SUPREME COURT
SECOND DIVISION

DOMICIANO SOCO,
***Petitioner*,**

-versus-

G.R. Nos. L-53364-65
March 16, 1987

MERCANTILE CORPORATION OF DAVAO AND THE HONORABLE AMADO G. INCIONG, DEPUTY MINISTER, MINISTRY OF LABOR,
***Respondents*.**
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D E C I S I O N

ALAMPAY, *J.*:

Petition for *Certiorari* to annul the Order dated October 25, 1979 of the former Deputy Minister of Labor in Case No. ROXI-C-209-79 and Case No. LR-30-79, which affirmed the order dated May 31, 1979 of the Regional Director, granting the application of private respondent Mercantile Corporation of Davao (MERCO), for clearance to terminate petitioner Domiciano Soco and dismissing the latter's complaint for unfair labor practice.

Private respondent is engaged in the sale and distribution of ice cream in Davao City. Petitioner who was employed as driver of

MERCO's delivery van, was the President of the MERCO Employees Labor Union (MELU), an affiliate of the Federation of Free Workers (FFW). In the last week of January, 1979, the personnel officer of private respondent conducted an investigation due to reports that petitioner was carrying on his union (MELU) activities during his working hours for the purpose of transferring his Union's affiliation from the FFW to the Southern Philippines Federation of Labor (SPFL) and for this purpose he was even utilizing the company vehicle of MERCO, in violation of the Company's Rule No. 19(a) which prescribes a penalty of suspension of 15 days for the first offense and dismissal for succeeding offenses.

It appears that on January 25, 1979, petitioner was ordered to deliver ice cream to the Imperial Hotel and Maguindanao Hotel at C.M. Recto Avenue and to Your Goody Mart at Anda Street, all in Davao City, but he deviated from the usual route and went to Kiosk No. 4 on San Pedro Street to talk to Bartolome Calago, a co-employee, but who was then off-duty. The personnel officer of MERCO advised petitioner to report to his office to explain his unauthorized deviation in connection with said incident but petitioner did not comply. On January 30, 1979, MERCO wrote the FFW to which MELU was affiliated and wherein petitioner Dominador Soco was the President asking for a grievance conference to be scheduled not later than February 13, 1979. When petitioner manifested his unwillingness to attend the grievance conference in his belief that such is not necessary, FFW relayed this information to MERCO. Due to the refusal of petitioner to submit himself to a formal conference, MERCO, in a memorandum dated February 13, 1979 suspended petitioner for five (5) days, effective February 15, 1979, for violation of Company Rule No. 19(a). Then a report of this action taken was filed with the Ministry of Labor.

On February 13, 1979, at 10:30 A.M., petitioner was instructed to deliver ice cream to the New City Commercial Corporation at R. Magsaysay Avenue and Gempesaw Store at Gempesaw Street, Davao City. After making these deliveries, petitioner then proceeded to the Office of SPEL Union at the Puericulture Center building located on Alvarez Street. John Ferrazzini, Manager of MERCO saw the company vehicle parked along the street. After verifying that petitioner was the driver of the MERCO Ford Fiera van, he then

called for Rogelio Galagar, Secretary of the MELU and another employee and in their presence, the MERCO manager took out the rotor of the van. Later that morning, when petitioner came out of the building he was unable to start the engine of the vehicle and he called for company assistance. An officer of MERCO advised petitioner to report to his office because of the said incident in order to explain his unauthorized deviation but petitioner did not do so. On February 14, 1979, respondent MERCO wrote the FFW to which MELU was affiliated and the petitioner herein was the President, for a grievance conference on February 15, 1979, but this was reset to February 21, 1979 to afford FFW sufficient time to notify petitioner Domiciano Soco. On February 20, 1979, FFW informed MERCO that the requested grievance conference would not be held because petitioner Domiciano Soco finds it unnecessary to do so.

On his part, petitioner filed on February 14, 1979 a complaint for unfair labor practice against MERCO, docketed by the Regional Office of the Ministry of Labor, Davao City, as LRD Case No. LR-30-79. Petitioner alleged therein that the five (5) days suspension imposed on him by respondent Company, was on account of his union activities.

On February 21, 1979, petitioner was placed on preventive suspension pending the approval of MERCO's application for clearance to terminate the services of the former. This application was filed with the Ministry of Labor on February 22, 1979 and docketed therein as LRD Case No. ROXI-C-209-79. MERCO's application for clearance to terminate was opposed by petitioner even as MERCO filed its Answer to the complaint against it for unfair labor practice, on March 7, 1979.

The two cases were consolidated and tried jointly as agreed to by the contending parties. In an order dated May 21, 1979, the Regional Director granted private respondent's application to terminate the employment of petitioner. He upheld the preventive suspension imposed by MERCO on herein petitioner and dismissed the latter's complaint for unfair labor practice. Said order was then appealed by herein petitioner but the Deputy Minister of Labor, on October 25, 1979, affirmed the appealed order. The dismissal of petitioner's appeal led to the filing of the instant petition for *certiorari*.

Petitioner assails the action taken by the respondent Deputy Minister of Labor as done with grave abuse of discretion amounting to lack of or in excess of jurisdiction. Petitioner contends that Policy Instruction No. 6 of the Ministry of Labor and Employment (MOLE) indicates that the Regional Director has no jurisdiction to hear and decide unfair labor practice cases because the exclusive original jurisdiction over such labor cases belongs to the Conciliation Section of the Regional Office of the MOLE. Petitioner avers, that such cases, therefore, should be first resolved by the Labor Arbiter and not the Regional Director.

This contention is undeserving of the Court's favor.

The fact appears that at the initial hearing conducted on March 7, 1979 by the Regional Director, it was agreed upon by the parties to consolidate the two cases being litigated considering that both cases concern the same parties and the issues involved are interrelated (Decision of the Regional Director, p. 20, Rollo). Petitioner obviously accepted the jurisdiction of the Regional Director by presenting his evidence. By having asked for affirmative relief, without challenging the Regional Director's power to hear and try his complaint for unfair labor practice, he cannot rightfully now challenge the resolution made in said cases by the same Director, based on the latter's alleged lack of jurisdiction.

In the case of Tijam vs. Sibonghanoy, 23 SCRA 29, it has been stated that "after voluntarily submitting a cause and encountering an adverse decision on the merits, it is too late for the loser to question the jurisdiction or power of the court." Therein, We stated that the Court "frowns upon the undesirable practice of a party submitting his case for decision and then accepting the judgment, only if favorable, and attacking it for lack of jurisdiction when adverse."

In Ching vs. Ramolete, 51 SCRA 14, this view was reiterated, and We quote:

x x x

> "Having invoked the jurisdiction of the trial court to secure an affirmative relief against his opponents, petitioner may not now

> be allowed to repudiate or question the same jurisdiction after failing to obtain such relief. While jurisdiction of a tribunal may be challenged at any time, sound public policy bars petitioner from doing so after having procured that jurisdiction himself, speculating on the fortunes of litigation."

Petitioner avers that respondent Minister of Labor erred in affirming the findings of the Regional Director that he violated Company Rules No. 19(a) twice and his dismissal was, therefore, unwarranted. This issue raised by petitioner relates to questions of fact. It has been held, however, in numerous cases, that as a general rule, the findings of fact of the trial court or quasi-judicial bodies are binding on this Court. This principle should be applied in the instant cases, considering that the findings of respondent Deputy Minister of Labor are supported by the evidence he appreciated. As a matter of fact, the petitioner was caught for the second time by no less than the Manager of respondent's company, in actual violation of the rule prohibiting the use of the company vehicle for private purposes.

Lastly, petitioner asserts that in affirming his dismissal, the Deputy Minister of Labor violated the constitutional provision of the security of tenure of employees and that assuming that he indeed violated the company rule, the fact remains that the damage caused by him, if any, to the company, is only very minimal which should not warrant the imposition of a penalty of dismissal. Petitioner submits that he has been employed in the company for eighteen (18) years. Petitioner avers that the damage inflicted on MERCO by his activities due to his misuse of the company vehicle during working hours did not hamper the smooth business operations of MERCO.

However, what should not be overlooked is the prerogative of an employer company to prescribe reasonable rules and regulations necessary or proper for the conduct of its business and to provide certain disciplinary measures in order to implement said rules and to assure that the same would be complied with. A rule prohibiting employees from using company vehicles for private purpose without authority from management is, from our viewpoint, a reasonable one. This regulation cannot be faulted by petitioner because this is proper and necessary even if only for an orderly conduct of MERCO's business. From the evidence presented, petitioner twice used the

company vehicle in pursuing his own personal interests, on company time and deviating from his authorized route, all without permission. To cap off his infractions, petitioners stubbornly declined even to satisfy MERCO's request for an explanation or to attend a grievance conference to discuss his violations. Certainly, to condone petitioner's own conduct will erode the discipline that an employer should uniformly apply so that it can expect compliance to the same rules and regulations by its other employees. Otherwise, the rules necessary and proper for the operation of its business, would be gradually rendered ineffectual, ignored, and eventually become meaningless.

The Court agrees fully with the comment made by the respondent Deputy Minister of Labor, represented by the Office of the Solicitor General, that —

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> "The filing by petitioner of the complaint for Unfair Labor Practice case on February 14, 1979 was brought about by the fact that he was caught for the second time on February 13, 1979 violating Company Rule 19(a). It was more of an anticipatory move on the part of petitioner." (Rollo, pp. 82-83).

The Court is not unmindful of the fact that petitioner has, as he says, been employed with petitioner Company for eighteen (18) years. On this singular consideration, the Court deems it proper to afford some equitable relief to petitioner due to the past services rendered by him to MERCO. Thus, it is but appropriate that petitioner should be given by respondent MERCO, separation pay, equivalent to one month salary for every year of his service to said Company.

WHEREFORE, the Petition is hereby **DISMISSED** but respondent Mercantile Corporation of Davao (MERCO) is, nevertheless, ordered to grant the petitioner herein separation pay, equivalent to one (1) month salary for every year of his service.

No pronouncement as to costs.

SO ORDERED.

Fernan, Gutierrez, Jr., Paras, Padilla, Bidin and Cortes, *JJ.*, concur.
