



Republic of the Philippines
Supreme Court
Manila

Mis-DCBatt
MAR 23 2021

THIRD DIVISION

PHILIPPINE RABBIT BUS G.R. No. 249134
LINES, INC.,

Petitioner, Present:

LEONEN, J., Chairperson,
HERNANDO,
INTING,
DELOS SANTOS,* and
ROSARIO, JJ.

- versus -

Promulgated:

EDWIN A. BUMAGAT,

Respondent.

November 25, 2020

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RESOLUTION

INTING, J.:

This Petition for Review on *Certiorari*¹ assails the Decision² dated December 28, 2018 and the Resolution³ dated August 14, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 133319 finding Edwin A. Bumagat (respondent) to have been illegally dismissed by Philippine Rabbit Bus Lines, Inc. (petitioner).

The Antecedents

Petitioner hired respondent in March 1991 as a bus driver for the routes Manila-Laoag and Baguio-Manila. On July 31, 1997, the bus that

* On official leave.

¹ *Rollo*, pp. 9-29.

² *Id.* at pp. 156-166; penned by Associate Justice Maria Elisa Sempio Diy with Associate Justices Eduardo B. Peralta, Jr. and Josep Y. Lopez, concurring.

³ *Id.* at pp. 183-185.

was being driven by respondent was bumped by a speeding truck along the National Highway in Pozorrubio, Pangasinan. As a result, respondent sustained serious physical injuries for which he underwent several surgeries within a span of more than two years and ended up consuming all of his six months of accumulated sick leave credits.⁴

On March 17, 2000, respondent wrote Natividad Nisce, the then President of petitioner, requesting to be accepted back to work as a bus driver.⁵ The letter, however, was not acted upon. Thus, on June 9, 2000, respondent filed a Request for Assistance before the Department of Labor and Employment (DOLE) against petitioner for reinstatement and/or payment of separation pay. Later on, respondent withdrew his request because petitioner promised him a job at the Laoag City Terminal.⁶

Unfortunately, petitioner failed to fulfill its promise to reinstate respondent at the Laoag City Terminal. This prompted respondent to file another Request for Assistance with the DOLE. When no amicable settlement was reached, respondent filed a Complaint⁷ for illegal dismissal and money claims against petitioner. The Labor Arbiter (LA) initially dismissed the complaint on the ground of prescription.⁸ On appeal, the National Labor Relations Commission (NLRC) found that respondent's cause of action had not yet prescribed and remanded the case to the LA for further proceedings.⁹

Ruling of the LA

On August 9, 2006, the LA dismissed respondent's complaint for lack of merit.¹⁰ The LA noted that at the time respondent requested petitioner to be accepted back to work, he had already consumed all his leaves as he was out of work for more than two years due to the injuries he sustained during the vehicular accident. Thus, the LA concluded that respondent had not, in any manner, been factually dismissed from his

⁴ *Id.* at 157.

⁵ See Letter dated March 17, 2000, *id.* at 42.

⁶ *Id.* at 157-158.

⁷ *Id.* at 30-31.

⁸ See Order dated February 12, 2003 as penned by Labor Arbiter Fatima Jambaro-Franco, *id.* at 87-89.

⁹ *Id.* at 158.

¹⁰ See Decision dated August 9, 2006 of the National Labor Relations Commission in NLRC-NCR-Case No. 00-06-04573-2002 as penned by Labor Arbiter Cresencio G. Ramos, Jr., *id.* at 90-94.

employment by petitioner. Besides, when respondent requested to be admitted back as a bus driver, there was already a medical recommendation from one Dr. Francisco S. Lukban, M.D. (Dr. Lukban) that he be given permanent disability benefits.¹¹

Respondent then appealed to the NLRC.

Ruling of the NLRC

In the Resolution¹² dated May 22, 2013, the NLRC affirmed the LA's Decision *in toto*. According to the NLRC, it was not petitioner's fault that it could not accept respondent back to work as the latter had been absent for a long time. The NLRC also pointed out that it was impractical for petitioner to keep respondent's job open for him for almost three years.¹³

Respondent moved for reconsideration of the ruling. The NLRC denied the motion in the Resolution¹⁴ dated September 30, 2013. Aggrieved, respondent filed a Petition for *Certiorari*¹⁵ before the CA assailing the NLRC Decision and Resolution.

Ruling of the CA

In the Decision¹⁶ dated December 28, 2018, the CA reversed and set aside the NLRC ruling. It ruled that: *first*, respondent was constructively dismissed from his employment due to petitioner's failure to provide the former a new work assignment when he reported to work and asked to be accepted back as a bus driver;¹⁷ and *second*, respondent did not abandon his work.¹⁸

The CA thus disposed of the case as follows:

¹¹ *Id.* at 93.

¹² *Id.* at 105-109; penned by Commissioner Gregorio O. Bilog III, with Presiding Commissioner Alex A. Lopez and Commissioner Pablo C. Espiritu, Jr., concurring.

¹³ *Id.* at 108.

¹⁴ *Id.* at 110-111.

¹⁵ *Id.* at 112-124.

¹⁶ *Id.* at 156-166.

¹⁷ *Id.* at 160-161.

¹⁸ *Id.* at 161.

WHEREFORE, the petition is GRANTED. The assailed Decision dated May 22, 2013 and Resolution dated September 30, 2013 of public respondent National Labor Relations Commission are SET ASIDE.

Private respondent Philippine Rabbit Bus Lines is ORDERED to reinstate petitioner Edwin A. Burnagat and to pay him full backwages, inclusive of allowances, and his other benefits or their monetary equivalent, as well as attorney's fees in the amount of 10% of the total monetary claims. On top of the monetary awards, private respondent Philippine Rabbit Bus Lines is ORDERED to pay petitioner legal interest at the rate of six percent (6%) *per annum* from the date of finality of this judgment until full satisfaction.

SO ORDERED.¹⁹

Petitioner filed a Motion for Reconsideration.²⁰ The CA denied the motion in the Resolution²¹ dated August 14, 2019.

Hence, this petition.

The Issue

The principal issue for the Court's resolution is whether petitioner had illegally dismissed respondent from his employment.

The Court's Ruling

The petition lacks merit.

Settled is the rule that "factual findings of quasi-judicial agencies such as the NLRC are generally accorded not only respect, but at times even finality, because of the special knowledge and expertise gained by these agencies from handling matters falling under their specialized jurisdictions."²² The Court, after all, is not a trier of facts and does not

¹⁹ *Id.* at 165.

²⁰ *Id.* at 167-176.

²¹ *Id.* at 183-185.

²² *Maria De Leon Transit [Transportation], Inc. v. Pasion*, G.R. Nos. 183634-35 (Notice), October 8, 2014, citing *General Milling Corp. v. Viajar*, 702 Phil. 532, 540 (2013), further citing *Eureka Personnel & Management Services, Inc. v. Valencia*, 610 Phil. 444, 453 (2009).

ordinarily embark on the evaluation of evidence adduced during trial.²³ However, this rule is *not* absolute. One such exception to this rule covers instances when the findings of fact of the quasi-judicial agency concerned conflict or contradict those of the CA.²⁴ “When there is variance in the factual findings, it is incumbent upon this Court to reexamine the facts once again.”²⁵

After a careful review of the records of the case, the Court resolves to affirm with modifications the findings of the CA. The Court cannot sustain the defense that petitioner could not accept respondent back to work by reason of his medical condition and because he had been found medically unfit to work as a bus driver per Dr. Lukban's Certification.²⁶

“The cardinal rule in termination cases is that the employer bears the burden of proof to show that the dismissal is for just cause, failing in which it would mean that the dismissal is not justified.”²⁷ This rule applies adversely against petitioner since it has failed to discharge that burden by the requisite quantum of evidence.

“The Labor Code mandates that before an employer may legally dismiss an employee from the service, the requirement of substantial and procedural due process must be complied with. Under the requirement of substantial due process, the grounds for termination of employment must be based on just or authorized causes.”²⁸ The *just causes for the termination of employment* under Article 297 [282] of the Labor Code are the following:

- (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
- (b) Gross and habitual neglect by the employee of his duties;
- (c) Fraud or willful breach by the employee of the trust reposed in

²³ *Id.* See also *Bernarte v. Philippine Basketball Association, et al.*, 673 Phil. 384 (2011).

²⁴ *Id.*

²⁵ *Id.*, citing *Janssen Pharmaceutica v. Silayro*, 570 Phil. 215, 226-227 (2008).

²⁶ *Rollo*, p. 80

²⁷ *Valdez v. NLRC*, 349 Phil. 760, 768 (1998), citing *Philippine Manpower Services, Inc. v. NLRC*, 296 Phil. 596, 605 (1993); *Mapalo v. National Labor Relations Commission*, 303 Phil. 283, 288 (1994); *Sanyo Travel Corp. v. NLRC*, 345 Phil. 346, 357 (1997).

²⁸ *Victory Liner, Inc. v. Race*, 548 Phil. 282, 298 (2007).

him by his employer or duly authorized representative;

(d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and

(e) Other causes analogous to the foregoing.

A perusal of the records shows that respondent had been terminated from work by petitioner due primarily to the serious physical injuries he sustained during the vehicular accident on July 31, 1997 which, in turn, resulted in his prolonged absence from work. This is clearly evinced by petitioner's deliberate failure to act on respondent's request to return to work through his letter dated March 17, 2000. However, it bears stressing that these circumstances do not fall under the above-mentioned just causes for termination under the Labor Code. As previously discussed, petitioner, as an employer, is burdened to prove just cause for terminating the employment of respondent with clear and convincing evidence. Given petitioner's failure to discharge this burden, the Court finds that respondent was indeed dismissed without just cause by petitioner.

The Court further rules that petitioner had failed to comply with the requirements of *procedural due process* when it terminated respondent's employment.

In *Victory Liner, Inc. v. Race (Victory Liner, Inc.)*,²⁹ the Court explained the procedural aspect of a lawful dismissal as follows:

In the termination of employment, the employer must (a) give the employee a written notice specifying the ground or grounds of termination, giving to said employee reasonable opportunity within which to explain his side; (b) conduct a hearing or conference during which the employee concerned, with the assistance of counsel if the employee so desires, is given the opportunity to respond to the charge, present his evidence or rebut the evidence presented against him; and (c) give the employee a written notice of termination indicating that upon due consideration of all circumstances, grounds have been established to justify his termination.³⁰

²⁹ *Id.*

³⁰ *Id.* at 299. Citation omitted.

Petitioner did not comply with the foregoing requirements. There is nothing in the records which shows that petitioner had sent a written notice to respondent informing him of the ground or grounds of his termination, or the reason why he was deemed resigned, or at the very least, why he could not be offered with a new work assignment or be accepted back to resume his former work as bus driver. By the lack of notice, naturally, respondent had no opportunity to explain his side. Neither did petitioner send a written notice to respondent informing him that he could no longer stay employed with the company after considering all the circumstances. All petitioner could claim is that it did not dismiss respondent from work, but that the latter's condition rendered him incapable of working. Obviously, and as just discussed, this defense is without basis.


In view of the fact that petitioner neglected to observe the requirements of substantial and procedural due process in terminating respondent's employment, the Court rules that the latter was illegally dismissed from work by petitioner.

Under Article 294 [279] of the Labor Code, an unjustly dismissed employee is entitled to reinstatement without loss of seniority rights and other privileges, full backwages, inclusive of allowances and other benefits or their monetary equivalent, computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

However, the Court holds that separation pay should be awarded to respondent in lieu of reinstatement. There is serious doubt as to whether respondent is physically capable of driving a bus on account of the serious physical injuries he sustained during the vehicular accident on July 31, 1997. Even in his Position Paper, respondent was seeking reinstatement, or payment of separation pay if reinstatement is no longer viable.³¹

On this point, the Court's ruling in *Victory Liner, Inc.* is instructive:

³¹ *Rollo*, p. 40




It should be stressed that petitioner is a common carrier and, as such, is obliged to exercise extra-ordinary diligence in transporting its passengers safely. To allow the respondent to drive the petitioner's bus under such uncertain condition would, undoubtedly, expose to danger the lives of the passengers and the property of the petitioner. This would place the petitioner in jeopardy of violating its extra-ordinary diligence obligation and, thus, may be subjected to numerous complaints and court suits. It is clear therefore that the reinstatement of respondent not only would be deleterious to the riding public but would also put unreasonable burden on the business and interest of the petitioner. In this regard, it should be remembered that an employer may not be compelled to continue to employ such persons whose continuance in the service will patently be inimical to his interests.

Based on the foregoing facts and circumstances, the reinstatement of the respondent is no longer feasible. Thus, in lieu of reinstatement, payment to respondent of separation pay equivalent to one month pay for every year of service is in order.³²

WHEREFORE, the petition is **DENIED**. The Decision dated December 28, 2018 and the Resolution dated August 14, 2019 of the Court of Appeals in CA-G.R. SP No. 133319 are **AFFIRMED** with **MODIFICATION**. Petitioner Philippine Rabbit Bus Lines, Inc. is declared guilty of illegal dismissal and is ordered to pay respondent Edwin A. Bumagat separation pay equivalent to one-month pay for every year of service, in lieu of his reinstatement, plus his full backwages, inclusive of allowances and other benefits or their monetary equivalent, from the time of his dismissal up to the finality of this Resolution.


The case is hereby **REMANDED** to the Labor Arbiter for the proper computation of the monetary awards. The total monetary award shall earn legal interest at 6% *per annum*, computed from the finality of this Resolution until full satisfaction thereof.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

³² *Victory Liner, Inc. v. NLRC*, *supra* note 28 at 301. Citations omitted.

WE CONCUR:



MARVIC M.V.F. LEONEN
Associate Justice
Chairperson



RAMON PAUL L. HERNANDO
Associate Justice

(On official leave)
EDGARDO L. DELOS SANTOS
Associate Justice



RICARDO R. ROSARIO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

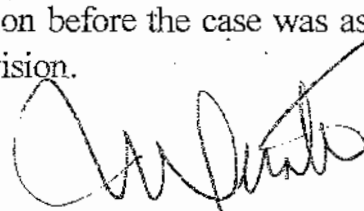


MARVIC M.V. F. LEONEN
Associate Justice
Chairperson



CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice

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