355 Phil. 932

THIRD DIVISION

[G.R. No. 131523, August 20, 1998]

TRAVELAIRE & TOURS CORP. AND/OR CHRISTINE B. OJEDA, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND NENITA I. MEDELYN, RESPONDENTS.

D E C I S I O N

ROMERO, J.:

Before us is a petition for *certiorari* under Rule 65 of the Rules of Court assailing the decision of the National Labor Relations Commission in NLRC NCR CA No. 009593-95 entitled "Nenita I. Medelyn v. Travelaire and Tours Corporation and/or Christine Ojeda" involving an award of separation pay in favor of Nenita Medelyn.[1]

Private respondent, Nenita Medelyn, was employed as chief accountant of petitioner, Travelaire and Tours Corporation. In a letter dated April 25, 1994,[2] private respondent irrevocably resigned from her position in petitioner's corporation. On january 18, 1995, she filed a complaint before the National Labor Relations Commission praying for the separation pay, service incentive leave pay and 13th month pay.

In the decision dated June 22,1995, Labor Arbiter Potenciano S. Canizares, Jr[3] awarde private respondent's 13th month pay but dismissing, however, the othwer claims. The dispositive portion of the decision reads as follows:

"Wherefore, the respondents are herby ordered to pay the complainant her proportionate 13th month pay for the year 1994 in th amount of P2,866.67 as computed by MR. BENJAMIN MARTIN of the Commision's NLRC NCR Branch.

All other claims are dismissed for lack of evidence.

Not satisfied with the decision, private respondent filed an appeal for the National Labor Relation Commission, alleging that she is entitled to separation pay since other employees of the company who had also resigned were granted the same benefit. The NLRC this modified the laborarbiter's decision and ordered patitioner to pay private respondent separation pay in the amount of P55,400.00

Petitioner's motion for reconsideration from the decision of the NLRC was denied, hence this petition.

We affirm the ruling of the public respondent NLRC.

The general rule is that an employee who voluntarily resigns from employment is not entitled to separation pay unless, however. there is a stipulation for payment of such in the employment contract or Collective Bargaining Agreement (CBA), or *payment of the amount is sanctioned by established employer practice or policy.*[4] Private respondent claims that she is entitled to separation pay inasmuch as, for the

period 1991 to 1996, three former employees of the company who had resigned ahead of private respondent and on separate dates, namely Rogelio Abendan, Anastacio Cabate, and Raul C. Loya[5] were given separation pay. It is therefore, the contention of private respondent that payment of separation pay to resigning employees already constitutes company practice and an established policy of her employer, hence she should also be entitled to this benefit. Petitioner, on the other hand, admits giving certain sums of money to Anastacio Cabate and Raul C. Loya out of the company's generosity and which are not equivalent to separation pay.[6]

In ordering petitioner to give private respondent separation pay, public respondent NLRC ruled that there exist a company policy/practice, to wit:

> "x x x. However, we agree with the complainant that the Labor Arbiter erred in not awarding separation pay and service incentive leave pay.
>
> The record shows that the respondent had paid separation pay to al least three (3) employees, namely, Rogelio Abenden (page 9, Record); Anastacio Cabate (page 16, Record); Raul C. Loya (pages 16 and 33). Although in the case of Cabate and Loya the amount given was called ex gratia payment, it was nevertheless given upon separation of the employees from the company. The respondent said it was not separation pay but an amount given by the company out of generosity. If the respondent could be generous to some of its employees, why did it deny the complainant the same consideration. There is no reason why the company should discriminate against the complainant who had also served the company for a long time."[7]

Well-established is the principle that findings of fact of *quasi-judicial* bodies, like the NLRC, are accorded with respect, even finality, if supported by substantial evidence. Substantial evidence is defined as such amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[8]

In the case at bar, the public respondent NLRC's finding that there is a company policy/practice of paying separation pay to its resigning employees, is supported by substantial evidence. This is shown by the fact that before private respondent resigned and for the period 1991 to 1996, on separate dates, three (3) resigning employees were given separation pay, even though the payments given to two of these employees (namely Rogelio Abendan, Anastacio Cabate) were termed 'ex gratia payments'. Regardless of terminology and amount, the fact exists that upon resignation from petitioner corporation, the concerned employees were given certain sums of money occasioned by their separation from the company. While petitioner has denied that such company policy/practice exists, it nevertheless failed to present countervailing evidence, such as presenting the records of other resigned employees who were not given separation pay.

In *certiorari* proceedings under Rule 65 of the Rules of Court, judicial review does not go as far as to evaluate the sufficiency of evidence upon which the Labor Arbiter and NLRC based their determinations, the inquiry being limited essentially to whether or not said public respondents had acted without or in excess of its jurisdiction or with grave abuse of discretion.[9] The said rule directs us to merely determine whether there is basis established on record to support the findings of a tribunal and such findings meet the required quantum of proof, which in this case, is