

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**PACIFIC MILLS, INC.,
*Petitioner,***

-versus-

**G.R. No. 78090
July 26, 1991**

**ZENAIDA ALONZO,
*Respondent.***

X-----X

DECISION

NARVASA, J.:

From July 30, 1973, Zenaida Alonzo was employed as a ring frame operator in the Pacific Mills, Inc. until September 30, 1982 when she was discharged by Management.

The record shows that in the early afternoon of September 22, 1982, Zenaida challenged Company Inspector Ernesto Tamondong to a fight, saying: "Putang Ina mo, lumabas ka, tarantado, kalalaki mong tao, duwag ka. Ipagugulpi kita sa labas at kaya kitang ipakaladkad dito sa loob ng compound palabas ng gate sa mga kamag-anak ko." And suiting action to the word, she thereupon boxed Tamondong in the stomach. The motive for the assault was Zenaida's resentment at having been reprimanded, together with other employees, two days earlier by Tamondong for wasting time by engaging in idle chatter.^[1]

Tamondong forthwith reported the incident to the firm's Administrative Manager^[2] as well as the Chairman of Barangay Balombato, Quezon City.^[3]

On September 30, 1982, Zenaida Alonzo was given a Memorandum by the company's Executive Vice President & General Manager terminating her employment as of October 1, 1982 on various grounds: poor work, habitual absences and tardiness, wasting time, insubordination and gross disrespect. The service of that memorandum of dismissal on her was not preceded by any complaint, hearing or other formality. These were apparently considered unnecessary by Management^[4] in view of the provision in the Company Rules and Relations (embodied in the Collective Bargaining Agreement between the company and the union representing the employees) that:

“Fighting or attempting to inflict harm to another employee, will render (sic) the aggressor to outright dismissal.”

It was only at the hearing of the complaint for illegal dismissal (and non-payment of proportionate 13th month pay) instituted by Zenaida on October 4, 1982 in the NCR Arbitration Branch, that evidence was presented by the company not only of the assault by Zenaida on her superior but also of many other violations by her of company rules and regulations, in an attempt to substantiate the validity of her dismissal from work.

The Labor Arbiter found that Alonzo had indeed verbally abused and struck her superior, Tamondong, and rejected her contention that the assault was not punishable since it was “not work-connected and was provoked instigated by Ernesto Tamondong.”^[5] The Arbiter also declared as “fully established the previous infractions of complainant,” these being “a matter of record and not denied by complainant (Zenaida).”

The Arbiter was of the view, however, that Alonzo was entitled to relief, because (a) the penalty imposed was “harsh and severe and not commensurate with the offense, suspension of three (3) months (being) the proper, just and reasonable penalty;” and because (b) the company had failed “to investigate complainant before she was

dismissed.” The Arbiter thus ordered Pacific Mills, Inc., Zenaida’s employer:

“To reinstate complainant without loss of seniority rights and to pay her backwages from January 1, 1983 until fully reinstated, the period from October 1, 1982 to December 31, 1982 complainant being under suspension without pay (as well as) to pay complainant’s 13th month pay in the amount of THREE HUNDRED FIFTY-ONE PESOS ONLY (P351.00).”

Acting on the employer’s appeal, the National Labor Relations Commission rendered judgment on March 23, 1987, sustaining the Labor Arbiter’s findings. It however limited the award of back wages to Zenaida only to three (3) years, in accordance with this Court’s judgment in *Feati University Faculty Club (PAFLU) vs. Feati University*, 58 SCRA 396.^[6]

Pacific Mills, Inc. has instituted in this Court the special civil action of *certiorari* at bar praying for nullification of the judgment of the NLRC for having been rendered with grave abuse of discretion.

In the comment thereon,^[7] required of him by the Court, the Solicitor General opined that:

“Both the Labor Arbiter and the NLRC apparently failed to take into consideration the fact that Zenaida Alonzo was dismissed not because of this isolated act (of assault against her superior) but rather because of numerous and repeated violations of company rules and regulations. It was only this last incident which compelled Pacific Mills, Inc. to finally terminate her services. It is the totality of the infractions committed by the employee which should have been considered in determining whether or not there is just cause for her dismissal.

Zenaida Alonzo was caught several times leaving her place of work to chat with her co-employees. This is reprehensible conduct since, as ring frame operator, she must be at her post during work hours to prevent the occurrence of incidents which could damage the machine. The company inspector precisely warned her against doing this. She had also been repeatedly

reprimanded for insubordination habitual tardiness, wasting time and not wearing the required company uniform. In spite of these infractions the company bore with her services and did not see fit to dismiss her. Her assault on the company inspector was apparently the last straw which compelled Pacific Mills, Inc. to terminate her services.”

Accordingly, the Solicitor General recommended “payment of separation pay equivalent to three (3) years backwages but without reinstatement” and of “proportionate 13th month pay.”

For their part, the Chief Legal Officer of the NLRC,^[8] and the private respondent,^[9] insist that since the dismissal of Zenaida Alonzo was not preceded by any notice of the charges and a hearing thereon, the judgment of the NLRC must be sustained.

Decisive of this controversy is the judgment of the Court en banc in *Wenphil Corporation vs. NLRC*, promulgated on February 8, 1989,^[10] in which the following policy pronouncements were made:

“The Court holds that the policy of ordering the reinstatement to the service of an employee without loss of seniority and the payment of his wages during the period of his separation until his actual reinstatement but not exceeding three (3) years without qualification or deduction, when it appears he was not afforded due process, although his dismissal was found to be for just and authorized cause in an appropriate proceeding in the Ministry of Labor and Employment, should be re-examined. It will be highly prejudicial to the interests of the employer to impose on him the services of an employee who has been shown to be guilty of the charges that warranted his dismissal from employment. Indeed, it will demoralize the rank and file if the undeserving, if not undesirable, remains in the service.

Thus in the present case, where the private respondent, who appears to be of violent temper, caused trouble during office hours and even defied his superiors as they tried to pacify him, should not be rewarded with reemployment and back wages. It may encourage him to do even worse and will render a mockery of the rules of discipline that employees are required to observe.

Under the circumstances, the dismissal of the private respondent for just cause should be maintained. He has no right to return to his former employer.

However, the petitioner (employer) must nevertheless be held to account for failure to extend to private respondent his right to an investigation before causing his dismissal. The rule is explicit as above discussed. The dismissal of an employee must be for just or authorized cause and after due process (Section 1, Rule XIV, Implementing Regulations of the Labor Code). Petitioner committed an infraction of the second requirement. Thus, it must be imposed a sanction for its failure to give a formal notice and conduct an investigation as required by law before dismissing (respondent) from employment. Considering the circumstances of this case petitioner must indemnify the private respondent the amount of P1,000.00. The measure of this award depends on the facts of each case and the gravity of the omission committed by the employer.”

The Court perceives no sufficient cause, it has indeed been cited to none by the respondents, to decline to apply the Wenphil doctrine to the case at bar.

While it is true that Pacific Mills, Inc. had not complied with the requirements of due process prior to removing Zenaida Alonzo from employment, it is also true that subsequently, in the proceedings before the Labor Arbiter in which Zenaida Alonzo had of course taken active part, it had succeeded in satisfactorily proving the commission by Zenaida of many violations of company rules and regulations justifying termination of her employment. Under the circumstances, it is clear that, as the Solicitor General has pointed out, the continuance in the service of the latter is patently inimical to her employer's interests and that, citing *San Miguel Corporation vs. NLRC*,^[11] the law, in protecting the rights of the laborer authorizes neither oppression nor self-destruction of the employer. And it was oppressive and unjust in the premises to require reinstatement of the employee.

WHEREFORE, the Petition is granted and the challenged Decision of the respondent Commission dated March 23, 1987 and that of the

Labor Arbiter thereby affirmed, are **NULLIFIED AND SET ASIDE**. However, the petitioner is ordered to pay private respondent a proportionate part of the 13th month pay due her, amounting to P351.00 as well as to indemnify her in the sum of P1,000.00. No costs.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino and Medialdea, JJ., concur.

-
- [1] Rollo, pp. 30-32.
 - [2] Id., p. 31.
 - [3] Id., p. 32.
 - [4] Rollo, pp. 82-83.
 - [5] The Arbiter's Decision is found at pp. 31-37, Rollo.
 - [6] Rollo, pp. 43, 46-47.
 - [7] Id., pp. 79-88.
 - [8] Rollo, pp. 102-106.
 - [9] Id., pp. 90-97.
 - [10] 170 SCRA 69, 75-76.
 - [11] 115 SCRA 329 (1982).