage to the socks' ½ design. She was suspended for five days and warned that a repetition of the same act would mean dismissal from the service.^[5] On February 2, 1999, she committed the same infraction and was given a warning.^[6] Despite the previous warnings, Buguat continued to be habitually absent and inattentive to her task. On March 1, 1999, she again failed to properly count the bundle of socks assigned to her. Thus, on March 2, 1999, petitioner terminated her services on grounds of habitual absenteeism without prior leave, tardiness and neglect of work.^[7]

Thereafter, Buguat filed a complaint for illegal dismissal.^[8]

On February 11, 2000, the labor arbiter^[9] rendered a Decision^[10] holding that Buguat was illegally dismissed. The dispositive portion of the decision reads:

WHEREFORE, following the pronouncement in the case of ALU-TUCP v. NLRC (G.R. No. 120450, February 10, 1999), judgment is hereby rendered ordering respondents to reinstate complainants without loss of seniority rights and benefits, but without backwages.

SO ORDERED.^[11]

The labor arbiter found Buguat's dismissal too harsh and disproportionate to the infraction committed. It was observed that counting volumes of socks is tedious and the worker is prone to commit mistakes especially if the counting is done on a regular basis. The labor arbiter ruled that mistake in counting bundles of socks is

tolerable and should be punished by suspension only.^[12]

The National Labor Relations Commission (NLRC) adopted the findings of the labor arbiter. It denied^[13] petitioner's appeal and motion for reconsideration.

Petitioner filed a petition for certiorari before the Court of Appeals which rendered a Decision on May 11, 2004 reversing and setting aside that of the labor arbiter and the NLRC, the dispositive portion of which provides:

WHEREFORE, the Decision dated October 30, 2001 and the Order of December 19, 2002 of the National Labor Relations Commission are hereby REVERSED and SET ASIDE and a new one entered herein.

CHALLENGE SOCKS CORPORATION, having terminated private respondent with just and valid cause but without observing the proper procedure in terminating private respondent's services, is ordered to pay ELVIE BUGUAT full backwages from the time her employment was terminated on March 2, 1999 up to the time the herein decision becomes final. For this purpose, this case is REMANDED to the Regional Labor Arbiter for the computation of the backwages due private respondent.

SO ORDERED.^[14]

The appellate court found that there was just cause for terminating the services of Buguat considering the series of infractions she committed.^[15] However, it was noted that petitioner failed to comply with the twin-notice requirement in terminating an employee hence, the dismissal was considered ineffectual.^[16] Petitioner was ordered to pay Buguat her back wages computed from the time of her dismissal up to the finality of the decision.^[17]

Petitioner sought reconsideration of the appellate court's decision but the same was denied on September 13, 2004.

Hence, this petition.

The issue for resolution is the validity of Buguat's termination.

One of the just causes for terminating an employment under Article 282 of the Labor Code is gross and habitual neglect by the employee of her duties. This cause includes gross inefficiency, negligence and carelessness. Such just causes is derived from the right of the employer to select and engage his employees.^[18]

In the instant case, there is no doubt that Buguat was habitually absent, tardy and neglectful of her duties. We agree with the Court of Appeals that:

Elvie's commission of three (3) violations of the company's rules and regulations, including her unauthorized absences and tardiness, all committed in the span of two years, shows that she did not only fail to observe due diligence in performing her job, but she has little regard for the consequences of her acts and inactions. She repeatedly committed error in counting the socks to be given to the Looping Section. As a

knitting operator, Elvie was required to check the socks she was working on and to count the bundles of socks she had to pack to be forwarded to the Looping Section. Elvie did not question the authenticity of the May 25, 1998 suspension letter and the February 2, 1999 memorandum....

While a first violation could be considered excusable, repeated commission of the same offense could be considered willful disobedience. Elvie, despite the suspension and warning, continued to disregard the company rules and regulations....^[19]

Habitual neglect implies repeated failure to perform one's duties for a period of time. Buguat's repeated acts of absences without leave and her frequent tardiness reflect her indifferent attitude to and lack of motivation in her work. Her repeated and habitual infractions, committed despite several warnings, constitute gross misconduct. Habitual absenteeism without leave constitute gross negligence and is sufficient to justify termination of an employee.^[20]

We find the penalty of dismissal from the service reasonable and appropriate to Buguat's infraction. Her repeated negligence is not tolerable; neither should it merit the penalty of suspension only. The record of an employee is a relevant consideration in determining the penalty that should be meted out.^[21] Buguat committed several infractions in the past and despite the warnings and suspension, she continued to display a neglectful attitude towards her work. An employee's past misconduct and present behavior must be taken together in determining the proper imposable penalty.^[22] The totality of infractions or the number of violations committed during the period of employment shall be considered in determining the penalty to be imposed upon an erring employee. The offenses committed by him should not be taken singly and separately but in their totality. Fitness for continued employment cannot be compartmentalized into tight little cubicles of aspects of character, conduct, and ability separate and independent of each other.^[23] It is the totality, not the compartmentalization, of such company infractions that Buguat had consistently committed which justified her dismissal.^[24]

Besides, terminating an employment is one of petitioner's prerogatives. As the employer, petitioner has the right to regulate, according to its discretion and best judgment, all aspects of employment, including work assignment, working methods, processes to be followed, working regulations, transfer of employees, work supervision, lay-off of workers and the discipline, dismissal and recall of workers. Management has the prerogative to discipline its employees and to impose appropriate penalties on erring workers pursuant to company rules and regulations.^[25]

This Court has upheld a company's management prerogatives so long as they are exercised in good faith for the advancement of the employer's interest and not for the purpose of defeating or circumventing the rights of the employees under special laws or under valid agreements.^[26]

In the case at bar, petitioner exercised in good faith its management prerogative as there is no dispute that Buguat had been habitually absent, tardy and neglectful of her work, to the damage and prejudice of the company. Her dismissal was therefore proper.