

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**SOLVIC INDUSTRIAL CORP. and
ANTONIO C. TAM,**
Petitioners,

-versus-

**G.R. No. 125548
September 25, 1998**

**NATIONAL LABOR RELATIONS
COMMISSION and DIOSDADO LAUZ,**
Respondents.

X-----X

D E C I S I O N

PANGANIBAN, J.:

Except for the most serious causes affecting the business of the employer, our labor laws frown upon the penalty of dismissal. Where a penalty less punitive would suffice, an employee should not be sanctioned with a consequence so severe.

The Case

Before us is a petition for *certiorari* under Rule 65 of the Rules of Court, assailing the Resolutions in National Labor Relations Commission^[1] (NLRC) Case No. 00-03-02583-94, issued by the NLRC on April 30, 1996; May 29, 1996; and June 17, 1996.

At the arbitration branch of the NLRC in the National Capital Region, Diosdado Lauz filed on March 22, 1994, a complaint for illegal dismissal and monetary claim for service incentive leave pay against petitioner. On November 29, 1995, Labor Arbiter Alex Arcadio Lopez dismissed the complaint.

On appeal, Respondent Commission set aside the Decision of the labor arbiter. In its assailed April 30, 1996 Resolution, NLRC ruled:^[2]

“PREMISES CONSIDERED, the appeal is hereby granted and the Decision of the Labor Arbiter dated 29 November 1995 is hereby SET ASIDE. In lieu thereof, a new Order is hereby entered directing Solvic Industrial Corporation for [sic] the immediate reinstatement of the complainant to his former or equivalent position without loss of seniority right but without backwages.”

Respondent Commission denied the Motion for Reconsideration in its May 29, 1996 Resolution:^[3]

“WHEREFORE, the instant Motion for Reconsideration is hereby denied for lack of merit. No further Motion of similar nature shall be entertained.”

Notwithstanding the above Resolution, petitioner filed a Second Supplemental Motion for Reconsideration with Leave to File and Admit the Same. The NLRC, in its third assailed Resolution dated June 17, 1996, ruled:^[4]

“WHEREFORE, in view of the foregoing, the instant motion is hereby merely NOTED. Let the instant case be dropped from the calendar of this Commission.”

Attributing grave abuse of discretion to the NLRC, petitioner has now elevated the matter to this Court.^[5]

The Facts

Adopting the labor arbiter's summary, Respondent NLRC relates the factual background of this case as follows:

“Complainant in his position paper alleged the following:

“He started employment with respondent sometime in 1977. He occupied the position as extruder operator. In the course of his employment, he performed his utmost best, and in fact has never been suspended or reprimanded. On 17 January 1994, sans cause or due process, he was arbitrarily terminated from service. Additionally, complainant alleged that he was not paid his service leave pay.

“Respondent on the other hand, averred that:

“Complainant who was hired in 1977 was actually terminated for cause on 17 January 1994. That the termination of complainant arose from the incident that transpired on 17 January 1994 at about 7:00 p.m. On said occasion, complainant upon seeing Foreman Carlos Aberin confronted him and thereafter struck him in the shoulder beside the neck with a bladed weapon in the process, inflicting bodily injury on him. That several days after said incident, complainant did not report for work, hence, was issued a memorandum of preventive suspension dated 19 January 1994, received by him on 22 January 1994. Correspondingly, Mr. Aberin executed an affidavit and submitted a medical certificate.

“Complainant on the other hand, submitted his letter of explanation dated 24 January 1994 denying complicity in the acts imputed to him. Thereafter, a series of administrative investigation was conducted on 5, 12 and 19 February 1994, where complainant refused to give any further statement or explanation. Subsequently, he was served his letter of termination dated 21 February 1994, which however, he refused to receive. Relatedly, in a meeting/conference held with the union officers by Carlos Aberin and Diosdado Lauz on 26

February 1994, complainant admitted to attempting to take the life of Mr. Aberin and apologized for the same.

“In reply, complainant countered that he never struck Mr. Aberin with a bladed weapon, and that the incident [was] not job related, hence cannot serve as basis for termination.

“Respondents, on the other hand in reply, argued that:

“Contrary to his allegation, he was given his day in court as [an] investigation was conducted. Moreover, complainant in the course of his meeting with Mr. Aberin [and] with the union officers, admitted that he assaulted the latter and even apologized in exchange for the withdrawal of the criminal case filed against him.”

The Ruling of the NLRC

Respondent Commission found that the wrong imputed to the private respondent did not merit the penalty of dismissal. Thus, ordering his reinstatement but omitting the award of back wages, it ruled:

“We are not full in accord with the above-findings of the [l]abor [a]rbiter. While we do not condone the action taken by the complainant against his foreman, to our mind, the imposition of the supreme penalty of dismissal is not commensurate [with] the gravity of the offense he committed.

“Records show that the injury inflicted by the complainant was not that serious as pictured by the respondent, coupled with the fact that the incident occurred outside the work premises and did not in any way disrupt the operations in the company. Besides, the mere fact that the complainant has been in the faithful service of the company for the past twenty (20) long years untainted with any derogatory record, are factors that must be considered in his favor. Besides, the complainant and his supervisor had already patched up their differences that led to the withdrawal of the criminal case instituted by the latter against the former.

“The claim for the payment of service incentive leave pay must be denied for failure of the complainant to particularize the grounds for his entitlement thereto. Likewise, moral damages cannot be awarded for lack of factual or legal basis.”

Assignment of Error

In its Memorandum, petitioner raises a single issue:

“Whether or not the NLRC committed grave abuse of discretion in granting the appeal of the private respondent for reinstatement, but without backwages, finding that the penalty of dismissal was not commensurate [with] the gravity of the offense committed by the private respondent.”^[6]

In fine, petitioner questions only the propriety of private respondent’s reinstatement. The parties submit no other issue.

The Court’s Ruling

The appeal is devoid of merit.

Sole Issue: Reinstatement

Assailing the NLRC, petitioner contends that reinstatement is not proper because the mere act of hacking someone with a bolo, albeit with the blunt side, is a serious offense which merits the penalty of dismissal. Petitioner further avers that the incident was work-related, because it arose out of private respondent’s ill feelings towards his victim, the company foreman, who had chastised him for allegedly sleeping while on duty. Petitioner admits that the incident took place outside the work premises, but maintains that it happened just opposite the entrance gate of the company building.

Petitioner’s arguments are not persuasive. Fighting within work premises may be deemed a valid ground for the dismissal of an employee. Such act adversely affects the employer’s interests for it distracts employees, disrupts operations and creates a hostile work atmosphere.^[7] The facts of this case, however, do not justify the dismissal of private respondent. As found by Respondent NLRC, the

infraction was committed outside the work premises and did not lead to any disruption of work or any hostile environment in the work premises.

It is axiomatic that factual findings of agencies exercising quasi-judicial functions, such as the NLRC, are accorded not only respect but even finality, when these findings are supported by substantial evidence.^[8] A careful review of the records of this case reveals that there is no cogent reason to overturn or modify the findings of Respondent Commission.

We agree with the NLRC that the acts of private respondent are not so serious as to warrant the extreme penalty of dismissal. Private respondent was accused of hitting the victim once with the blunt side of bolo. Private respondent could have attacked him with the blade of the weapon, and he could have struck him several times. But he did not, thus negating any intent on his part to inflict fatal injuries. In fact, the victim merely sustained a minor abrasion and has since forgiven and reconciled with the private respondent. If the party most aggrieved — namely, the foreman — has already forgiven the private respondent, then petitioner cannot be more harsh and condemning than the victim. Besides, no criminal or civil action has been instituted against private respondent. Furthermore, in his twenty years of service in the company, he has not been charged with any similar misconduct.

Arguing that the length of private respondent's service cannot atone for his serious misconduct, petitioner invokes *Villeno vs. NLRC*,^[9] in which the Court held that "considerations of first offense and length of service are overshadowed by the seriousness of the offense." *Villeno*, however, is not applicable. In that case, the employee disconnected the steering line cable of the ship, thereby needlessly delaying its departure. The Court recognized the gravity of the work-related misconduct, for the concomitant delay affected the business and the reputation of the shipping company and exposed it to lawsuits for breach of contract. In the present case, private respondent's offense was not as serious as that in *Villeno*. Its consequences did not directly affect the business of petitioner or the atmosphere in the work premises.

Verily, we do not condone the action of the private respondent. We believe, however, that the NLRC did not commit grave abuse of discretion in ruling that the penalty of dismissal was too harsh and not commensurate with the said offense. “Where a penalty less punitive would suffice, whatever missteps may be committed by labor ought not to be visited with a consequence so severe.”^[10]

Be it remembered that in an action for *certiorari*, the petitioner must prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent. “By grave abuse of discretion is meant capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. Mere abuse of discretion is not enough. It must be grave abuse of discretion as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.”^[11] In this case, petitioner failed to show grave abuse of discretion on the part of Respondent Commission.

In so ruling, we reiterate that an employer’s power to discipline its workers must be exercised with caution, lest it erode the constitutional guarantee of security of tenure.^[12] This is especially true when the penalty being imposed is dismissal, which leads to severance of employment ties and the economic dislocation of the employee. Because of the serious implications of this penalty, “our Labor Code decrees that an employee cannot be dismissed, except for the most serious causes. The overly concern of our laws for the welfare of employees is in accord with the social justice philosophy of our Constitution.”^[13]

In sum, we believe Respondent Commission did not gravely abuse its discretion in holding that private respondent should be reinstated, but not awarded back wages. Its Decision finds basis in *Manila Electric Co. vs. NLRC*^[14] in which the Court allowed a similar relief.

WHEREFORE, the Petition is **DISMISSED** and the impugned Resolutions of Public Respondent NLRC are hereby **AFFIRMED**. No costs.

Davide, Jr., Bellosillo, Vitug and Quisumbing, JJ., concur.

- [1] Third Division composed of Comm. Ireneo B. Bernardo, ponente, and Pres. Comm. Lourdes C. Javier and Comm. Joaquin A. Tanodra, concurring.
- [2] NLRC Resolution, p. 4; rollo, p. 79.
- [3] Rollo, p. 115.
- [4] Ibid., p. 119.
- [5] The case was deemed submitted for resolution on July 31, 1998, upon the filing of private respondent's Memorandum.
- [6] Petitioner's Memorandum, p. 7; rollo, p. 187.
- [7] Sanyo Travel Corp. vs. NLRC and Florentino Haduca, GR No. 121449, October 2, 1997; Oania vs. NLRC, 244 SCRA 668 June 1, 1995; Foodmine, Inc. (Kentucky Fried Chicken) vs. NLRC, 188 SCRA 748, August 20, 1990.
- [8] Five J Taxi vs. NLRC, 235 SCRA 556, August 11, 1994; Loadstar Shipping Co., Inc. vs. Gallo, 229 SCRA 654, February 4, 1994.
- [9] 251 SCRA 494, December 26, 1995, per Bellosillo, J.
- [10] Judy Philippines, Inc. vs. NLRC, GR No. 111934, April 29, 1998, per Martinez, J.
- [11] Tañada vs. Angara, GR No. 118295, May 2, 1997, per Panganiban, J. See also Zarate vs. Olegario, GR No. 90655, October 7, 1996; San Sebastian College vs. Court of Appeals, 197 SCRA 138, May 15, 1991; Bustamante vs. Commissioner on Audit, 216 SCRA 134, November 27, 1992.
- [12] Del Monte Philippines, Inc. vs. NLRC and Procesa vs. Alsola. GR No. 126688, March 5, 1998; Hongkong and Shanghai Banking Corporation vs. NLRC, 260 SCRA 49, July 30, 1996.
- [13] Cebu Filvener Corporation and/or Carlo Cordero vs. NLRC and Jessielyn Villaflor, GR No. 126601, February 24, 1998, p. 6, per Puno, J.
- [14] 175 SCRA 277, July 12, 1989.