SUPREME COURT
FIRST DIVISION

CARLOS RANARA,
***Petitioner*,**

-versus-

G.R. No. 100969
August 14, 1992

NATIONAL LABOR RELATIONS COMMISSION, ORO UNION CONSTRUCTION SUPPLY AND/OR JIMMY TING CHANG, GENERAL MANAGER/OWNER,
***Respondents*.**
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D E C I S I O N

CRUZ, *J.*:

Petitioner Carlos Ranara had been working as a driver with Oro Union Construction Supply, one of the herein private respondents, when he was told by Fe Leonar, secretary of the other private respondent, Jimmy Ting Chang, not to come back the following day. Thinking that she was only joking, he reported for work as usual on November 11, 1989, but was surprised to find some other person handling the vehicle previously assigned to him. It was only then that Ranara realized that he had really been separated. When he

approached Leonar to ask why his services were being terminated, she replied crossly:

You are hard-headed. I told you last night when you turned over the key not to report for work because Mr. Jimmy Ting Chang does not like your services, yet you come back.

Three days later, Ranara filed a complaint with the Department of Labor and Employment for illegal dismissal, reinstatement with full back wages, underpayment of wages, overtime pay, non-payment of 13th month pay, service incentive leave, separation pay and moral damages.

The private respondents denied the charges, contending that the petitioner had not been illegally dismissed. Chang said he was in a hospital in Manila on November 11, 1989, and that he had not authorized Leonar, or even his mother who was the officer-in-charge during his absence, to terminate Ranara's employment.[1] The truth was that it was Ranara who abandoned his work when he stopped reporting from November 11, 1989, Chang also introduced documentary evidence, consisting of payroll and other records, to refute the petitioner's monetary claims.

On May 2, 1990, the Labor Arbiter held that Ranara had not been illegally dismissed. The decision stressed that at the hearing of December 28, 1989, Chang offered to re-employ the petitioner as he was needed in the store but the latter demurred, saying he was no longer interested. This attitude, according to the Labor Arbiter, showed that it was the petitioner who chose to stop working for Chang and not the latter who terminated his employment.

On the monetary claims, however, the decision ordered the respondents to pay the complainant P375.00 as wage differentials, 13th month pay for 1989 of P1,110.00 minus his outstanding obligation to respondents. The rest of the claims were dismissed for lack of merit.[2]

The decision was affirmed on appeal by the NLRC,[3] prompting the petitioner to seek relief from this Court.

Required to comment, the Solicitor General disagreed with the NLRC on the legality of the petitioner's dismissal. He said that the challenged decision was based on an event subsequent to the illegal dismissal, to wit, the offer of reinstatement, and that such offer did not validate the dismissal. He also disputed the contention that the petitioner had voluntarily abandoned his work, saying this was unlikely because of the difficulty of the times and the high unemployment rate.

In view of the stance of the Solicitor General, and at his suggestion, the Court required the NLRC to file its own comment.

The NLRC argued in its Comment that the offer to re-employ the petitioner should not be disregarded in assessing the motives of the parties as it was a genuine effort on the part of the private respondents to settle the controversy. There was no reason for the petitioner's refusal to return to work after he had been invited back to the store. Moreover, the petitioner had not filed a motion for reconsideration of its decision and should therefore not be allowed to file his petition for certiorari with this Court. The NLRC also argued that it was not necessary to require the private respondents to submit the original copies of their documentary evidence because their due execution and genuineness had not been denied under oath and were therefore deemed admitted.

The Court has carefully considered the arguments of the parties and finds for the petitioner.

We reject as a rank falsity the private respondents' claim that the petitioner had not been illegally dismissed and in fact abandoned his work. The secretary would not have presumed to dismiss him if she had not been authorized to do so, considering the seriousness of this act. It is worth noting that neither Chang's mother, who was the officer-in-charge in his absence, nor Chang himself upon his return, reversed her act and reinstated the petitioner.

The private respondents themselves claim they have a staff of less than ten persons, and Chang or his mother could not have failed to notice Ranara's absence after November 1, 1989. Yet they took no steps to rectify the secretary's act if it was really unauthorized and, on

the contrary, accepted Ranara's replacement without question. Evidently, that person had been employed earlier, in advance of Ranara's dismissal.

The charge of abandonment does not square with the recorded fact that three days after Ranara's alleged dismissal, he filed a complaint with the labor authorities. The two acts are plainly inconsistent. Neither can Ranara's rejection of Chang's offer to reinstate him be legally regarded as an abandonment because the petitioner had been placed in an untenable situation that left him with no other choice. Given again the smallness of the private respondents' staff, Ranara would have found it uncomfortable to continue working under the hostile eyes of the employer who had been forced to reinstate him.

It was not as if Ranara were only one among many other complainants ordered reinstated in a big company, for whatever enmity the employer might harbor against them would be diluted and less personalized, so to speak. There would be a certain degree of anonymity, and a resultant immunity from retaliation, in a number alone of the reinstated personnel. Moreover, it is not unlikely that there would be a labor union in such a company to protect and assure the returning workers against possible reprisals from the employer.

In the petitioner's case, he was only one among ten employees in a small store, and that made a great deal of difference to him. He had reason to fear that if he accepted the private respondents' offer, their watchful eyes would thereafter be focused on him, to detect every small shortcoming of his as a ground for vindictive disciplinary action. In our own view, this was a case of strained relations between the employer and the employee that justified Ranara's refusal of the private respondents' offer to return him to his former employment.

It is clear that the petitioner was illegally dismissed without even the politeness of a proper notice. Without cause and without any investigation, formal or otherwise, Ranara was simply told that he should not report back for work the following day. When he did so just the same, thinking she had only spoken in jest, he found that somebody else had been employed in his place. When he protested his replacement, he was even scolded for being "hard-headed" and not accepting his dismissal.

The fact that his employer later made an offer to re-employ him did not cure the vice of his earlier arbitrary dismissal. The wrong had been committed and the harm done. Notably, it was only after the complaint had been filed that it occurred to Chang, in belated gesture of good will, to invite Ranara back to work in his store. Chang's sincerity is suspect. We doubt if his offer would have been made if Ranara had not complained against him. At any rate, sincere or not, the offer of reinstatement could not correct the earlier illegal dismissal of the petitioner. The private Civil Case s incurred liability under the Labor Code from the Ranara was illegally dismissed, and the liability did not abate as a result of Chang's repentance.

The failure of the petitioner to file a motion for reconsideration of the NLRC decision before coming to this Court was not a fatal omission. In the interest of substantial justice, and especially in cases involving the rights of workers, the procedural lapse may be disregarded to enable the Court to examine and resolve the conflicting rights and responsibilities of the parties. This liberality is warranted in the case at bar, especially since it has been shown that the intervention of the Court was necessary for the protection of the dismissed laborer.

We sustain the findings of fact of the Labor Arbiter regarding the petitioner's monetary claims on the basis of the documentary evidence submitted by the private respondents. We also agree that it was not necessary for the NLRC to require the production of the originals thereof in the absence of any challenge to their genuineness and due execution from the petitioner.

The petitioner in this case was an ordinary driver in the private respondents' employ. He had no special abilities to make him indispensable to his employer. He did not belong to a powerful labor union vigilant of the rights of its members. The employer thought his services were disposable at will and so arbitrarily dismissed him. They miscalculated, for the petitioner was not really that vulnerable. The fact is that, alone though he was, or so it appeared, he had behind him, even as a lowly worker, the benevolence of the law and the protection of this Court.

WHEREFORE, the challenged decision of the NLRC is **AFFIRMED**, with the modification that in addition to the monetary awards therein specified, the petitioner shall be entitled to separation pay and three years' back wages in lieu of reinstatement. No costs.

SO ORDERED.

Griño-Aquino, Medialdea and Bellosillo, *JJ.*, concur.

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[1] Rollo, pp. 46-50.
[2] Ibid., pp. 49-50.
[3] Musib M. Buat, Presiding Commissioner, with O. Abella and L. Gonzaga, Jr., concurring.
