341 Phil. 809

SECOND DIVISION

[G.R. No. 111933, July 23, 1997]

PHILIPPINE LONG DISTANCE TELEPHONE COMPANY, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND LETTIE P. CORPUZ, RESPONDENTS.

D E C I S I O N

ROMERO, J.:

This petition for *certiorari* pleads for the revocation of the November 16, 1992, decision of the National Labor Relations Commission (NLRC), affirming in toto the resolution of Labor Arbiter Jose G. De Vera dated February 28, 1991, as well as its resolution dated August 20, 1993, denying petitioner's motion for reconsideration for lack of merit.

Private respondent Lettie Corpuz was employed as traffic operator at the Manila International Traffic Division (MITD) by the Philippine Long Distance Telephone Company (PLDT) for ten years and nine months, from September 19, 1978, until her dismissal on June 17, 1989. Her primary task was to facilitate requests for incoming and outgoing international calls through the use of a digital switchboard.

Sometime in December 1987, PLDT's rank-and-file employees and telephone operators went on strike, prompting the supervisors of the MITD to discharge the former's duties to prevent a total shutdown of its business operations. "While in the course of their emergency assignments, two supervisors almost simultaneously received two different requests for overseas calls bound for different Middle East countries and both callers reported the same calling number (98-68-16)."[1] The tone verifications having yielded negative results, the callers were advised to hang up their telephones to enable the supervisors to effect an alternative verification system by calling the same number again. As in the first instance, the number remained unverified. Investigating the seemingly anomalous incident, the matter was reported to the Quality Control Inspection Department (QCID) which revealed that the subject number was temporarily disconnected on June 10, 1987, and permanently on September 24, 1987. It also showed that 439 overseas calls were made through the same number between May and November 1987.

On account of such disclosure, the microfiches containing the completed calls through telephone number 98-68-16 were ordered to be re-run. It yielded the following results: (1) 235 telephone operators handled the 439 calls placed through the supposedly disconnected number; (2) respondent handled 56 or 12.8% of the total calls, while the other operators had an average of only 1.8% calls each; (3) respondent completed one call on May 23, 1987 and effected 34 calls after the disconnection, 24 of which were completed through tone verification while the other 10 calls were done without the requisite tone verification or call-back procedure, and 21 other calls were cancelled; (4) of the 21 cancelled calls handled by respondent,

one bared a BU report (party unavailable) but fetched a long OCD (operator call duration) of 13 minutes and 21 seconds while another call registered a BB report (called party, busy) but with an OCD of 22 minutes and 34 seconds, both considered unusually protracted by respondent for holding a connection; and (5) respondent made several personal calls to telephone numbers 96-50-72, 99-92-82 and 97-25-68, the latter being her home phone number.

Premised on the above findings, on July 26, 1988, MITD Manager Erlinda Kabigting directed respondent to explain her alleged infraction, that is, facilitating 34 calls using the disconnected number.

Instead of tendering the required explanation, respondent requested a formal investigation to allow her to confront the witnesses and rebut the proofs that may be brought against her. On grounds of serious misconduct and breach of trust, the Legal Department recommended her dismissal. In a letter dated June 16, 1989, respondent was terminated from employment effective the following day.

In a complaint for illegal dismissal filed by respondent against petitioner, Labor Arbiter Jose G. De Vera rendered a decision, the dispositive portion of which reads thus:

> "WHEREFORE, all the foregoing premises being considered, judgment is hereby rendered ordering the respondent company to reinstate the complainant to her former position with all the rights, benefits and privileges thereto appertaining including seniority plus backwages which as of February 28, 1991 already amounted to P103,381.50 (P5,043.00 mo. x. 20.5 mos.). Further, the respondent company is ordered to pay complainant attorney's fees equivalent to ten percent (10%) of such backwages that the latter may recover in this suit.
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> SO ORDERED."[2]

On appeal, said decision was affirmed by the NLRC on November 16, 1992. Its motion for reconsideration having been denied on August 20, 1993, petitioner filed the instant petition for certiorari.

The instant petition must be dismissed. Petitioner failed to adduce any substantial argument that would warrant a reversal of the questioned decision.

Time and again, this Court has reminded employers that while the power to dismiss is a normal prerogative of the employer, the same is not without limitations.[3] The right of an employer to freely discharge his employees is subject to regulation by the State, basically through the exercise of its police power. This is so because the preservation of the lives of citizens is a basic duty of the State, an obligation more vital than the preservation of corporate profits.[4]

Petitioner insists that respondent was guilty of defrauding them when she serviced 56 of the 439 calls coming from telephone number 98-68-16 and received numerous requests for overseas calls virtually from the same calling number, which could not have been a mere coincidence but most likely was a pre-arranged undertaking in connivance with certain subscribers.