SUPREME COURT
THIRD DIVISION

CASIANO S. SEDAYA,
***Petitioner*,**

-versus-

G.R. No. 75931
August 28, 1989

THE HON. NATIONAL LABOR RELATIONS COMMISSION, SECOND DIVISION and the PHILIPPINE PACKING CORPORATION,
***Respondents*.**
x----------x

D E C I S I O N

FERNAN, *C.J.*:

Assailed in this Petition for *Certiorari* is the Resolution of the National Labor Relations Commission dated June 30, 1986 which affirmed the Decision of the labor arbiter in NLRC RABX Case No. 2-0242, entitled "Casiano Sedaya vs. Philippine Packing Corporation," the dispositive portion of which states:

> "WHEREFORE, IN VIEW OF THE FOREGOING, judgment is hereby rendered ordering respondent to issue a written memorandum to effect the transfer of complainant from

> Misamis Oriental General Crops operations to pineapple plantation operation(s) in Bukidnon.
>
> "Complainant is likewise directed to comply with the written Memorandum within ten (10) days from receipt thereof otherwise he shall be considered to have abandoned his employment."[1]

Petitioner Casiano S. Sedaya was hired by respondent Philippine Packing Corporation on July 12, 1960 as an hourly-paid research field worker at its pineapple plantation operations in Bukidnon. Sometime in 1970, Sedaya was transferred to the general crops plantation operations in Misamis Oriental. Four years later or on January 16, 1974, he was promoted to the position of a monthly-paid regular supervisor. When research activity was however phased out in March, 1982, Sedaya was verbally advised by respondent company on March 29, 1982 of his re-assignment to the Bukidnon plantation. He was to report there on April 1, 1982.

Instead of reporting to his new assignment, petitioner Sedaya filed successive leave applications, the last of which was on April 17, 1982 for an indefinite period of time, allegedly "to settle land problem(s) in Surigao and Agusan."[2] Respondent company disapproved this last application since Sedaya's leaves of absences had reached the maximum ceiling of forty-five (45) days.

While he was on leave, Sedaya tried to persuade management to reconsider his transfer and if this was not possible, to at least consider his position as redundant so that he could be entitled to severance pay. Respondent company refused, stating that it was not terminating his services and that his position as supervisor was still there for him to hold.

Sedaya persisted in his self-imposed absences despite their being unauthorized. Consequently, on April 29, 1982, respondent company charged him in writing with abandonment of work. Sedaya did not answer the charge within the five-day period allowed him. Neither did he appear at the May 11, 1982 hearing scheduled for him to ventilate his side. Thereupon, respondent company dismissed him from the service effective June 10, 1982 for abandonment.

Feeling aggrieved, Sedaya filed on February 21, 1983 a complaint for illegal dismissal and prayed for separation pay with backwages, if any.[3] He did not ask for reinstatement.

The labor arbiter, in his decision, found that Sedaya did not abandon his employment but concluded that both parties were at fault: petitioner Sedaya, for his refusal to work at his new place of assignment after his application for an indefinite leave was disapproved, and respondent company, for its failure to issue a written memorandum of transfer. Thus, the labor arbiter ordered respondent company to prepare a written memorandum effecting the transfer and gave petitioner a period of ten (10) days from receipt within which to comply, or else he would be held liable for abandonment.

Respondent company did not contest the arbiter's decision. In compliance therewith, it issued the required memorandum dated June 23, 1983 to petitioner, formally advising the latter of his reassignment and giving him ten (10) days from receipt to report for work.[4]

Petitioner received notice of the above memorandum on June 23, 1983. He did not report for duty. Instead, he appealed his case to the National Labor Relations Commission contending that the memorandum order was oppressive. He also questioned the reinstatement because it did not provide for an award of backwages. Petitioner demanded reinstatement with backwages, or in the alternative, separation pay.[5]

As earlier mentioned, the labor tribunal sustained the decision of the labor arbiter. Hence, this present petition which raises the main issue of whether or not petitioner could be validly dismissed from his employment by reason of his refusal to accept his new assignment.

The Court has, in a number of cases, recognized and upheld the prerogative of management to transfer an employee from one office to another within the business establishment, provided that it does not involve a demotion in rank or a diminution of his salaries, benefits and other privileges. This is a function associated with the

employer's inherent right to control and manage effectively its enterprise. Even as the law is solicitous of the welfare of employees, it must also protect the right of an employer to exercise what are clearly management prerogatives. The free will of management to conduct its business affairs to achieve its purpose cannot be denied.[6]

Petitioner's reassignment to Bukidnon was a legitimate exercise of managerial prerogatives. His field research work in Misamis Oriental had been completely phased out for being unnecessary. But petitioner was not. So instead of terminating his employment, respondent company decided to move him back to Bukidnon where he had been originally assigned and where he could be more useful. This would belie petitioner's claim that there was illegal constructive dismissal. Surely, respondent company could not be faulted for undertaking means to maximize its existing labor force by deploying its employees to its various areas of operations in order to achieve optimum results for the benefit of the company.

On the other hand, there is nothing in the records to indicate that the projected relocation of petitioner was motivated by considerations other than the exigencies of the service. Indeed, the reasons adduced by petitioner to justify his non-acceptance of the Bukidnon assignment, i.e. his land problems and the anticipated dislocation of his family, appear unconvincing in the face of the management's inherent right to lay down policies and rules which the employee must abide by.

Neither was the transfer a demotion because petitioner would be maintaining his status as a supervisor and like all supervisors in the Bukidnon plantation, would likewise be entitled to free housing with free light and water facilities.

If for any reason an employee finds himself in that intolerable situation where he is unable to sacrifice his personal interests in favor of the demands of the service, then he has no other option but to separate himself from his employment. And the company is not duty-bound to grant him separation pay for the reason that his removal is of his own choosing.

Verily, the transfer should be upheld.

Petitioner has sought reinstatement with backwages. Reinstatement to his former post can no longer be made since that had been abolished. At the same time, respondent company cannot be compelled to pay him backwages during the period when he was not actually working.

The labor arbiter, in arriving at his decision, accorded much weight to the fact that there was only a verbal and not a written instruction of the transfer. He also considered the very significant fact that in petitioner's twenty-two years of service with the multinational firm, he has never been cited for any disciplinary infraction. The arbiter's directive requiring the written memorandum and giving petitioner a reasonable period within which to comply appears to be the most fair and equitable solution to break the impasse between petitioner and respondent company. It should be reiterated if only to give both parties a final opportunity to rectify their mistakes.

The Solicitor General has recommended the grant of separation pay to which an employee "laid off due to retrenchment" is entitled under the law should petitioner no longer wish to remain with the company.

The Court is not inclined to extract this last measure of magnanimity from respondent company. It must be stressed that what was considered by the company as unnecessary was petitioner's research activity in Misamis Oriental, and not petitioner's services. He was not laid off. He was moved to Bukidnon precisely because the company still needed his services.

In view of the foregoing, the Court finds that respondent Commission did not gravely abuse its discretion in sustaining the labor arbiter.

WHEREFORE, the instant Petition is **DISMISSED**. The Court hereby directs respondent Philippine Packing Corporation to issue within ten (10) days from notice another written memorandum to petitioner Casiano S. Sedaya directing his transfer to its Bukidnon pineapple plantation and to give petitioner a period of ten (10) days from receipt within which to comply. Petitioner has the option to either accept the reassignment without backwages or face dismissal

from employment without severance pay, since termination from employment, at this point, shall be for cause.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin and Cortes, *JJ.*, concur.

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[1] Annex H, Rollo, p. 35.
[2] Annex C, Rollo, p. 19.
[3] Annex F, Rollo, p. 29.
[4] Comment, Rollo, p. 61.
[5] Annex G, Rollo, p. 33.
[6] Dangan vs. NLRC and Tierra Factors Corp., G.R. Nos. 63127-28, February 20, 1984, 127 SCRA 706; Abbott Laboratories, Inc., et al. vs. NLRC and Bobadilla, G.R. No. 76959, October 12, 1987, 154 SCRA 713; Philippine Japan Active Carbon Corp., et al. vs. NLRC and Quinanola, G.R. No. 83239, March 8, 1989.
