

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**SAN MIGUEL CORPORATION,
*Petitioner,***

-versus-

**G.R. No. 117055
March 29, 1996**

**NATIONAL LABOR RELATIONS
COMMISSION, HON. QUINTIN B.
CUETO III and VIRGILIO TORRES,
*Respondents.***

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D E C I S I O N

PANGANIBAN, J.:

Is an employee who was dismissed due to misappropriation of company funds entitled to retirement benefits and/or financial benefits “as a matter of fairness, equity, humanitarian consideration and compassion”? This is the main question brought in this petition for certiorari to annul the following:

- (a) Resolution^[1] dated April 21, 1994 of the National Labor Relations Commission in NLRC Case No. RAB 12-08-00220-88 and another Resolution^[2] dated June 17, 1995 denying the motion for reconsideration: and

(b) Decision^[3] dated February 25, 1990 of the Labor Arbiter which was affirmed by the above resolutions.

On October 2, 1995, the case was given due course by the Court. On October 23, 1995, the First Division transferred this case to the Third. After careful deliberation on the petition, as well as the Solicitor General's and the private respondent's comments, petitioner's reply and the memoranda of the parties, the Court assigned the writing of this Decision to the undersigned ponente.

The Facts

Private respondent Virgilio S. Torres was employed by petitioner San Miguel Corporation (SMC) on November 1, 1978 as a Route Salesman assigned in Midsayap, Cotabato. Having been found guilty of multiple misappropriation of company funds in the sum of P12,898.00 and of borrowing money and merchandise from customers, he was dismissed effective on July 15, 1988. At the time of his dismissal, he was receiving a monthly salary of P5,180.00.

On August 16, 1988, Torres filed a complaint for illegal dismissal in the Regional Arbitration Branch No. XII, NLRC, Cotabato City.

In resolving his complaint for illegal dismissal, the Labor Arbiter rendered the questioned Decision, the dispositive portion^[4] of which reads:

“WHEREFORE, with the above discussion and after thorough scrutiny of the records and evidences of this above entitled case, this Executive Labor Arbiter hereby rules to DISMISS the Complainant 's Complaint against Respondent San Miguel Corporation for lack of merit as his termination is based on lawful and justifiable grounds.

“That although it is decreed that the dismissal of the Complainant is valid, still by reason of fairness, equity, humanitarian consideration and compassion, the Complainant with the expectation that this will not happen again in his future endeavors and in consonance with the previous offer made by Respondent to the Complainant as earlier discussed, it is hereby

ordered that the Respondent San Miguel Corporation should allow and grant Complainant the privilege to retire from the company with the availment of 100% benefits as practiced by the company, accruing from the time said offer was first made.

“The other claims of the complainant are hereby DISMISSED for lack of merit.”

From this decision, both petitioner and private respondent appealed but the NLRC dismissed both appeals “for lack of merit” through the assailed Resolutions.

In finding that the twin requirements for legal dismissal, namely just cause and due process, were observed, the NLRC said:^[5]

“Complainant contends that his dismissal was not founded on a just cause to terminate employment.

“An examination of the records shows that the suspension of the complainant which led to his termination was precipitated by the third of three (3) infractions he committed against the company, the first and second of which occurring in 1982 and 1983, respectively, for which he was likewise meted out the same penalty. While it is true that labor laws in this jurisdiction have been enacted not only to favor the workingman, but also to recognize and respect the rights of the employer, such a set-up does not provide the employees with the green light to disregard the reasonable rules drawn up by management for harmonious relations between labor and capital in the machinery of production. Success in any given enterprise cannot be attained without industrial peace and harmony where discipline plays a pivotal role. Thus, while employers are obliged to give their employees just compensation and treatment, they have also the right to expect from their workers dedicated service, diligence, honesty and good conduct.

“In the case at bench, complainant’s malpractice of collecting beer empties and receiving cash without issuing the corresponding official receipts therefor to his customers has constrained respondent to act in order to protect its interest. In

pursuing its defensive stance, the Commission recognizes the right of respondent to take punitive action against an employee where there exists a just cause sufficient in law to authorize the exercise of such prerogative inherent to its self-preservation and continued existence. For “(T)he law in protecting the rights of the laborer authorizes neither the oppression nor self destruction of the employer.” (Filipro. Inc. vs. NLRC, 145 SCRA 123).

“Complainant further contends that respondent committed unfair labor practice in terminating his employment. The Commission however, on this score is not in accord with his theory that because of his involvement in union activities, complainant provoked the ire of the respondent, which was the reason why he was subjected to harassment ultimately leading to his termination. The record is bereft of any persuasive evidence to this effect. On the contrary, respondent, despite the malpractices and rampant violation of company rules and regulations by the complainant, was even lenient to the latter, in that instead of dismissing him, he was allowed to retire from the service and as a consequence the former was even willing to give him 100% retirement benefits. But said offer was rejected by the complainant who instead insisted on 150% retirement benefits which of course was denied by the respondent.

“Complainant furthermore raises the issue that he was not afforded due process during the investigation conducted by the respondent. Said contention is untenable. Upon verification from the records, it is very clear that complainant was given ample opportunity to answer the charges imputed against him but instead of rebutting them, he filed a request to avail of an early retirement as contained in his letter dated March 27, 1987. When told to file his explanation within 72 hours he requested for 15 days within which to submit the same, but even after the lapse of the period given no explanation was ever submitted by him. Due process was observed in effecting the termination of the complainant. As could be seen, the law lays down the procedure prior to the dismissal of an employee. It need not be observed to the letter but at least it must be done in the natural sequence of notice, hearing and judgment. (Ruffy vs. NLRC, 182

SCRA 365) “Due process as a constitutional precept does not always and in all situations require a trial type proceedings” (Zalvidar vs. Gonzales,) G.R. No. 80598, October 9, 1988). The essence of due process is simply an opportunity to be heard (Bermejo vs. Barrios, 31 SCRA 764) and complainant was given all such opportunity.”

In its Petition, SMC presents the following “justifications”.^[6]

I

“The Labor Tribunals, in grave abuse of discretion amounting-to lack or excess of jurisdiction, capriciously, whimsically and arbitrarily ordered petitioner SMC to grant private respondent Virgilio Torres 100% separation benefits knowing fully well that such award is contrary to law and in utter disregard of prevailing jurisprudence as enunciated in the leading case of Philippine Long Distance Telephone Co. (PLDT) vs. NLRC, 164 SCRA 671.

II

“The Labor Tribunals gravely abused their discretion amounting to lack or excess of jurisdiction in ordering SMC to grant separation retirement benefits to private respondent considering that the assailed decisions are against public policy.”

In his Memorandum, private respondent explains that the “Executive Labor Arbiter and the National Labor Relations Commission, Fifth Division, did not commit any error when the former ruled and affirmed by the latter, that Respondent San Miguel Corporation should allow and grant Complainant Virgilio Torres the privilege to retire from the company with the availment of 100% benefits as practiced by the company, accruing from the time said offer was made”.^[7] Private respondent was referring to an offer made by SMC to him to settle the case amicably which he rejected because he wanted “150% benefits”, not 100%.

The Solicitor General, in his Comment which he adopted as his Memorandum, agreed with the petitioner that the public respondent acted with grave abuse of discretion in ordering payment of the benefit to the employee whose dismissal was found by such labor tribunals as legal, there being sufficient cause and due process having been observed. Said the Solicitor-General:^[8]

“Petitioner’s offer of 100% retirement benefit to private respondent was definitely not a done deal. It imploded the moment private respondent rejected it. For public respondents Labor Arbiter and NLRC to allow private respondent to collect yet on such mooted offer is to inflict a grave and insensible injustice on the petitioner. Private respondent cannot, with fairness, be allowed to ‘take his bread and eat it too.’”

“Verily, were said offer considered still valid and subsisting despite its repudiation by private respondent, petitioner SMC would be placed in a “no-win situation” where, even should it win the illegal dismissal case, it would just the same be made to pay the offer. On the other hand, private respondent Torres would be placed in a “no-lose situation” where, even should he lose the illegal dismissal case, he could just the same collect on the offer. This would be the height of unfairness and injustice.

“It would, moreover, create a bad precedent if petitioner were still made to pay the rejected offer after the illegal dismissal case was thrown out on a finding of just and lawful cause for private respondent’s separation from the service. Such a move will negate the reason for compromise agreements, and brush aside the policy objective of extrajudicial settlement. As correctly pointed out by the petitioner, it will encourage litigants to “gamble on the outcome of cases, hoping against hope that the amounts offered in settlement are the minimum they could get” (vide: p. 17, Petition)

“Speaking of ‘justice and fairness’ in the case at bar, these values should more appropriately inure to petitioner’s favor whose compromise offer was declined and was thus forced to litigate. After spending so much money, time and effort for its defense, and after having proven the justness and legality of

dismissing private respondent from the service, it would now be most unjust and unfair to make petitioner spend even more for private respondent's alleged financial woes wrought by such dismissal for which he is solely to blame. Such injustice and unfairness cannot be trivialized simply in the name of human consideration and compassion."

The Issue

Considering the above submissions of the parties, the issue here is: Did public respondents NLRC and Labor Arbiter act with grave abuse of discretion in requiring petitioner to grant private respondent the privilege to retire with availment of 100% benefits as "a matter of fairness, equity, humanitarian consideration and compassion," despite the finding that the dismissal was legal — there being sufficient cause found after observing due process?

The Court's Ruling

We rule for petitioner.

In *Philippine Long Distance Telephone Company vs. NLRC et al.*,^[9] we held that in the case of employees separated from the service for just and valid cause due to "an offense involving moral turpitude the employer may not be required to give the dismissed employee separation pay, or financial assistance, or whatever name it is called, on the ground of social justice."

"We hold that henceforth separation pay shall be allowed as a measure of social justice only in those instances where the employee is validly dismissed for causes other than serious misconduct or those reflecting on his moral character. Where the reason for the valid dismissal is, for example, habitual intoxication or an offense involving moral turpitude, like theft or illicit sexual relations with a fellow worker, the employer may not be required to give the dismissed employee separation pay, or financial assistance, or whatever other name it is called, on the ground of social justice.

“A contrary rule would, as the petitioner correctly argues, have the effect of rewarding rather than punishing the erring employee for his offense. And we do not agree that the punishment is his dismissal only and that the separation pay has nothing to do with the wrong he has committed. Of course it has. Indeed, if the employee who steals from the company is granted separation pay even as he is validly dismissed, it is not unlikely that he will commit a similar offense in his next employment because he thinks he can expect a like leniency if he is again found out. This kind of misplaced compassion is not going to do labor in general any good as it will encourage the infiltration of its ranks by those who do not deserve the protection and concern of the Constitution.

“The policy of social justice is not intended to countenance wrongdoing simply because it is committed by the underprivileged. At best it may mitigate the penalty but it certainly will not condone the offense. Compassion for the poor is an imperative of every humane society but only when the recipient is not a rascal claiming an undeserved privilege. Social justice cannot be permitted to be refuge of scoundrels any more than can equity be an impediment to the punishment of the guilty. Those who invoke social justice may do so only if their hands are clean and their motives blameless and not simply because they happen to be poor. This great policy of our Constitution is not meant for the protection of those who have proved they are not worthy of it, like the workers who have tainted the cause of labor with the blemishes of their own character.”

The above doctrine was affirmed in succeeding cases^[10] thus evidencing its stability as rooted judicial pronouncement.

In the present case, the petitioner was dismissed due to multiple misappropriation of company funds. Though private respondent disputed this, both the Labor Arbiter and the NLRC have affirmed the factual basis of the cause advanced by petitioner. It is well-entrenched rule in this country that findings of facts of the NLRC are accorded great respect and even finality.^[11] In the instant case, we have no reason to deviate from this policy as private respondent failed to

convince us that the findings of the labor arbiter as affirmed by the NLRC are devoid of basis or are otherwise capricious or arbitrary. “The NLRC’s factual findings, if supported by substantial evidence, are entitled to great respect and even finality, unless petitioner is able to show that it simply and arbitrarily disregarded evidence before it or had misapprehended evidence to such an extent as to compel a contrary conclusion if such evidence had been properly appreciated.”^[12] Misappropriation is a species of dishonesty and is therefore an offense involving moral turpitude. Certainly, a dishonest employee cannot be rewarded with separation pay or any financial benefit after his culpability is established in two decisions by competent labor tribunals, which decisions appear to be well-supported by the evidence. To hold otherwise, even in the name of compassion, would be to send a wrong signal not only that “crime pays that one can enrich himself at the expense of another in the name of social justice. And courts as well as quasi-judicial entities will be overrun by petitioners mouthing dubious pleas for misplaced social justice. Indeed, before there can be an occasion for compassion and mercy, there must first be justice for all. Otherwise, employees will be encouraged to steal and misappropriate in the expectation that eventually, in the name of social justice and compassion, they will not be penalized but instead financially rewarded. Verily, a contrary holding will merely encourage lawlessness, dishonesty and duplicity. These are not the values that society cherishes; these are the habits that it abhors.

In his Memorandum, private respondent repeatedly argues that SMC’s “offer to the private respondent to retire from the company with the availment of 100% benefits is supported by facts records and findings of the Executive Labor Arbiter” and affirmed by the NLRC; and that it (SMC) “had approved the respondent’s application for optional retirement benefits computed at 100% which is equivalent to one (1) month salary for every year of service.” He insists that he is asking for retirement benefits, not separation pay and “the grant of retirement benefits, as a matter of practice, can never be considered contrary to law or public policy.” He adds that such benefits are due him “not purely on humanitarian or social justice” considerations but on the basis of an offer by petitioner SMC which “unilaterally affirmed it under existing company policy.”

On the other hand, SMC steadfastly maintains in its own Memorandum^[13] that it “was willing to grant him (Torres) financial assistance, not retirement benefits (because as evidence clearly shows he was not entitled thereto as a matter of right for not having served meritoriously for 15 years), in reply to his request for retirement; private respondent however spurned said assistance. The counter-offer of financial assistance was made in good faith to avert litigation which would be too costly and time-consuming and also to buy peace.”

Indeed, the policy of the law is to encourage compromises.^[14] That is why offers made to buy peace and avoid litigations are never taken against the offeror. Otherwise, such laudable policy would be negated as the parties will refrain from making any offer, knowing that even if rejected, the same would later on be used against them and, worse, as in the instant case, still be enforced after the opposing side has lost the very litigation sought to be avoided by the offer.

Because of his intransigence in rejecting SMC’s offer during the mandatory pre-trial before the labor arbiter, and after SMC has spent time, money and resources in litigating the claims, private respondent cannot - after losing such litigation — now arrogantly turn to the offeror and defiantly demand the fulfillment of the pre-law suit offer. This would be totally unfair and unjust in our system of legal advocacy.

WHEREFORE, the petition is partly **GRANTED**. The assailed Resolutions of the NLRC and Decision of the Labor Arbiter are (a) **MODIFIED** by deleting entirely the award to private respondent of “the privilege to retire from the company with the availment of 100% benefits as practiced by the company, accruing from the time said offer was made,” but (b) **AFFIRMED** in all other respects.

SO ORDERED.

Narvasa, C.J., Davide, Jr., Melo and Francisco, JJ., concur.

[1] Rollo, pp. 43-50; Comm. Leon G. Gonzaga, Jr., ponente, Presiding Musib M. Buat and Comm. Oscar N. Abella, concurring.

- [2] Rollo, pp. 51-54.
- [3] Rollo, pp. 23-42, penned by Executive Labor Arbiter Quintin B. Cueto, III.
- [4] Rollo, pp . 41-42.
- [5] Rollo, pp. 46-48.
- [6] Rollo, p. 10.
- [7] Rollo, p. 426.
- [8] Rollo, pp. 338-339.
- [9] 164 SCRA 671, 682 (August 23, 1988).
- [10] See *Nasipit Lumber Company vs. NLRC, et al.*, 177 SCRA 93 (August 31, 1989); *Del Monte Philippines, Inc. vs. NLRC, et al.*, 188 SCRA 370 (August 6, 1990).
- [11] *Diola vs. NLRC*, 222 SCRA 860, 864 (May 31, 1993); *Phil. School of Business Administration (PSBA) Manila vs. NLRC*, 223 SCRA 305, 309 (June 8, 1993); *Garcia vs. Manila Times*, 224 SCRA 399, 402 (July 5, 1993).
- [12] *Loadstar Shipping Co., Inc. vs. Gallo*, 229 SCRA 654, 659-660 (February 4, 1994).
- [13] Rollo, p 407.
- [14] *Investors Finance Corporation vs. Court of Appeals, et al.*, 193 SCRA 701 (February 7, 1991).