

THIRD DIVISION

[G.R. No. 111914, September 24, 1996]

JORGE M. RANISES, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, GRACE MARINE & SHIPPING CORPORATION, ET. AL., RESPONDENTS.

DECISION

FRANCISCO, J.:

Before us is a petition for certiorari under Rule 65 of the Rules of Court seeking to set aside the decision rendered by public respondent National Labor Relations Commission (NLRC) in NLRC NCR Case No. 002020-91 dated September 14, 1992^[1] and the resolution dated August 20, 1993.^[2] The assailed decision modified the judgment of the Philippine Overseas Employment Administration (POEA) in POEA Case No. (M) 90-09-1037 and declared that although petitioner's dismissal was carried out without due process, the same was however valid and based on a just cause. The resolution in turn denied petitioner's motion for reconsideration.

As succinctly summarized by petitioner, the antecedents that led to this suit are as follows:

"The Petitioner is a seaman and a holder of a Master's License and SCDB No. 130334. On January 18, 1990, he was hired by Orophil Shipping International Co. Inc. as Chief Mate to board a vessel M/V 'Southern Laurel,' an ocean going vessel owned and operated by its foreign principal Sinkai Shipping Co. Ltd. Sometime on May, 1990, Sinkai Shipping Co. Ltd. changed its manning agent, Orophil Shipping International Co. Inc., and appointed Grace Marine and Shipping Corp. as its new manning agent, who has thereby responsibility for the above mentioned vessel.

On January 25, 1990 the Petitioner departed the Philippines to join the vessel based on his POEA approved employment contract for a twelve (12) month period and with a stipulated wage of US\$1,571.00 per month and 3 days leave pay per month.

Contrary to the agreed wage of US\$1,571.00 per month as per POEA Contract, Petitioner since the time of his engagement on board the vessel has been receiving only the sum of US\$1,387.00 PER MONTH as reflected in his pay slips, which prompted him to make enquiries (sic) and complaints on the under payment (sic) and/or unauthorized deductions by the private respondents. It appears further that prior to and at the time of his engagement, the vessel was under Collective Bargaining Agreement (ITF/JSU CBA) stipulating for US\$1,571.00 per month for the position of Chief Officer, which is the same position that Petitioner

occupies in the vessel.

On September 6, 1990, the Petitioner was repatriated to Manila, and feeling aggrieved, he brought lodged (sic) a Complaint at the POEA against the Private Respondents for illegal dismissal, salary differential, non-payment of overtime pay and leave pay."^[3]

Private respondents denied any liability to petitioner and alleged that although the latter's original employment contract provided for a basic monthly salary of US\$1,571 for twelve (12) months, the same was subsequently revised upon the signing of a Special Agreement on February 26, 1990 between the International Transport Workers Federation (ITF)/and Japan Seamen's Union (JSU)/ Associated Marine Officer's and Seamen's Union of the Philippines (AMOSUP), of which petitioner is a member, and private respondent Sinkai Shipping Co. Ltd. and Orophil Shipping International Co., Inc. The Special Agreement amended their existing Collective Bargaining Agreement and reduced petitioner's salary to US\$1,387.00 a month for a period of ten (10) months. It was expressly agreed upon that the Special Agreement shall be retroactive from January 11, 1990, thereby, including petitioner within its coverage. Petitioner refused to sign the new contract and instead requested that he be repatriated as he intended to apply for a higher paying contract. Moreover, private respondents alleged that petitioner failed to exhaust administrative remedies by not ventilating his complaint in accordance with the grievance procedures provided in the POEA approved ITF/JSU/AMOSUP CBA.

On July 2, 1991, judgment was rendered by the POEA in favor of petitioner finding private respondents guilty of illegal dismissal as petitioner's repatriation was an offshoot of his demand that he be paid the salary provided in his original contract, and ordered as follows:

"WHEREFORE, premises considered, judgment is hereby rendered by ordering respondents to pay complainant, jointly and severally the following:

1. US\$7,226.48 or its peso equivalent at the time of payment, representing the money equivalent of the unexpired portion of the contract;
2. US\$957.63 or its peso equivalent at the time of payment representing salary differentials;
3. Five percent (5%) of the total amount as attorney's fee.

SO ORDERED."^[4]

Thereafter, private respondents filed an appeal with the NLRC, which in turn arrived at a different conclusion, modifying the ruling of the POEA, and rendered the assailed decision on September 14, 1992, the dispositive portion of which reads:

"WHEREFORE, and in view thereof the appealed decision is hereby SET ASIDE and a new one entered ordering respondent GRACE MARINE to pay complainant the following amounts:

- 1). US\$ 1,375.00 or its peso equivalent as penalty for violation of

procedural rules;

2). US\$ 957.00 or its peso equivalent representing his leave pay differential which was only computed based on three (3) days leave pay/month.

SO ORDERED."^[5]

Although it conceded that petitioner's dismissal was effected without due process, respondent NLRC nevertheless upheld petitioner's termination from employment and justified the same as a measure of self-protection on private respondent-employer's part. Respondent Commission ruled that there was just cause for petitioner's dismissal because he committed "acts which tended to breed discontent among crew members by advocating and inciting a labor dispute."^[6]

Taking exception to the foregoing decision of the NLRC, petitioner filed the instant petition for certiorari, assailing the NLRC for having committed grave abuse of discretion in reversing the judgment of the POEA. Petitioner argues that contrary to the conclusion of the NLRC, there was no valid ground to support his dismissal. This fact, coupled with the absence of due process in carrying out the same, therefore rendered his termination from employment illegal.

As a general rule, the factual findings and conclusions drawn by the NLRC are accorded great weight and respect upon appeal and even finality, as long as it is supported by substantial evidence.^[7] However, where the findings of POEA and the NLRC are diametrically opposed, it behooves this Court to scrutinize the record of the case and the evidence presented to arrive at the correct conclusion.^[8]

The two-fold requirements for a valid dismissal are as follows: (1) dismissal must be for a cause provided for in the Labor Code, which is substantive; and (2) the observance of notice and hearing prior to the employee's dismissal, which is procedural.^[9]

In the instant case, there is no dispute that respondent employer failed to comply with the requirements of procedural due process in effecting petitioner's dismissal. Both the POEA and the NLRC confirmed this in their respective decisions. The focal point of inquiry therefore is whether or not there was indeed just cause for petitioner's dismissal.

It is a basic principle that in the dismissal of employees, the burden of proof rests upon the employer to show that the dismissal is for a just cause and failure to do so would necessarily mean that the dismissal is not justified.^[10]

In reversing the POEA and upholding petitioner's dismissal, respondent NLRC held petitioner liable for breach of trust due to his "acts that tended to breed discontent among the crew members of the vessel by advocating and inciting a labor dispute."^[11]

However, a close scrutiny of the assailed decision revealed that other than this sweeping pronouncement, the finding of breach of trust is bereft of any factual basis. Respondent NLRC failed to even specify the alleged illegal acts committed by