

FIRST DIVISION

[G.R. No. 122277, February 24, 1998]

NATIONAL SUGAR REFINERIES CORPORATION (NASUREFCO), PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (FOURTH DIVISION) AND SUSAN PABIONA, RESPONDENTS.

D E C I S I O N

BELLOSILLO, J.:

This is a petition for *certiorari* and prohibition filed by the National Sugar Refineries Corporation (NASUREFCO) to annul the 23 June 1995 Decision of the National Labor Relations Commission (NLRC) which affirmed that of the Labor Arbiter holding that private respondent Susan Pabiona was illegally dismissed by NASUREFCO, and the Resolution of 20 September 1995 denying its motion for reconsideration.

NASUREFCO is a domestic corporation engaged in sugar refinery. In January 1989 it launched its *Raw and Refined Sugar Exchange Program* under which clients of NASUREFCO were no longer required to deliver raw sugar as a precondition to their withdrawal of refined sugar. All they had to do was to present properly endorsed documents chargeable against their future deliveries of raw sugar to NASUREFCO.

In line with the *Raw and Refined Sugar Exchange Program*, Pabiona was appointed as Sugar Accountant-Bookkeeper. She was tasked to maintain records of all transactions pertaining to the *Raw and Refined Sugar Exchange Program*, validate *Raw Sugar Quedans* submitted by Exchange participants prior to issuance of the *Refined Sugar Delivery Orders* and prepare and issue *Refined Sugar Delivery Orders* only after validation procedures have been properly complied with. The procedures consisted of (a) substantiating the *Raw Sugar Quedans* by checking if these were properly signed by the authorized quedan holders; (b) validating written reports of the authorized surveyor in accordance with the pre-agreed scope of services, weights, manner of weighing, calibration procedures, and the absence/presence of representatives; (c) checking the mathematical accuracy of the quantities shown in the quedans; and, (d) computing the refined sugar equivalent of the raw sugar exchanged based on POL analyses/refining yield.

When the books of NASUREFCO were audited in 1990 anomalous and irregular transactions were uncovered in the *Raw Sugar Movement Report*. Thus -

1. On or about December 14, 1989, she prepared RSDO No. 0212 in favor of Shantung Commercial without even seeing the corresponding RSQ's or DO's. This resulted in Shantung Commercial being able to withdraw more refined sugar than was due them because the DO's for the raw sugar to be delivered to NASUREFCO were marked "to be served with DETERIORATED SUGAR." Deteriorated sugar is of lower quality hence, with less refined sugar equivalent than the normal raw sugar. Involved in the transaction were 7,031.99 piculs.

2. Sometime in October 1989, Shantung Commercial was able to withdraw refined sugar on the strength of RSDO No. 0121 prepared by complainant. This RSDO was issued based on the RSQ of Victorias Milling Company (VMC) for 383.05 piculs. Due to some problems with the VMC RSQ, Shantung was required to replace them. Complainant made it appear that the RSQ was already replaced when in fact it was not. NASUREFCO was not able to get the raw sugar. The VMC RSQ which complainant should have kept until replaced was later sold by Ms. C. Alfonso, a co-employee of complainant.

3. In her report on Raw Sugar Endorsements and withdrawals as of February 11, 1990, complainant made it appear that Dacongogon Producers endorsed 18,000 piculs of raw sugar under DO No. 035 on December 28, 1989. DO No. 035 was never endorsed on that date as it was received by NASUREFCO only on January 1990. Complainant intentionally and deliberately included the supposed endorsement in the 1989 transactions to make it appear that Dacongogon Producers endorsed more than 200,000 piculs of raw sugar for the period, hence, entitled to claim a volume incentive of PHP 1.00 per picul. Complainant also included the endorsements made by other parties under Dacongogon Producers to qualify it for the incentive.

NASUREFCO found Pabiona's written explanation flawed, unsatisfactory. Hence, on 31 May 1990 NASUREFCO through its Human Resource Division Officer-in-Charge charged Pabiona with several violations of accounting policies. Pabiona was again given the chance to air her side, which she did through a memorandum. On 2 and 3 July 1990 a formal investigation was conducted. Pabiona was advised to retain a counsel of her choice to assist her in presenting her case. After the formal investigation, NASUREFCO terminated the services of Pabiona for willful violation of company policies, gross and habitual neglect of duties, and willful breach of trust.

Thus Pabiona filed her complaint with the Labor Arbiter for illegal dismissal. On the other hand, NASUREFCO maintained that the dismissal was for a just cause after proper procedures were observed, hence, legal and valid.

On 26 November 1993 Labor Arbiter Dennis D. Juanon sustained Pabiona and ruled that her dismissal was illegal because -

To our considered opinion, she merely record (and) reports whatever transactions ought to be recorded by her as such personnel. Whatever defects in number or quality of the goods transacted by the corporation is no longer within the ambit of her functions.

She, however, as projected in the testimony of respondent's personnel, was exercising functions which to our mind, appears to be more than x x x (the) ordinary functions of an accountant-bookkeeper. For this, we believe that whatever mistakes made in the process of performance of her work as designated, are more than her ordinary functions, (hence) she cannot be ordinarily blamed.

x x x x

In resume, it is our considered opinion that while complainant may have committed some neglect of duty however, the same was not within her ordinary functions as per job description x x x x Evidences (*sic*) adduced by either party show that if at all there was negligence that may have been committed in the performance of her work, absent was the character of regularity in committing negligence.