

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**MOLAVE TOURS CORPORATION,  
*Petitioner,***

***-versus-***

**G. R. No. 112909  
November 24, 1995**

**NATIONAL LABOR RELATIONS  
COMMISSION and ROGER BOLOCON,  
*Respondent.***

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**DECISION**

**FRANCISCO, J.:**

This is a Petition for *Certiorari* with Prayer for the Issuance of a Temporary Restraining Order and/or Preliminary Injunction seeking the reversal of the Decision of the National Labor Relations Commission (NLRC) dated July 9, 1993 in Case No. SUB-RAB-V-08-00257-89 CA No. L-000863,<sup>[1]</sup> and the Resolution dated November 26, 1993 denying petitioner's motion for reconsideration.<sup>[2]</sup> The assailed decision affirmed the ruling of the Labor Arbiter<sup>[3]</sup> which held petitioner liable for illegal dismissal and non-payment of overtime pay.

Private respondent Roger Bolocon was hired by petitioner Molave Tours Corporation in July, 1986 to work as a garage custodian of its

Naga City branch and was tasked to do the following: 1) maintenance of petitioner's garage in Naga City; b) refueling of petitioner's passenger buses which come from and leave for Metro Manila; c) helping in the minor repairs of petitioner's passenger buses; and d) act as property custodian of the auto spare parts and tools kept in the garage. As the nature of private respondent's duties required his continuous presence in the garage from 5:00 A.M., he was furnished with living quarters inside the garage premises.

Following reports that Bolocon was at several times found to have been drunk inside the garage premises as well as pilfering diesel gas out of the garage, Bolocon received Memorandum No. 34<sup>[4]</sup> from petitioner's main office in Manila on June 18, 1989, requiring him to explain in writing within twenty four (24) hours the aforesaid charges. Bolocon also received Memorandum No. 35 effecting his immediate suspension.

Surprised, Bolocon immediately proceeded to Manila to submit his written explanation. Notwithstanding his explanation and request for a confrontation with his accusers, petitioner's personnel manager refused to accede and instead forced Bolocon to sign a prepared letter of resignation dated June 2, 1989.<sup>[5]</sup> Intimidated, Bolocon signed the same.

On August 7, 1989, Bolocon filed a complaint against petitioner with the DOLE Sub-Regional Branch No. V in Naga City, for illegal dismissal, underpayment of salary, non-payment of overtime pay, premium pay for holiday and rest day, night shift differential, separation pay and damages.

Bolocon claimed that he was merely forced to resign by petitioner's personnel manager without even conducting a formal investigation to substantiate the charges against him. He also denounced the fact that from July, 1986 up to May, 1989, he was to work from five o'clock in the morning until eleven o'clock in the evening everyday, without being paid any overtime pay, holiday pay and premium pay for rest days pursuant to Articles 87, 93(a) and 94 of the Labor Code.

Denying any liability, petitioner maintained that Bolocon was a mere contractual employees and that in order to avoid being investigated

for his alleged offenses, Bolocon voluntarily tendered his resignation, thus, his complaint is without any legal basis. Moreover, petitioner countered that contrary to Bolocon's claims, the latter worked only for four hours a day, two hours in the morning and two hours in the afternoon, in between which was his free time. But despite this, he was allowed to indicate in his daily time record that he worked for eight hours a day so that the other employees will not envy him and was given all the benefits provided by the law.

In a decision dated November 27, 1992, the Labor Arbiter ruled in Bolocon's favor and ordered petitioner to reinstate him to his former position without loss of seniority rights and benefits, to wit:

“WHEREFORE, judgment is hereby rendered directing respondent Molave Tours Corporation, thru its responsible official to reinstate complainant to his former or equivalent position without loss of seniority rights and benefits and to pay him within ten (10) days from receipt hereof thru this Branch, the following:

1. Backwages	P92,612.00
2. Salary Differentials	21,476.57
3. Overtime Pay	44,396.60
4. Moral and Exemplary Damages	20,000.00
5. Attorney's fee	<u>15,848.51</u>
GRAND TOTAL	P194,333.68
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Other claims are dismissed for insufficient of evidence.

SO ORDERED.”<sup>[6]</sup>

Aggrieved, petitioner appealed the aforequoted Decision to the NLRC, which in turn affirmed the decision of the Labor Arbiter in toto except for the award of attorney's fees which was reduced to the sum of P6,588.00.<sup>[7]</sup> Petitioner filed a motion for reconsideration but the same was denied.<sup>[8]</sup>

Still not satisfied, petitioner interposed the instant petition arguing that respondent NLRC committed grave abuse of discretion by

disregarding private respondent's letter of resignation and affirming the monetary awards made by the Labor Arbiter in favor of private respondent.

Petitioner contends that private respondent Bolocon voluntarily resigned from his employment as evidenced by his letter of resignation dated June 2, 1989.<sup>[9]</sup> Moreover, petitioner disputes the finding of respondent NLRC that Bolocon was merely forced and intimidated into signing his letter of resignation since "it was highly incredible for an old and weak woman by herself alone to have forced and intimidated a young, strong and robust man like Bolocon into resigning against his will."<sup>[10]</sup> Specifically, petitioner takes exception to the following conclusions reached by respondent NLRC:

"While physically it may be true that an old and weak woman can not force or intimidate a young and robust male assuming it to be true but psychologically, she can force and intimidate him by reason of moral ascendancy, higher state of education and attendant influence of the environment. All these factors contrived in instilling in the mind of a lowly educated and simple minded worker the futility of resistance."<sup>[11]</sup>

The cardinal rule in termination cases like the one at bench is that the employer bears the burden of proof to show that the dismissal is for just cause, failing in which, would mean that the dismissal is not justified and the employee is entitled to reinstatement.<sup>[12]</sup>

Petitioner posits that private respondent voluntarily resigned from his employment.

Resignation is defined as "the voluntary act of an employee who finds himself in a situation where he believes that personnel reasons cannot be sacrificed in favor of the exigency of the service, then he has no other choice but to disassociate himself from his employment."<sup>[13]</sup> In the context of Section II, Rule XIV, Book V of the Revised Rules Implementing the Labor code, resignation is a formal pronouncement or relinquishment of an office. It must be made with the intention of relinquishing the office accompanied by an act of relinquishment.<sup>[14]</sup>

Prescinding from the foregoing, we find petitioner's contention to be without merit. The fact that private respondent immediately filed a complaint for illegal dismissal against petitioner and repudiated his alleged resignation completely negated petitioner's claim that respondent Bolocon voluntarily resigned. By vigorously pursuing the litigation of his action against petitioner, private respondent clearly manifested that he has no intention of relinquishing his employment, which act is wholly incompatible to petitioner's assertion that he voluntarily resigned.

Neither was petitioner able to discharge the burden of proving that respondent Bolocon's employment was validly terminated. Other than the mute words of Bolocon's alleged letter of resignation, the rest of petitioner's evidence failed to establish that Bolocon indeed voluntarily resigned. Worse, petitioner failed to refute private respondent's allegation of force and intimidation in the case execution of the letter of resignation by opting not to present the testimony of its personnel manager who could have contradicted Bolocon's version of what actually transpired. Thus, we find no reason to depart from the assailed conclusion reached by respondent NLRC that force and intimidation vitiated private respondent's resignation, and thus, his dismissal was illegal.

Finally, petitioner claims that respondent NLRC gravely erred in affirming the order to reinstate private respondent as well as to award of monetary benefits in his favor.

Petitioner argues that Bolocon's claim that he rendered overtime services has no basis in the face of evidence consisting of his daily time cards<sup>[15]</sup> which indicated that he merely worked for eight hours a day during his period of employment.

Under Article 279 of the Labor Code, "[a]n employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority and other privileges and to his full backwages, inclusive of allowances, and to his other benefits as their monetary equivalent computed from the time of his actual reinstatement."<sup>[16]</sup>

Having already established that private respondent was illegally dismissed as he was merely and intimidated into resigning, the

consequent effect is to reinstate him and to award him backwages and other benefits due him from the time of his dismissal until he is reinstated.

Anent the award of overtime pay in private respondent's favor, the same has been sufficiently substantiated not only by Bolocon's own testimony but also by that of his witnesses Edgardo Vitalecio and Alex Belone, a security guard and Inspector Supervisor and Liaison Officer, respectively, at petitioner's Naga City branch. Their testimonies amply controverted petitioner's evidence that Bolocon worked for only eight hours a day and instead established that Bolocon had indeed rendered overtime services.

Finally, it should be stressed that the factual findings of quasi-judicial agencies like the NLRC are generally accorded not only respect but, at times finality if such are supported by substantial evidence.<sup>[17]</sup> Judicial review by this Court in labor cases does not go so far as to require this Court to evaluate the sufficiency of the evidence upon which the Labor Arbiter and respondent NLRC based their determination but is limited to issues of jurisdiction or grave abuse of discretion.<sup>[18]</sup> In the instant suit, the findings of the Labor Arbiter as affirmed by respondent NLRC being amply supported by substantial evidence, we find no reason to deviate from the same.

**WHEREFORE**, finding no grave abuse of discretion on the part of respondent NLRC in rendering the assailed Decision, the instant petition is hereby **DISMISSED** for lack of merit.

**SO ORDERED.**

**Narvasa, C.J., Regalado, Puno and Mendoza, JJ., concur.**

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[1] Rollo, p. 102.

[2] Rollo, p. 122.

[3] Rollo, p. 56.

[4] Rollo, p. 39.

[5] Rollo, p. 51.

[6] Rollo, p. 76.

[7] Rollo, p. 113.

- [8] Rollo, p. 122.
- [9] Annex I, Rollo, p. 51.
- [10] Rollo, p. 18.
- [11] Rollo, p. 105-106.
- [12] Polymedic General Hospital vs. NLRC, 134 SCRA 420, 424 (1985); Egyptair, et al. vs. NLRC, 148 SCRA 125, 130 (1987).
- [13] Intertrod Maritime, Inc. vs. NLRC 198 SCRA 318, (1991) citing Dosch vs. NLRC 123 SCRA 296 (1983).
- [14] Magtoto vs. NLRC, 140 SCRA 58, 71 (1985).
- [15] Annex J, Rollo, p. 52.
- [16] Octaviano vs. NLRC, 202 SCRA 332, 337 (1991).
- [17] Five J Taxi vs. NLRC, 235 SCRA 556 (1994); Loadstar Shipping Co. Inc. vs. Gallo 229 SCRA 654 (1994).
- [18] Villanueva, Sr. vs. Leogardo, Jr. 215 SCRA 835, 838 (1992) citing Special Events & Central Shipping Office Workers Union vs. San Miguel Corp., 122 SCRA 557.