459 Phil. 742

THIRD DIVISION

[G.R. No. 153157, October 14, 2003]

PHILIPPINE AIRLINES, INC., PETITIONER, VS. ARTHUR B. TONGSON, RESPONDENT.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Simplification of procedure, without regard to technicalities of law or procedure and without sacrificing the fundamental requisites of due process, is mandated to insure speedy administration of social justice. Thus, Article 221 of the Labor Code allows the NLRC and the Labor Arbiter to decide the case on the basis of position papers and other documents submitted by the parties without resorting to technical rules of evidence as observed in regular courts of justice.[1]

For resolution is a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision[2] dated August 24, 2001 and the Resolution[3] dated April 18, 2002 rendered by the Court of Appeals in CA-G.R. SP No. 54801.

The facts as borne by the records are:

On July 27, 1995, about 9:00 o'clock in the evening, Jacqueline Tanedo and her family were queuing at counter No. 29 of the Manila Station International to check-in for flight No. 102 of the Philippine Airlines (PAL) bound for Los Angeles, California when one of its employees, later identified as Joseph Arriola, approached her and asked if they have already paid the required travel taxes. Responding in the negative, Ms. Tanedo and her family were instructed by Arriola to follow him at counter No. 36 for the processing of their travel documents. Ms. Tanedo then gave him their travel documents and the amount of Two Thousand Pesos (P2,000.00) as payment for their discounted travel taxes. However, he did not issue the corresponding receipt. Meanwhile, he issued boarding passes to her children, Jeramie and Jessica.

At about the same time, another PAL employee, then stationed at counter NO. 35 and later identified as Arthur B. Tongson (herein respondent) volunteered to assist Ms. Tanedo and her family in completing their travel documents and in obtaining the boarding passes for her and her husband.

Upon receipt of their boarding passes, Ms. Tanedo realized that their seats were part from each other. Arriola assured her that the stewardess would make the necessary arrangement to enable them to be seated together. But when they boarded the plane, no such arrangement was made. Thus, they opted to take the succeeding flight scheduled the following day.

When Ms. Tanedo and her family were checking-in at the PAL counter the following day, July 28, 1995, they were again charged the amount of P3,240.00, representing their travel taxes, which they reluctantly paid. This prompted Ms. Tanedo to file with the Philippine Airlines, Inc., herein petitioner, a written complaint against Arriola and respondent Tongson.

Acting thereon, petitioner exerted efforts to initiate a face-to-face confrontation among Ms. Tanedo, Arriola and respondent Tongson, but to no avail. Arriola was on a day-off, while respondent went on a sick leave. Nevertheless, Ms. Tanedo positively identified them from the pictures shown to her by the PAL employees.

After a thorough investigation, petitioner issued an inter-office memorandum dated February 6, 1996 charging both Arriola and respondent Tongson with corruption, extortion and bribery under the company's Code of Discipline and directing them to submit a written explanation within ten (10) days from notice. In the meantime, they were placed under preventive suspension for a period of thirty (30) days.

For his part, respondent Tongson, in his answer dated June 28, 1996, admitted that he processed the travel documents of Ms. Tanedo and her family and found them to be in order and that the corresponding travel taxes were paid in compliance with PTA Circular 01-87.[4] He denied having extorted P2,000.00 from them.

Subsequently or on June 21 and 25, 1996 and July 12, 1996, petitioner conducted clarificatory hearings, but respondent and Arriola failed to appear despite notice.

On August 19, 1996, after evaluating the records on hand and finding respondent and Arriola guilty of corruption, extortion and bribery, petitioner issued a notice terminating their services. This prompted respondent to file with the Labor Arbiter a complaint against petitioner for illegal suspension, illegal dismissal and non-payment of salaries and 13th month pay with prayer for reinstatement and payment of full backwages, damages and attorney's fees. This case was docketed as NLRC-NCR Case No. 00-11-06857-96. Records show that Arriola did not file a similar complaint.

After the submission of the parties' pleadings and position papers, the Labor Arbiter rendered a Decision dated September 17, 1998 finding respondent guilty of serious misconduct and upholding petitioner's notice dismissing him from the service, thus:

> "The investigation conducted by the respondent was too exhaustive and Tanedo has positively identified the complainant as one of the two employees who processed her travelling paper.
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> x x x
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> "Mrs. Tanedo has all the reason to complain to PAL management because she has already paid her travel tax although in the sum of P2,000.00, by the time they boarded the plane on the first attempt or on July 27, 1995. Otherwise, they cannot board the plane if their papers were not taken cared (sic) of by the complainant and Joseph Arriola including the travel tax.
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> "From the foregoing circumstances, it can be clearly inferred that there was conspiracy between Joseph Arriola and Tongson to extort money

from Mrs. Tanedo.

"The complainant therefore has committed serious misconduct in connection with his work which is punishable by dismissal as provided under Article 282 of the Labor Code.

"An employer cannot be compelled to continue with the employment of a person who admittedly was guilty of misfeasance or malfeasance towards his employer and whose continuance in the service of the latter is patently inimical to his interest. The law in protecting the rights of laborers authorized neither oppression nor self destruction of the employer (*Manila Trucking vs. Zulueta*, 69 Phil 485).

"WHEREFORE, premises considered, judgment is rendered DISMISSING the above-entitled case for lack of merit.

"SO ORDERED."[5]

From the said Decision, respondent interposed an appeal to the Third Division of the National Labor Relations Commission (NLRC).

On June 15, 1999, the NLRC promulgated a Decision[6] affirming the Arbiter's assailed Decision. Respondent filed a motion for reconsideration but was denied.

Thereafter, respondent filed a petition for *certiorari* with the Court of Appeals assailing the NLRC's decision.

On August 24, 2001, the Court of Appeals rendered a Decision reversing and setting aside the NLRC Decision and Resolution, thus:

"On the merits, PAL argues that the issues raised are factual, hence, not proper for certiorari. While it is a basic rule that judicial review of labor cases does not go so far as to evaluate the sufficiency of evidence on which the labor officials' findings rests, more so when the Labor Arbiter and the NLRC share the same, We depart therefrom as the NLRC's findings of facts were based on those of the Labor Arbiter which in turn were based on the `too exhaustive' investigation made by PAL, but which PAL findings We find to be not supported by substantial evidence as will be shown shortly (*Austria vs. NLRC*, 310 SCRA 293 [1999]).

"The charge of extortion by conspiracy against Tongco involves serious misconduct, a breach of trust reposed upon him by PAL. For loss of trust and confidence to be a valid ground for the termination of an employee's services, it must be substantial, and not arbitrary, whimsical or capricious. It must rest on actual breach of duty committed by the employee which must be established by substantial evidence, defined in *Angtibay vs. CIR* (69 Phil. 635 [1940]), as `such relevant evidence as reasonable man might accept as adequate to support a conclusion.'

"Jacqueline's complaint/ report cannot be considered as substantial evidence of the commission of corruption by conspiracy for not only was this not verified or sworn under oath. Jacqueline was never presented or

her deposition taken in order to give Tongson a chance to cross-examine her. This piece of evidence is thus hearsay and of no probative value (*Gonzales vs. NLRC*, supra; *Midas Touch Food Corp. vs. NLRC*, 259 SCRA 652 [1996]; *JRS Business Corp. vs. NLRC,* 246 SCRA 445 [1995*]; Coca-Cola Bottlers Phils., Inc. vs. NLRC*, 180 SCRA 195 [1989]). The same holds true with respect to Jacqueline's answers to the letter of inquiry. Reliance on hearsay evidence reflects a dangerous propensity for baseless conclusions amounting to grave abuse of discretion.

"Parenthetically, Jacqueline's claim that Tongson heard Arriola tell her to pay P2,000.00 representing her and her husband's travel taxes does not lie for Jacqueline was not competent to state that Tongson heard Arriola. In any event, Jacqueline was uncertain on whether or not Tongson **saw her hand in the money to Arriola** as reflected in her above-quoted answer on the matter to the letter of inquiry.

"As for the material findings of facts arrived at by PAL after it conducted an investigation: PAL found, among other things, that Tongson was positively identified by Jacqueline `as the person who colluded in extorting the amount of P2,000.00'. This conclusion is not supported by Jacqueline's report/complaint as recorded nor by her answers to the letter of inquiry.

"PAL's finding that when Jacqueline handed the P2,000.00 to Arriola, `it was perfectly within [Tongson's] full view ... and which [he] openly condone or approved' is likewise not borne out by Jacqueline's report/complaint nor by her answers to the letter of inquiry.

"While PAL then did conduct investigation proceedings, that was but one step. What is important is that notwithstanding such proceedings, PAL failed to demonstrate Tongson's liability in a satisfactory manner (*Anscor Transport & Terminal, Inc. vs. NLRC*, 190 SCRA 147, 151-152 [1990]).

"While in conspiracy direct proof is not essential, it must, however, be shown to exist as clearly as the commission of the offense itself. There must at least be adequate proof that the malefactors had come to an agreement concerning the commission of a felony and decided to commit it (*Fernandez vs. NLRC*, 281 SCRA 423 [1997] citing *People vs. Salodaga*, 247 SCRA 93 and *People vs. Halili*, 245 SCRA 340 [1995]). This PAL failed to come up with.

"Albeit PAL may have reasons to doubt Tongson's honesty and trustworthiness, facts, not conjectures, decide a case.

"In fine, as PAL's findings - bases of the Labor Arbiter and the NLRC in disposing of Tongson's complaint failed to establish Tongson's liability, the result arrived at by them must be set aside.

"For suspicion or belief, no matter how sincerely felt, cannot substitute for factual findings carefully established through an orderly process (*Philippine Associated Smelting and Refining Corp. (PASAR) vs. NLRC*, 174 SCRA 550 [1989]).