351 Phil. 960

THIRD DIVISION

[G.R. No. 113774, April 15, 1998]

CARLITO GARCIA, EDUARDO ROAN, ALBERTO REYES, AND ABEL GONZALES, PETITIONERS, VS. THE NATIONAL LABOR RELATIONS COMMISSION AND COCA COLA BOTTLERS PHILS., INC. (CCBPI), RESPONDENTS.

D E C I S I O N

KAPUNAN, J.:

In this petition for *certiorari* under Rule 65 of the Rules of Court, petitioners seek to annul the Decision dated 18 August 1993 of the public respondent National Labor Relations Commission (NLRC) in the case docketed as NLRC-NCR Case No. 00-01-00581-92; and its Order dated 30 September 1993 denying herein petitioners' motion for reconsideration of the above decision.

The antecedents facts of this case as found by the public respondent NLRC are as follows:

Petitioners Carlito Garcia, Eduardo Roan, Alberto Reyes, and Abel Gonzalez were sales employees at the Bagumbayan Sales Office of private respondent Coca-Cola Bottlers Phils., Inc. (CCBPI, for brevity).

In the morning of 11 November 1991, Jess M. Bangsil, Regional Sales Manager of Coca-Cola Bottlers Phils. at their Bagumbayan Sales Office in Libis, Quezon City, was informed by Alex J. Topacio, District Sales Supervisor, that the above-named petitioners had locked themselves in the comfort room of the conference hall located on the third floor of the said sales office. Thereupon, Bangsil directed security guard Ronaldo B. Beltran to accompany him to the aforesaid comfort room, and together, they knocked on the door. After two (2) minutes Alberto Reyes opened the door. As he was coming out of the room, Bangsil observed a thick cloud of smoke inside. Abel B. Gonzalez came out next, followed by Eduardo J. Roan. Bangsil proceeded inside the comfort room and was surprised to see Carlito Garcia attempting to hide the door. Bangsil asked Garcia what the four of them were doing inside the comfort room, and the latter replied, "Boss, may pinag-uusapan lang kami."[1]

Bangsil continued to inspect the room and found a cigarette lighter, pieces of cotton string, a ballpen tip, and cigarette aluminum foil containing some whitish substance, near the awning window. Bangsil, likewise, observed that petitioners were acting "rather strangely," hence, he instructed them to proceed to the Sales Office Clinic for medical examination. Petitioners complied. However, Dr. Albuquerque M. Lopez, Jr., the CCBPI company doctor assigned to the Bagumbayan Sales Office, did not proceed with the urine examination as he was informed by the sales office nurse, Ma. Concepcion Raz, that the urine samples submitted by petitioners were adulterated with water and/or were not actually petitioners' urine samples. A sales office janitor, one

Elvin C. Ganados, subsequently executed an affidavit that he was coerced by petitioner Garcia to urinate in a small bottle provided by the latter.

That same day, Bangsil issued a memorandum informing petitioners that they were grounded effective 12 November 1991 pending the investigation of their case.

The next day, or on 12 November 1991, Dr. Lopez, again requested for new urine samples from the petitioners, but the latter allegedly refused to have their urine samples taken.

Meanwhile, the cigarette aluminum foil containing the whitish substance was sent to the National Bureau of Investigation (NBI) for analysis. On 19 November 1991, the NBI issued a certification to the effect that the white crystalline substance was not, did not contain Methamphetamine Hydrochloride (popularly known as Shabu.[2]

On 26 November 1991, private respondent sent notices to petitioners and their counsel that an investigation of the above-narrated incident would be conducted on 4 December 1991. On the scheduled date of investigation, petitioners and their counsel, Atty. Sergio R. Manzo, appeared and manifested that they preferred to submit counter-affidavits to refute the affidavits and other documents presented by private respondent rather than go through the usual question and answer procedure.

On the basis of the evidence adduced, private respondent found petitioners guilty of violation of Section 4 and 5 of the CCBPI Employees' Code of Disciplinary Rules and Regulations and for working under the influence, and possession of, prohibited drugs. Consequently, petitioners were terminated from employment on 6 January 1992.

On 27 January 1992, petitioners filed a complaint for illegal dismissal with the arbitration branch of the NLRC in Manila. On 15 July 1992, Labor Arbiter Potenciano Canizares, Jr. dismissed the complaint for lack of merit.

In giving credence to the factual version of private respondent, the labor arbiter held:

> It is noteworthy that while the case against the complainants is grave and gravely it has affected their industrial relations, the complainants made it appear ordinary and accidental, submitting their above loose version of the facts and paltrily adducing evidence. While they stated that on November 11, 1991 they were only smoking in the comfort room and exchanging personal views and that the security guard on duty who saw them there suspected they were having a drug session, the proofs show that the complainants locked themselves in the comfort room and it took the security guards great efforts and several minutes to open the comfort room to get them. While the complaints would have Us believe that they agreed with the guards, the proofs show that they scampered out and one, Carlito E. Garcia, even hid behind the door. While they alleged that when told to go to the clinic for medical examination, they voluntarily complied and submitted themselves for medical examination, the proofs show that when their urine had to be taken for a test, they adulterated the urine samples and even coerced janitor Elvin C. Ganados to give his urine as samples for theirs; and that when the doctor requested on November 12, 1991 for new urine samples, they refused to have their urine taken.[3]

On appeal thereafter, the First Division of the NLRC dismissed petitioners' appeal in a Decision, dated 18 August 1993, thus:

> We have to dismiss the appeal.

> Anent the first ground, it is enough that We point out that "(W)hen confronted with conflicting versions of factual matters," the Arbiter has the discretion to determine which party deserves credence on the basis of evidence received. (Gelmart Industries (Phils.), Inc. vs, Leogardo, 155 SCRA 403, 409)
>
> On complainants' second ground, Section 5, Rule 003-85 of the CCBPI Employees Code Of Disciplinary Rules and Regulations clearly penalizes mere possession of prohibited drug (*sic*) with dismissal. Even if no such provision exists in respondent's company rules, just the same, the subject infraction of complainants constitute "serious misconduct" which under Article 282 of the Labor Code is a ground with which the complainant (*sic*) May be dismissed.[4]

Petitioners filed a motion for reconsideration of the above decision, which motion was, however, denied by the NLRC in an Order dated 30 September 1993.

Hence, this petition wherein petitioners contend that:

> PUBLIC RESPONDENTS NLRC COMMISSIONERS WAS (sic) WITHOUT OR EXCEEDED THEIR JURISDICTION AND/OR GRAVELY ABUSED THEIR DISCRETION TANTAMOUNT TO LACK OF JURISDICTION IN ISSIUNG THE DECISION DATED August 18, 1993.[5]

The issue in the instant case, is whether or not petitioners were illegally dismissed.

We rule in the affirmative.

At the outset, it is worthy to note that the Office of the Solicitor General, in its comment to the instant petition for *certiorari*, prayed that the petition be given due course and the assailed resolutions of the NLRC reversed and set aside.

Private respondent, for its part, cites the oft-repeated rule that "findings of fact of the labor arbiter and respondent commission are generally accorded not only respect but, at times, even the stamp of finality where such findings are duly supported by substantial evidence. (Coca-Cola Bottlers Philippines, Inc. vs. NLRC, 180 SCRA 195.)" [6]

On the other hand, the rule is equally settled that this Court will not uphold erroneous conclusions of the NLRC when the Court finds that the latter committed grave abuse of discretion in reversing the decision of the labor arbiter or when the NLRC's findings of fact from which its conclusions are based are supported by substantial evidence.[7] Substantial evidence, which is the quantum of evidence required to establish a fact in cases before administrative or quasi-judicial bodies, is that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[8]

In the case at bar, we find the evidence insufficient to justify the conclusion that petitioners violated any company rule or committed any act constituting a breach of trust or confidence warranting their termination from service.

Petitioners were dismissed for violation of Sections 4 and 5 of Rule 003-85 of the CCBPI Employees Code of Disciplinary Rules and Regulations which provide:

> Section 4. – Reporting for work or working under the influence of liquor or alcoholic drinks or prohibited drugs and their derivatives whether committed within a calendar

year or not; analogous cases:

a. If positions do not require dealing with the public, handling of goods/equipment, driving or do not involve inspections chores:

First Offense	3 days Suspension
Second Offense	6 days Suspension
Third Offense	10 days Suspension
Fourth Offense	15 days Suspension
Fifth Offense	30 days Suspension
Sixth Offense	DISCHARGE

b. If positions require driving/handling of goods/equipment, or involves inspection chores, or dealing with the public whether committed within a calendar year or not; analogous cases:

First Offense	6 days Suspension
Second Offense	15 days Suspension
Third Offense	30 days Suspension
Fourth Offense	DISCHARGE

> Section 5. Drug pushing or possession of prohibited drugs and/or their derivatives including selling or possessing of marijuana, opium, heroin and others of similar nature – DISCHARGE.[9]

A perusal of the records of the instant case reveals that the charge that petitioners used and/or possessed prohibited drugs, more specifically methamphetamine hydrochloride or shabu was never established.

The drug-related paraphernalia were not actually found in the possession of petitioners, but were discovered inside the comfort room, near the awning window thereof. As noted by the Solicitor General, it would be pure speculation to attribute the ownership of the same to petitioners since the comfort room is open to the general public.

More importantly, the National Bureau of Investigation (NBI) issued a certification dated 19 November 1991, that the aluminum foil containing the whitish substance (one of the paraphernalia allegedly found in the comfort room) was negative of, or did not contain methamphetamine hydrochloride (or shabu) or any other prohibited drug.[10]

This should have put to naught private respondent's allegation that petitioners were using shabu or some other prohibited drug. Nevertheless, private respondent insisted that the active substance in the seized articles must have already lost their efficacy as three (3) days had elapsed from the time they were found up to the time they were brought to the NBI for analysis.

However, this contention has been satisfactorily rebutted by petitioners by way of a letter from the Dangerous Drugs Board, dated 7 December 1993, certifying that shabu does not expire or lose its efficacy for a period of one and a half (1 ½) years.[11]