

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
EN BANC**

**WARLITO PIEDAD,
*Petitioner,***

-versus-

**.R. No. 73735
August 31, 1987**

**LANAO DEL NORTE ELECTRIC
COOPERATIVE, INC. (LANECO) and its
General Manager, RUPERTO O.
LASPINAS,**

Respondents.

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DECISION

GUTIERREZ, JR., J.:

This is a Petition to set aside the Decision of the National Labor Relations Commission (NLRC) promulgated on November 15, 1985, which reversed the decision of Executive Labor Arbiter Ildelfonso G. Agbuya and dismissed the petitioner's complaint. The legality of the petitioner's dismissal is at issue.

The petitioner was employed with the respondent company from December 5, 1974 up to January 4, 1984, first as a housewiring estimator, then as a bill collector.

On December 20, 1983, Mr. Piedad was found short of P300.00 in his collections in an audit conducted by Sycip, Gorres and Velayo, a private auditing firm. On January 4, 1984, he was suspended from his work on account of such shortage. On February 1, 1984 his services were finally terminated by the private respondents.

On February 10, 1984, the petitioner filed a complaint with the Ministry of Labor and Employment in Iligan City for “Illegal Suspension and Dismissal with Prayers for Reinstatement, Payment of Backwages, Allowances, Benefits, and Damages.”

On February 22, 1985, Executive Labor Arbiter Ildefonso G. Agbuya of the Regional Arbitration Branch No. X of the National Labor Relations Commission in Cagayan de Oro City, rendered a decision on the basis of the respective position papers and other supporting proofs submitted by the parties. The dispositive portion of his Decision reads:

“WHEREFORE, judgment is hereby entered ordering Respondent Lanao del Norte Electric Cooperative, Inc., (LANECO for short) and Atty. Ruperto Laspinas, General Manager to immediately reinstate Complainant Warlito Piedad to his former position without loss of seniority right with backwages and all benefits appurtenant to his position from the time he was illegally dismissed until his reinstatement.

“All the other issues are dismissed for lack of merit.” (p. 28, Rollo)

On April 29, 1985, the private respondent appealed the aforequoted ruling.

On November 15, 1985, public respondent NLRC reversed the Labor Arbiter’s decision and dismissed the petitioner’s complaint for lack of merit.

Hence, this petition.

Very simply, the NLRC in its decision states the crux of the matter to be “whether or not complainant herein got short of his electric bill collections on December 20, 1983 to warrant his dismissal.”

The records show that on December 20, 1983, a regular audit of respondent company was made by the firm’s auditor. As part of such auditing procedures, a cash count of remittances of the company’s bill collectors was conducted. The count revealed a shortage in the petitioner’s cash collections in the amount of P299.99 which shortage was acknowledged by petitioner. Such fact was brought to the attention of management and reflected in the auditor’s report with a statement that “the above shortage was explained by the Collector as used by him.” The report was certified to and signed by the petitioner.

Sometime later in the same day, the petitioner remitted the amount of P299.99 to the firm’s cashier/teller Lorlesela A. Sanchez, who issued Official Receipt No. 011862 for the amount.

Thereafter, on January 4, 1984, the petitioner was suspended and required to show cause why his employment should not be terminated. The order of suspension was then followed by an order of termination, dated February 1, 1984, on the ground of petitioner’s “failure to show cause within a reasonable period why you should not be terminated for incurring a cash shortage of P300.00.”

The public respondent, in its decision, summarizes the contentions of both parties as follows:

“The alleged cash shortage discovered and reported by a certain Mr. Romeo L. Bato controverted by the Official Receipts No. 011861 and 011862 all dated December 20, 1983. These are telling evidences that Complainant was not short in his December, 1983 Collections. To bolster Complainant’s defenses be submitted Affidavit of Lorlesela A. Sanchez admitting that it was she who received Complainant’s remitted collections and who in turn issued the necessary receipts duly marked as Annexes ‘A’ and ‘B’ to Complainant’s position. In fine, we hold the dismissal of Complainant without just and valid cause.

“Taking exception to the above findings, respondent averred in its appeal that:

“At this juncture, it is very vital and significant to mention that the Honorable Executive Labor Arbiter lost sight of the fact that the kind of Official Receipts marked as Annexes ‘A’ and ‘B’ in the case at bar is neither evidence for shortages nor basis of establishing accountability or accountable personnel particularly collections for the Respondent-Appellant but rather it is an evidence of remittance of any collection or money. In other words, possession or issuance of such kind of Official Receipts for the Respondent-Appellant thru Lorlesela Alquizola does not mean in any way that Warlito Piedad did not incur shortages in the cash count examination conducted on December 20, 1983 by the SGV and Co., auditor.

“Respondent went on to elucidate its stand:

“To clarify matters on shortages, it is necessary to state that in order to establish collector’s shortage, our auditor conducts a cash count examination by requiring the collector to produce all his total collection and count the same. The total actual cash counted is recorded and constitute his total collection. The auditor/examiner proceeds to establish the collector’s accountability by adding all the paid official electric bill receipts (DEBRs) in his custody or possession. By the way, the DEBR is an official receipt entrusted by the Bill Controller to the collector which is entirely different from the Official Receipt (OR) entrusted to cashier or teller or any person authorized to issue the same. The total sum of all the paid Official Electric Bill Receipt constitutes the whole accountability of the collector. The examiner then proceeds to compare the actual total cash counted and recorded to the total sum of paid DEBR or accountability. Total cash counted and recorded should equal to the sum of paid DEBRs. If the cash is less than the paid DEBRs then shortage is clearly being establish. (sic)” (pp. 20-21, Rollo)

From the foregoing, it is clear that a shortage was indeed incurred by the petitioner. The total cash remitted by petitioner Piedad was less than the paid electric bill receipts evidencing the collector's total liability. The auditor's report "certified to" and signed by the petitioner, states: "The above shortage was explained by the Collector as used by him." The petitioner neither refutes nor contests this fact. The failure to deny the same becomes an admission. Qui non negat fatetur. Subsequent remittance by the petitioner of the sum in question can no longer erase as fact the shortage already incurred.

The petitioner argues, however, that in view of the absence of loss or damage caused to the respondent cooperative, by reason of the immediate return of the amount in question, the petitioner's dismissal does not appear warranted under the circumstances. Mr. Piedad cites his "nine (9) years of unblemished service" marked by awards as "Collector of the Year" for three consecutive years, 1975, 1976 and 1977.

Perhaps, viewed by itself as an isolated incident in the petitioner's service, a shortage in the amount of P299.99, appropriated then immediately returned by the erring employee, does not warrant so severe a penalty as dismissal. However, the shortage is not an isolated circumstance in the petitioner's career with the cooperative.

Unrebutted evidence on record shows that the petitioner had been remiss in his duties as collector. He had been warned and reprimanded for not visiting all points in his route, inefficiency, insufficient collections, and cash shortage in the past. (pp. 104-106, Rollo). As a matter of fact, in a "frank, honest and determined" admission against interest, the petitioner in a written response to Memorandum Order GM No. 07283, dated September 12, 1983, reprimanding him for shortage of collection, essayed to explain the matter and we quote:

- “1. Whenever and in any means I remain a collector, I cannot and can never guarantee that I cannot use some amount of my collection considering the fact that surrounds us — the economic crisis thus putting me liable for policy No. 37.

- “2. I feel forced to lax in my work due to the system manipulated by the billing division, too much bureaucracy, thus putting collectors away from reporting exact time in the field or area of responsibility.
- “3. I feel so nervous to work for the very obvious reason determined by the memorandum for the second offense of which I am liable thru accident or just a mere oversight, especially changes of which collectors feel but natural between collection.

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For the above reason, the petitioner was requesting a transfer. However, in an act of generosity, the respondent cooperative chose to give him a clean slate and maintained him as collector.

Taking the employer’s reaction, as a signal that his explanations were sufficient to justify his acts, the petitioner duplicated the infraction for which his services were finally terminated.

Clearly, it was neither without rhyme nor reason that the petitioner was dismissed from employment. His acts need not result in material damage or prejudice before his dismissal on grounds of loss of confidence may be effected. Being charged with the handling of company funds, the petitioner’s position, though generally described as menial, is, nonetheless, a position of trust and confidence. No company can afford to have dishonest bill collectors.

Loss of confidence is established as a valid ground for the dismissal of an employee. The law does not require proof beyond reasonable doubt of the employee’s misconduct to invoke such a justification. It is sufficient that there is some basis for the loss of trust or that the employer has reasonable grounds to believe that the employee is responsible for the misconduct and his participation therein renders him unworthy of the trust and confidence demanded of his position (Valladolid vs. Inciong, 121 SCRA 2053; see also Dole Philippines, Inc. vs. National Labor Relations Commission, 123 SCRA 673; and San Miguel Corporation vs. National Labor Relations Commission, 115 SCRA 329).

Indeed, an employer may dismiss an employee for breach of trust in the handling of funds inspite of his having been acquitted in the course of a criminal prosecution. Conviction for a crime involving the loss of such funds is not necessary before the employee may be dismissed. (San Miguel Corporation vs. National Labor Relations Commission, 128 SCRA 180). There is more reason for dismissal where the acts of misconduct and wilfull breach of trust are repeatedly committed by an employee (Philippine Long Distance Telephone vs. National Labor Relations Commission, 122 SCRA 618).

Fitness for continued employment cannot be compartmentalized into tight little cubicles of aspects of character, conduct, and ability separate and independent of each other. A series of irregularities when put together may constitute serious misconduct, which under Article 283 of the Labor Code, is a just cause for dismissal (National Service Corporation vs. Leogardo, Jr., 130 SCRA 502).

The precedents on the issue before us are clear. Dismissal of a dishonest employee is to the best interest not only of management but also of labor (International Hardwood and Veneer Co. of the Phils. vs. Leogardo, Jr., 117 SCRA 967). As a measure of self-protection against acts inimical to its interest, a company has the right to dismiss its erring employees (Dole Phils. Inc. vs. National Labor Relations Commission, supra). An employer cannot be compelled to continue in employment an employee guilty of acts inimical to its interest, justifying loss of confidence in him (International Hardwood and Veneer Co., of the Phils. vs. Leogardo, Jr., supra; National Service Corporation vs. Leogardo, Jr. supra; Engineering Equipment, Inc. vs. National Labor Relations Commission, supra). The law does not impose unjust situations on either labor or management.

In a further attempt to support his case, the petitioner presents as evidence the affidavits of Lorlesela J. Alquizola, (Now Lorlesela A. Sanchez) posting clerk and teller and Eddie Sabayan, bill collector. These documents instead bolster the respondent's cause. Unrebutted evidence presented by respondent LANECO effectively impeach the affidavits' credibility and reveal a concerted scheme by the respondent's employees of appropriating company funds for personal

use and covering up the same until said amounts are paid for or returned. The respondent cooperative's Annex "13" Memorandum Order GM No. 07183 dated September 12, 1983 to Lorlesela Alquizola requiring a written explanation for cash shortage incurred by her, Annex "14" (Alquizola's Answer to Memorandum GM No. 07183), and Annex "15" (Memorandum Order No. GM No. 07683 dated September 2, 1983 to Alquizola warning her not to commit the same offense in the future) are telling evidences of the situation with which respondent cooperative had to cope. We quote Annex "14" in full:

"In compliance with memorandum order #07183 dated 12 September 1983, I am submitting my explanation where my alleged offenses are concerned.

- "1. That my cash shortage of P256.81 was justified by those vales of my co-employees specifically those of collectors. I was always caught between two hot fires during remittances of collectors because oftentimes there were always shortages in their collections. Inasmuch as I have tried to follow closely your order not to grant personal advances to my co-employees but I just could not refuse them for I believe they could be reimbursed the following payday.
- "2. I also believe that if I would not grant petty cash to those collectors in lieu of their cash shortages, and since their collection would remain in their hands, their cash shortage would accumulate and again, it would be another headache on the part of the management. But with the present system implemented after the audit, these problems are already minimized.
- "3. Prior to the August 3-31, 1983 audit, our practice is to issue official receipts for the day's collections the next day or the next working day. I have not received any memorandum or office order requiring me to issue official receipts for the day's collections on that very same day.

- “4. According to my file in Daily Collection Report, the collections of August 29, 1983 amounting to P1,499.38 was deposited on the very next day, August 30, 1983. Mrs. Chenlen Salimbangon’s collection on August 27, Saturday, amounting to P5,151.78 was deposited on that very day.
- “5. Petty cash amounting to P69.80 was taken in personal money and I was reimbursed after my petty cash replenishment.
- “6. My previous cash shortage would have been paid immediately from my personal money but I was not able to withdraw from personal account for I was not able to bring my savings passbook that day. It was the advice of the Office Manager at that time that I pay my shortage at that very day. I was able to pay Mrs. Salimbangon on the very next day.

“I hope for your kindest consideration on aforementioned situation.

“Very sincerely yours,

(SGD.)
LORLESELA J. ALQUIZOLA”
(p. 115, Rollo)

Anent the alleged lack of clearance from the Ministry of Labor and Employment to terminate the petitioner, such a technicality cannot be allowed at this time to prevent the petitioner’s dismissal in the face of strong and compelling reasons to warrant the same. The National Labor Relations Commission, the arbitration branch of the Ministry of Labor and Employment, has granted the clearance to terminate the petitioner’s employment and we concur. It is important to take note of the intent behind such provision of the Labor Code. It was designed to insure that the employer’s prerogative to dismiss or lay-off an employee is exercised without abuse of discretion or arbitrariness. The proceedings before the Labor Arbiter and the National Labor Relations Commission have upheld this guarantee.

The petitioner's rights have been effectively safeguarded. We have given him no less, even as we uphold the private respondent's cause.

There has been no denial of due process. Generously, respondent LANECO has given the petitioner the benefit of the doubt, allowing him several opportunities to correct himself and to prove his worth. Sadly, the records show that the petitioner failed. We can do no more for him.

WHEREFORE, in view of the foregoing, the Petition is **DISMISSED** for lack of merit. The Decision appealed from is hereby **AFFIRMED**.

SO ORDERED.

Fernan, Feliciano, Bidin and Cortes, JJ., concur.