

## FIRST DIVISION

[ G.R. No. 125548, September 25, 1998 ]

**SOLVIC INDUSTRIAL CORP. AND ANTONIO C. TAM,  
PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION  
AND DIOSDADO LAUZ, RESPONDENTS.**

### DECISION

**PANGANIBAN, J.:**

Except for the most serious causes affecting the business of the employer, our labor laws frown upon the penalty of dismissal. Where a penalty less punitive would suffice, an employee should not be sanctioned with a consequence so severe.

#### The Case

Before us is a petition for certiorari under Rule 65 of the Rules of Court, assailing the Resolutions in National Labor Relations Commission<sup>[1]</sup> (NLRC) Case No. 00-03-02583-94, issued by the NLRC on April 30, 1996; May 29, 1996; and June 17, 1996.

At the arbitration branch of the NLRC in the National Capital Region, Diosdado Lauz filed on March 22, 1994, a complaint for illegal dismissal and monetary claim for service incentive leave pay against petitioner. On November 29, 1995, Labor Arbiter Alex Arcadio Lopez dismissed the complaint.

On appeal, Respondent Commission set aside the Decision of the labor arbiter. In its assailed April 30, 1996 Resolution, NLRC ruled:<sup>[2]</sup>

"PREMISES CONSIDERED, the appeal is hereby granted and the Decision of the Labor Arbiter dated 29 November 1995 is hereby SET ASIDE. In lieu thereof, a new Order is hereby entered directing Solvic Industrial Corporation for [sic] the immediate reinstatement of the complainant to his former or equivalent position without loss of seniority right but without backwages."

Respondent Commission denied the Motion for Reconsideration in its May 29, 1996 Resolution:<sup>[3]</sup>

"WHEREFORE, the instant Motion for Reconsideration is hereby denied for lack of merit. No further Motion of similar nature shall be entertained."

Notwithstanding the above Resolution, petitioner filed a Second Supplemental Motion for Reconsideration with Leave to File and Admit the Same. The NLRC, in its third assailed Resolution dated June 17, 1996, ruled:<sup>[4]</sup>

"WHEREFORE, in view of the foregoing, the instant motion is hereby merely NOTED. Let the instant case be dropped from the calendar of this

Commission."

Attributing grave abuse of discretion to the NLRC, petitioner has now elevated the matter to this Court.<sup>[5]</sup>

### **The Facts**

Adopting the labor arbiter's summary, Respondent NLRC relates the factual background of this case as follows:

"Complainant in his position paper alleged the following:

"He started employment with respondent sometime in 1977. He occupied the position as extruder operator. In the course of his employment, he performed his utmost best, and in fact has never been suspended or reprimanded. On 17 January 1994, sans cause or due process, he was arbitrarily terminated from service. Additionally, complainant alleged that he was not paid his service leave pay.

"Respondent on the other hand, averred that:

"Complainant who was hired in 1977 was actually terminated for cause on 17 January 1994. That the termination of complainant arose from the incident that transpired on 17 January 1994 at about 7:00 p.m. On said occasion, complainant upon seeing Foreman Carlos Aberin confronted him and thereafter struck him in the shoulder beside the neck with a bladed weapon in the process, inflicting bodily injury on him. That several days after said incident, complainant did not report for work, hence, was issued a memorandum of preventive suspension dated 19 January 1994, received by him on 22 January 1994. Correspondingly, Mr. Aberin executed an affidavit and submitted a medical certificate.

"Complainant on the other hand, submitted his letter of explanation dated 24 January 1994 denying complicity in the acts imputed to him. Thereafter, a series of administrative investigation was conducted on 5, 12 and 19 February 1994, where complainant refused to give any further statement or explanation. Subsequently, he was served his letter of termination dated 21 February 1994, which however, he refused to receive. Relatedly, in a meeting/conference held with the union officers by Carlos Aberin and Diosdado Lauz on 26 February 1994, complainant admitted to attempting to take the life of Mr. Aberin and apologized for the same.

"In reply, complainant countered that he never struck Mr. Aberin with a bladed weapon, and that the incident [was] not job related, hence cannot serve as basis for termination.

"Respondents, on the other hand in reply, argued that:

"Contrary to his allegation, he was given his day in court as [an] investigation was conducted. Moreover, complainant in the course of his meeting with Mr. Aberin [and] with the union officers, admitted that he

assaulted the latter and even apologized in exchange for the withdrawal of the criminal case filed against him."

### **The Ruling of the NLRC**

Respondent Commission found that the wrong imputed to the private respondent did not merit the penalty of dismissal. Thus, ordering his reinstatement, but omitting the award of back wages, it ruled:

"We are not full in accord with the above-findings of the [l]abor [a]rbitrator. While we do not condone the action taken by the complainant against his foreman, to our mind, the imposition of the supreme penalty of dismissal is not commensurate [with] the gravity of the offense he committed.

"Records show that the injury inflicted by the complainant was not that serious as pictured by the respondent, coupled with the fact that the incident occurred outside the work premises and did not in any way disrupt the operations in the company. Besides, the mere fact that the complainant has been in the faithful service of the company for the past twenty (20) long years untainted with any derogatory record, are factors that must be considered in his favor. Besides, the complainant and his supervisor had already patched up their differences that led to the withdrawal of the criminal case instituted by the latter against the former.

"The claim for the payment of service incentive leave pay must be denied for failure of the complainant to particularize the grounds for his entitlement thereto. Likewise, moral damages cannot be awarded for lack of factual or legal basis."

### **Assignment of Error**

In its Memorandum, petitioner raises a single issue:

"Whether or not the NLRC committed grave abuse of discretion in granting the appeal of the private respondent for reinstatement, but without backwages, finding that the penalty of dismissal was not commensurate [with] the gravity of the offense committed by the private respondent."<sup>[6]</sup>

In fine, petitioner questions only the propriety of private respondent's reinstatement. The parties submit no other issue.

### **The Court's Ruling**

The appeal is devoid of merit.

### **Sole Issue: Reinstatement**

Assailing the NLRC, petitioner contends that reinstatement is not proper because the mere act of hacking someone with a bolo, albeit with the blunt side, is a serious offense which merits the penalty of dismissal. Petitioner further avers that the incident was work-related, because it arose out of private respondent's ill feelings towards his victim, the company foreman, who had chastised him for allegedly sleeping while on duty. Petitioner admits that the incident took place outside the work premises, but maintains that it happened just opposite the entrance gate of