

SECOND DIVISION

[G.R. No. 126561, July 08, 1998]

DANDY V. QUIJANO, PETITIONER, VS. MERCURY DRUG CORPORATION AND NATIONAL LABOR RELATIONS COMMISSION, FIRST DIVISION, RESPONDENTS.

DECISION

PUNO, J.:

Reinstatement is the remedy that most effectively restores the right of an employment before he was unjustly deprived of his job. In giving an illegally dismissed employee the right to reinstatement, the law^[1] recognizes the fact that continued employment gives to a worker, especially to a lowly or menial laborer, an assurance of continuity in his source of income which a grant of separation pay could not provide. In the case at bar, we give primacy to the employee's right to reinstatement rather than the employers claim that due to "strained relationship," his illegally dismissed employee should just be given separation pay.

Petitioner **DANDY V. QUIJANO** was a warehouseman at the central warehouse of respondent **MERCURY DRUG CORPORATION** in Libis, Quezon City, since 1983. During his 8-year stay in the company, he received high performance ratings and a corresponding 15% increase in salary per annum. Through the years, the company has also recognized and commended him for his dedication to his work.^[2] He has actively articulated the employees' concerns and, since 1990, has written to the management about the malpractices committed by some officers of a "five-six" loan system in their workplace operated by some of its officers.^[3] He incurred the ire of respondent's manager Mr. Antonio Altavano who operated the usurious transactions.

Then followed the harassment of the petitioner. In April 1991, respondent charged petitioner with four (4) violations of company policies, all allegedly committed on March 19, 1991. It started at about 11:00 a.m. when petitioner allegedly left his workplace without permission. He was charged with loafing and abandonment of work. Then, between 11:30 a.m. to 12:30 p.m. of the same day, petitioner allegedly entered the warehouse employees' locker room and angrily uttered in a loud voice: "Niloloko tayo ng kalbong yan.", referring to the warehouse manager, Mr. Altavano. He was charged with disrespect to his superiors. Thirty minutes later, at about 1:00 p.m., petitioner allegedly grabbed the public address system at the central warehouse without permission and angrily announced: "Wala kay Mrs. Azcona ang incentive natin, na kay Mr. Conception. Niloko lang tayo (ng superiors natin)." He was charged with disrupting the work of his co-employees. Finally, after an hour and a half, at about 2:30 p.m., petitioner allegedly saw Mr. Simon peeping through a rack divider, and shouted: "Anong tinitingin-tingin mo?" He was charged with using abusive language in company premises.

Consequently, in April 1991, four (4) notices of corrective/disciplinary action were

served on petitioner for the above four offenses. These were the very first disciplinary sanctions imposed on petitioner in his eight (8) years of service and all were allegedly committed on the same day, March 19, 1991.

In his written explanation, petitioner gave a different version of the incidents. He alleged that on said date, he had been following-up the payment of incentives due to his co-employees. The manager, Mr. Altavano, informed him that the incentives were already in the office of Mrs. Vivian Azcona. However, when petitioner inquired from Mrs. Azcona about their incentives, she referred him to the office of Mr. Conception and asked him to inform his co-employees that their incentives were in said office. Petitioner did as he was told. He used the microphone for few minutes and informed his co-employees about the status of their incentives. His co-employees submitted a joint written statement^[4] confirming his allegations. They further declared that petitioner's brief use of the microphone did not distract them in the performance of their work. Petitioner also denied uttering rude or insulting language in referring to or communicating with his superiors. Again his co-employees submitted statements^[5] to corroborate his denial. Finally, petitioner claimed that the charges against him were merely concocted by the warehouse manager and the supervisor in retaliation to his exposure of the latter's usurious loan scheme in the warehouse, thereby taking undue advantages of the plight of his co-employees.

In May 1991, a committee was created by management to investigate petitioner's alleged offenses. On June 19, 1991, petitioner was cleared of the four charges.^[6]

Petitioner's employment woes did not end on November 18, 1991. Petitioner was served another notice of corrective action for serious misconduct for allegedly challenging his superior to a fistfight and uttering death threats to the manager, Mr. Altavano, on April 25, 1991, or about seven (7) months earlier. Petitioner's behavior was allegedly the off-shoot of the four (4) memoranda earlier sent to him.

The next day, November 19, 1991, a Special Investigating Committee, found the petitioner guilty not only of challenging his superior to a fistfight and issuing death threats to the manager, but also guilty of the four (4) charges of misbehavior earlier hurled against him. On November 19, 1991, respondent sent petitioner a notice of termination of employment.^[7] The dismissal was to take effect the next day, November 20, 1991. Left without further recourse, petitioner filed an illegal dismissal case against respondent before the labor arbiter.

On the basis of the position papers and evidence submitted by the parties, the labor arbiter ruled that petitioner was illegally dismissed from service for lack of just cause. As to the first offense, the labor arbiter ruled that petitioner cannot be considered to have abandoned his work as mere absence in the workplace is not enough. Abandonment means a deliberate and unjustified refusal to resume employment. The arbiter held that petitioner's 30-minute absence in his workplace did not amount to abandonment. As to the other offenses, the arbiter gave more credence to petitioner's version after evaluating the parties' evidence. He noted that petitioner's dedication to his duties were recognized by respondent by commending him therefor and granting him an annual increase in his salary. Petitioner worked with respondent for eight (8) years and charges of misdemeanor were hurled at him for the first time in 1991. Moreover, petitioner's side of the incident was sufficiently

corroborated by his less biased co-employees. These circumstances led the arbiter to conclude that respondent's charges against petitioners were "untenable" and that petitioners did not commit serious misconduct to warrant his dismissal from service.

Consequently, in a Decision,^[8] dated February 20, 1995, labor arbiter Roberto I. Santos made the following disposition:

"WHEREFORE, in conformity with the opinion above-expressed, judgment is hereby rendered declaring complainants dismissal illegal, and ordering the respondent to reinstate him to his former position or substantially equivalent one, or to payroll, at the election of respondent, and to pay him:

"a. the sum of Two Hundred Ninety-Seven Thousand Nine Hundred Thirty and Seventy-Five (P297,930.75) Centavos as backwages as of the date of this judgment, and thereafter a monthly backwage of Seven Thousand Six Hundred Thirty-Nine and Twenty-Five (P7,639.25) Centavos until sooner reinstated;

"b. The sum of Fifty Thousand and Twenty-Five Thousand (P50,000.00 & P25,000.00) Pesos, respectively, as moral and exemplary damages; and

"c. the sum equivalent to ten (10%) percent of the total amount due him, as attorney's fees.

"SO ORDERED." (Emphasis supplied)

On May 1 1995, respondent reinstated petitioner in the payroll. Respondent then appealed the decision of the labor arbiter to the NLRC.

On June 17, 1996, the NLRC issued a Resolution^[9] affirming the finding of illegal dismissal by the labor arbiter. However, it modified the labor arbiter's decision by: (1) limiting the award of backwages to three years; (2) deleting the award of moral and exemplary damages; and (3) ordering respondent to pay petitioner separation pay in lieu of reinstatement.^[10]

Petitioner moved for reconsideration of the Resolution. Acting on the motion, the NLRC further modified its June 17, 1996 Resolution only as to the period of computation of backwages. It held that the award of backwages should be computed from the date of illegal dismissal until petitioner's reinstatement to the payroll. However, it still denied payment of damages to petitioner as it found that respondent did not act with gross malice and wanton bad faith. It also refused to reinstate petitioner in view of the brewing antagonism between him and his supervisor and awarded him separation pay instead.^[11]

Hence, this petition which we find meritorious.

I

Petitioner contends that the NLRC committed grave abuse of discretion when it awarded to him separation pay in lieu of reinstatement as he was illegally dismissed from service and his reinstatement is feasible under the circumstances.

We agree. Our examination of the records reveals that in the body of its June 17, 1996 Resolution, the NLRC categorically affirmed the factual findings of the labor arbiter and ordered petitioner's reinstatement, thus:

"We have examined closely the arguments raised on appeal in relation to the conclusions of law and of facts of the Arbiter a quo and We noted that the same had been drawn from credible evidence submitted below.

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"In the overall, x x x we failed to note any serious error nor (sic) the Labor Arbiter committed grave abuse of discretion in including that the complainant's dismissal is wanting in lawful cause. For, We are not (a) trier of facts and we are not at liberty to tamper with the appreciation of the evidence presented below especially so when there is a clear indication that such conclusions rest on solid rational grounds. We thus AFFIRM THE FINDINGS OF ILLEGAL DISMISSAL and ORDER COMPLAINANT'S REINSTATEMENT with the (sic) backwages."^[12]
(emphasis supplied)

But, in a surprise twist towards the end^[13] of its Resolution, the NLRC noted a brewing antagonism and antipathy between petitioner and his supervisor. It concluded that the alleged brewing antagonism justifies the award of separation pay to petitioner in lieu of reinstatement.

We disagree. Well-entrenched is the rule that an illegally dismissed employee is entitled to reinstatement as a matter of right.^[14] Over the years, however, the case law developed that where reinstatement is not feasible, expedient or practical, as where reinstatement would only exacerbate the tension and strained relations between the parties,^[15] or where relationship between the employer and employee has been unduly strained by reason of their irreconcilable differences, particularly where the illegally dismissed employee held a managerial or key position in the company,^[16] it would be more prudent to order payment of separation pay instead of reinstatement. Some unscrupulous employers, however, have taken advantage of the overgrowth of this doctrine of "strained relations" by using it as a cover to get rid of its employees and thus defeat their right to job security.

To protect labor's security of tenure, we emphasize that the doctrine of "strained relations" should be strictly applied so as not to deprive an illegally dismissed employee of his right to reinstatement. Every labor dispute almost always results in "strained relations" and the phrase cannot be given an overarching interpretation, otherwise, an unjustly dismissed employee can never be reinstated.^[17]

In the case at bar, the NLRC refused to reinstate the petitioner and relied on the contents of the November 19, 1991 notice of termination of management to petitioner^[18] detailing the alleged five (5) charges of misconduct against him and

on petitioner's September 14, 1991 written explanation.^[19] From then, the NLRC deduced an antagonism between the parties and conclude that there would be no harmonious working relationship between them. The NLRC then ruled that petitioner's reinstatement was impractical and that should instead be given separation pay.

We reject these ratiocinations.

For one, respondent's charges of misbehavior against petitioner's dismissal, let alone his non-reinstatement. These charges had been found to be baseless and both the labor arbiter and the NLRC agreed that there was no just cause for petitioner's dismissal. It can even be granted in arguendo that a certain antagonism may characterize the relationship of petitioner and the respondents. However, the antagonism was caused substantially if not solely by the misdeeds of respondent's superiors. The arbiter found as a fact that the false charges were filed against him for exposing their usurious loan operations. Hence, to deny petitioners reinstatement due to the "strained relations" with his accusers whose charges were found to be false would result in rewarding the accusers and penalizing petitioner, the victim. This would set a bad precedent for no employer should be allowed to profit from his own misdeed. In addition, it is most inequitable to rule that the antagonism engendered by petitioner's performance of his legal right to expose the usurious lending operations of some warehouse officers will cause him to lose the security of his job.^[20] The expose' is work related and is intended to protect the economic welfare of employees, and hence its exercise cannot be visited by any punishment especially by the supreme penalty of separation from service.^[21] Again, it bears emphasis that the State guarantees a worker security of tenure which can well be his most precious economic right. Thus, all efforts must be exerted to protect him from unjust deprivation of his job.

NLRC's reliance on the cases of *Galindez vs. Rural Bank of Llanera*, *Divine Word High School vs. NLRC*, *City Trust Finance Corp. vs. NLRC*^[22] to justify its refusal to reinstate petitioner^[23] is misplaced.

In *Galindez vs. Rural Bank of Llanera*,^[24] reinstatement of the illegally dismissed employee was rendered impossible by the bank's closure. In *Divine Word High School*,^[25] Mrs. Catenza, the illegally dismissed employee, was a high school teacher in the school while her husband was the school principal. Although it was her husband who committed an immoral act, Mrs. Catenza's act of covering up his misdemeanor, although not sufficient basis for her dismissal as a high school teacher, renders her unsuitable to meet the educational and moral needs of her Catholic studentry.

On the other hand, the cases of *Citytrust Finance Corporation vs. NLRC* and *Commercial Motors Corporation vs. NLRC*^[26] both involve managerial employees (an officer-in-charge and a supervisor, respectively) who were dismissed for dishonesty in the performance of their duties and loss of confidence.^[27] In both cases, although the loss of confidence was not sufficiently established by the respective employers, we affirmed the denial of reinstatement to the employees concerned, taking into consideration not only the plight of the managerial employee (who cannot work effectively unless he has the full confidence of his employer), but also