

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**EDUARDO V. REYES,**  
*Petitioner,*

*-versus-*

**G.R. No. 48705  
February 9, 1989**

**MINISTER OF LABOR and PACWOOD,  
INCORPORATED,**  
*Respondents.*

X-----X

**DECISION**

**PARAS, J.:**

This is a Petition for *Certiorari* seeking to annul the February 16, 1978 order of the Secretary of Labor in NLRC Case No. RB-IV-4380-76.

Herein petitioner started working as Assistant Sales Manager with herein private respondent on May 8, 1969. He voluntarily resigned on October 15, 1971, but rejoined Pacwood, Inc. on October 16, 1974 as Acting Sales Manager.

On January 15, 1975, he was promoted to the position of Sales Manager. On October 20, 1975, he went on leave of absence up to November 7, 1975.

On November 3, 1975, respondent Company filed a report with the Department of Labor to the effect that petitioner has resigned effective November 12, 1975. Petitioner opposed said report on November 19, 1975, disclaiming the resignation and insisting that he was illegally dismissed. Further, he demanded that he be paid his alleged sales commission amounting to P108,069.09.

After due hearing, the Labor Arbiter, in a decision dated July 12, 1976 (Rollo, pp. 15-19), found: (a) that petitioner did not resign from his employment and (b) that he is not entitled to commission because his right thereto has not been clearly established. However, the Labor Arbiter noted that:

“The complainant is a managerial employee. Necessarily, his position requires the trust and confidence of the respondent. In view of the strained relationship existing between the parties, characterized as it is by personal animosity, it is for their interest that they sever their employer/employee relationship. Moreover, complainant is now managing their own family business.

“WHEREFORE, in the light of the foregoing consideration, judgment is hereby rendered ordering respondent company to pay complainant the amount of TWO THOUSAND PESOS (P2,000.00) as separation pay.” (Rollo, p. 19)

From this decision, both parties appealed to the National Labor Relations Commission. Petitioner, on the ground, among others, that the award of P2,000.00 separation pay was not the relief provided for by law in case of unlawful termination; while private respondent, on the ground that the award is contrary to law since under the New Labor Code, the separation pay may be awarded only in cases of reduction of personnel and in the event of illness on the part of the employee.

The National Labor Relations Commission, in a decision dated December 2, 1976 (Ibid, pp. 33-37), affirmed the appealed decision, but modified the dispositive portion by ordering private respondent

to pay petitioner, instead of separation pay, backwages from November 12, 1975 up to July 12, 1976 in the amount of P16,000.00.

Respondent Company filed an appeal with the Office of the Secretary, Department of Labor (Rollo, pp. 38-41), while petitioner filed with the National Labor Relations Commission a Motion for Clarification (Ibid., pp. 42-45) and a Supplemental Pleading with the Office of the Secretary, Department of Labor (Ibid., pp. 46-49).

The Secretary of Labor, in an Order dated February 16, 1978 (Ibid., pp. 50-55), upheld the decision of the Labor Arbiter with the modification that respondent Company was directed to pay petitioner his separation pay in the amount of P2,000.00 in lieu of back wages.

Hence, this petition filed on August 12, 1978.

In the resolution March 7, 1979, the case was declared submitted for decision (Ibid., p. 164).

Petitioner raised four (4) issues, to wit:

I

WHETHER OR NOT THE PETITION WAS FILED WITHIN A REASONABLE PERIOD OF TIME.

II

WHETHER OR NOT THE NON-FILING OF A MOTION FOR RECONSIDERATION IN THE OFFICE OF THE MINISTER OF LABOR IS FATAL.

III

WHETHER OR NOT RESPONDENT MINISTER OF LABOR ACTED WITHOUT JURISDICTION WHEN HE DISTURBED A FINDING OF FACT WHICH HAD LONG BECOME FINAL AND SETTLED.

#### IV

GRANTING EN ARGUENDO THAT RESPONDENT MINISTER OF LABOR MAY STILL DISTURB A FINDING OF FACT WHICH HAS BECOME FINAL AND SETTLED, WHETHER OR NOT SAID RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO ACTING WITHOUT JURISDICTION WHEN HE REVERSED SUCH FINDING WITHOUT EVIDENCE TO SUPPORT THE SAME. (Rollo, pp. 133-134)

The instant petition is devoid of merit.

The main issue in this case is the determination of the proper affirmative relief to be granted to a dismissed employee under the given circumstances.

The issues resolved by the Labor Arbiter are: (1) that the complainant-employee (petitioner herein) did not resign; (2) that his claim for alleged unpaid sales commission has no factual or legal basis; and (3) that because of the strained relationship arising from the employer's loss of confidence in the petitioner, as managerial employee, the latter's separation from the service is indicated in the light of the foregoing consideration, thus, payment of the amount of two thousand pesos as separation pay to the petitioner was ordered (Rollo, p. 19).

On appeal, the National Labor Relations Commission is in full accord with the findings of the Labor Arbiter but as earlier stated, modified aforesaid decision by requiring the payment of backwages in the amount of P16,000.00 instead of the separation pay (Rollo, p. 36).

On further appeal, the Secretary of Labor, on the other hand, while opting not to disturb the findings of both the Labor Arbiter and the National Labor Relations Commission, maintained the opposite view that petitioner in fact resigned, the resignation, whether verbal or written being of no moment and in addition found that the dismissal is not entirely justifiable. In view thereof, he modified the decision of the National Labor Relations Commission and reinstated the award of the Labor Arbiter (Rollo, pp. 54-55).

The thrust of petitioner's argument is that private respondent not having questioned in the National Labor Relations Commission, the Labor Arbiter's finding of fact that he did not resign, such finding is already final and beyond question when private respondent appealed to public respondent. Accordingly, he claims that public respondent committed a grave abuse of discretion in reversing such finding of the Labor Arbiter; prays that the December 2, 1976 decision of the National Labor Relations Commission granting him backwages of P16,000.00 be affirmed.

It is noteworthy that while respondent Company did not question the Labor Arbiter's finding that petitioner did not resign from his employment in its appeal to the NLRC, it did raise said issue in its appeal from the decision of the NLRC to the Secretary of Labor (Rollo, p. 118). Hence, it is hardly fair that petitioner should now complain of abuse of discretion when the Secretary reviewed said actual finding.

More importantly, it will be noted that the Secretary of Labor's finding that petitioner had in fact resigned is not the basis of his pronouncement that the dismissal of the employee in the instant case is not entirely justifiable. Had it been otherwise, there would be no issue of illegal dismissal. It is, therefore, reasonable to conclude that although the Secretary is not entirely convinced of the justification of the dismissal, he shares the view of both the Labor Arbiter and the NLRC in the necessity for the separation of the petitioner from his employment — a vital and sensitive position of sales manager — involving utmost trust and confidence which are now lost, rendering petitioner ineffective in his assigned tasks. In fact, to support this view, the Secretary made mention of a number of cases under similar circumstances where the award of separation pay was held to be the appropriate remedy (Rollo, pp. 53-54).

Be that as it may, there is no question that loss of confidence is a valid ground for dismissing an employee and proof beyond reasonable doubt of the employee's misconduct is not required. It is sufficient, if there is some basis for such loss of confidence or if the employer has reasonable ground to believe or to entertain the moral conviction that the employee concerned is responsible for the misconduct and that

the nature of his participation therein rendered him unworthy of the trust and confidence demanded by his position (City Trust Finance Corporation vs. NLRC, 157 SCRA 87 [1988]; Tabacalera Insurance Co. vs. NLRC, 152 SCRA 667 [1987]).

The crux of the issue therefore, is not the matter of resignation which is immaterial to the resolution of the conflict in the case at bar, but the propriety of the award where loss of confidence by the employer is not disputed.

This issue has already been laid to rest by this Court. In *Baby Bus, Inc. vs. Minister of Labor* 158 SCRA 221 [1988], it was held that it does not necessarily follow that if there is no illegal dismissal, then no award for separation pay may be made. In the case of *San Miguel Corp. vs. Deputy Minister of Labor and Employment*, 126 SCRA 489 [1983], where this Court ruled that the trust and confidence in the private respondent having been lost, the respondent Regional Director acted correctly in allowing termination of employment but with retirement or separation benefits.

In the case at bar, petitioner seeks the award of backwages as granted by the NLRC, but as a general rule he is entitled to such relief only where his dismissal is due to the unlawful act of the employer or to the latter's bad faith (*Callanta vs. Carnation Philippines, Inc.* 145 SCRA 276-277 [1986]). Thus, in the case of *City Trust Finance Corp. vs. NLRC* 157 SCRA 94-95 [1988], where the ground of loss of confidence has not been established nor sufficient basis thereof presented, the finding that respondent employee was illegally dismissed was well-taken and said employee although not reinstated was awarded three (3) years backwages, separation pay and moral damages.

Such circumstances are, however, not obtaining in the instant case. The records show that petitioner himself admitted in a letter to respondent Company (Exhibit "1") that he antagonized the purchasing officer of said respondent's biggest buyer of its products, thereby creating a prejudicial situation beyond his ability to control (Rollo, p. 149).

Verily, it is an established principle that an employer cannot be compelled to continue in employment, an employee guilty of acts inimical to the interests of the employer and justifying loss of confidence in him (San Miguel Corp. vs. Deputy Minister of Labor, 145 SCRA 196 [1986]; Riker vs. Ople, 155 SCRA 93 [1987]). The right of the company to dismiss its employees is a measure of self-protection (Piedad vs. Lanao del Norte Electric Cooperative, Inc., 153 SCRA 501 [1987]).

Moreover, the Labor Arbiter, the NLRC and the Secretary of Labor are all agreed on the validity of the basis of the termination of employer-employee relationship. The principle is well-settled that the findings of administrative agencies which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only respect but even finality. Judicial review of such cases by this Court does not go as far as evaluating the evidence as the basis of their determinations, but is confined to issues of jurisdiction or grave abuse of discretion (Philippine Overseas Drilling and Oil Development Corp. vs. Ministry of Labor, 146 SCRA 80 [1986]; Rosario Bros., Inc. vs. Ople, 131 SCRA 72, 80 [1984]; Special Events & Central Shipping Office Workers Union vs. San Miguel Corp., 122 SCRA 557, 568-569 [1983]; Franklin Baker Co. of the Phil. vs. Trajano, 157 SCRA 417 [1988]).

In the same manner, precedents on the issues in subject case are clear and unmistakable, and there appears to be no cogent reason to disturb the findings and conclusions of the Secretary of Labor.

**PREMISES CONSIDERED**, this Petition is dismissed for lack of merit, and the Decision appealed from is affirmed.

**Melencio-Herrera, Padilla, Sarmiento and Regalado, JJ., concur.**