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THIRD DIVISION

[G.R. NO. 155098, September 16, 2005]

CAPITOL MEDICAL CENTER, INC. AND DR. THELMA NAVARETTE-CLEMENTE, PETITIONERS, VS. DR. CESAR E. MERIS, RESPONDENT.

D E C I S I O N

CARPIO MORALES, J.:

Subject of the present appeal is the Court of Appeals Decision[1] dated February 15, 2002 reversing the NLRC Resolution[2] dated January 19, 1999 and Labor Arbiter Decision[3] dated April 28, 1998 which both held that the closure of the Industrial Service Unit of the

Capitol Medical Center, Inc., resulting to the termination of the services of herein respondent Dr. Cesar Meris as Chief thereof, was valid.

On January 16, 1974, petitioner Capitol Medical Center, Inc. (Capitol) hired Dr. Cesar Meris (Dr. Meris),[4] one of its stockholders,[5] as in charge of its Industrial Service Unit (ISU) at a monthly salary of P10,270.00.

Until the closure of the ISU on April 30, 1992,[6] Dr. Meris performed dual functions of providing medical services to Capitolï¿½s more than 500 employees and health workers as well as to employees and workers of companies having retainer contracts with it.[7]

On March 31, 1992, Dr. Meris received from Capitol's president and chairman of the board, Dr. Thelma Navarette-Clemente (Dr. Clemente), a notice advising him of the management's decision to close or abolish the ISU and the consequent termination of his services as Chief thereof, effective April 30, 1992.[8] The notice reads as follows:

> March 31, 1992
>
> Dr. Cesar E. Meris Chief,
> Industrial Service Unit
> Capitol Medical Center
>
> Dear Dr. Meris:
>
> Greetings!
>
> Please be formally advised that the hospital management has decided to **abolish CMC's Industrial Service Unit as of April 30, 1992 in view**

> **of the almost extinct demand for direct medical services by the private and semi-government corporations in providing health care for their employees. Such a decision was arrived at, afterconsidering the existing trend of industrial companies allocating their health care requirements to Health Maintenance Organizations (HMOs) or thru a tripartite arrangement with medical insurance carriers and designated hospitals.**
>
> As a consequence thereof, all positions in the unit will be decommissioned at the same time industrial services [are] deactivated. In that event, **you shall be entitled to return to your private practice as a consultant staff of the institution and will become eligible to receive your retirement benefits as a former hospital employee.** Miss Jane Telan on the other hand will be transferred back to Nursing Service for reassignment at the CSR.
>
> We wish to thank you for your long and faithful service to the institution and hope that our partnership in health care delivery to our people will continue throughout the future. Best regards.
>
> Very truly yours,
>
> (SGD.) DR. THELMA NAVARETTE-CLEMENTE[9] (Emphasis and underscoring supplied)

Dr. Meris, doubting the reason behind the management's decision to close the ISU and believing that the ISU was not in fact abolished as it continued to operate and offer services to the client companies with Dr. Clemente as its head and the notice of closure was a mere ploy for his ouster in view of his refusal to retire despite Dr. Clemente's previous prodding for him to do so,[10] sought his reinstatement but it was unheeded.

Dr. Meris thus filed on September 7, 1992 a complaint against Capitol and Dr. Clemente for illegal dismissal and reinstatement with claims for backwages, moral and exemplary damages, plus attorney's fees.[11]

Finding for Capitol and Dr. Clemente, the Labor Arbiter held that the abolition of the ISU was a valid and lawful exercise of management prerogatives and there was convincing evidence to show that ISU was being operated at a loss.[12] The decretal text of the decision reads:

> WHEREFORE, judgment is hereby rendered dismissing the complaint. Respondents are however ordered to pay complainant all sums due him under the **hospital retirement plan**.
>
> SO ORDERED.[13] (Emphasis supplied)

On appeal by Dr. Meris, the National Labor Relations Commission (NLRC) modified the Labor Arbiter's decision. It held that in the exercise of Capitol's management prerogatives, it had the right to close the ISU even if it was not suffering business losses in light of Article 283 of the Labor Code and jurisprudence.[14]

And the NLRC set aside the Labor Arbiter's directive for the payment of retirement benefits to Dr. Meris because he did not retire. Instead, it ordered the payment of separation pay as provided under Article 283 as he was discharged due to closure of ISU, to be charged against the retirement fund.[15]

Undaunted, Dr. Meris elevated the case to the Court of Appeals via petition for review[16] which, in the interest of substantial justice, was treated as one for certiorari.[17]

Discrediting Capitol's assertion that the ISU was operating at a loss as the evidence showed a continuous trend of increase in its revenue for three years immediately preceding Dr. Meris's dismissal on April 30, 1992,[18] and finding that the ISU's "Analysis of Income and Expenses" which was prepared long after Dr. Meris's dismissal, hence, not yet available, on or before April 1992, was tainted with irregular entries, the appellate court held that Capitol's evidence failed to meet the standard of a sufficient and adequate proof of loss necessary to justify the abolition of the ISU.[19]

The appellate court went on to hold that the ISU was not in fact abolished, its operation and management having merely changed hands from Dr. Meris to Dr. Clemente; and that there was a procedural lapse in terminating the services of Dr. Meris, no written notice to the Department of Labor and Employment (DOLE) of the ISU abolition having been made, thereby violating the requirement embodied in Article 283.[20]

The appellate court, concluding that Capitol failed to strictly comply with both procedural and substantive due process, a condition *sine qua non* for the validity of a case of termination,[21] held that Dr. Meris was illegally dismissed. It accordingly reversed the NLRC Resolution and disposed as follows:

> IN VIEW OF ALL THE FOREGOING, the assailed resolutions of the NLRC are hereby set aside, and another one entered –
>
> 1 – declaring illegal the dismissal of petitioner as Chief of the Industrial Service Unit of respondent Medical Center;
>
> 2 – ordering respondents to pay petitioner
>
> a) backwages from the date of his separation in April 1992 until this decision has attained finality;
>
> b) separation pay in lieu of reinstatement computed at the rate of one (1) month salary for every year of service with a fraction of at least six (6) months being considered as one year;
>
> c) other benefits due him or their money equivalent;
>
> d) moral damages in the sum of P50,000.00;

e) exemplary damages in the sum of P50,000.00; and

f) attorney's fees of 10% of the total monetary award payable to petitioner.

SO ORDERED.[22]

Hence, the present petition for review assigning to the appellate court the following errors:

I

. . . IN OVERTURNING THE FACTUAL FINDINGS AND CONCLUSIONS OF BOTH THE NATIONAL LABOR RELATIONS COMMISSION (NLRC) AND THE LABOR ARBITER.

II

. . . IN HOLDING, CONTRARY TO THE FINDINGS OF BOTH THE LABOR ARBITER AND THE NATIONAL LABOR RELATIONS COMMISSION, THAT THE INDUSTRIAL UNIT (ISU) WAS NOT INCURRING LOSSES AND THAT IT WAS NOT IN FACT ABOLISHED.

III

. . . IN NOT UPHOLDING PETITIONERS' MANAGEMENT PREROGATIVE TO ABOLISH THE INDUSTRIAL SERVICE UNIT (ISU).

IV

. . . IN REQUIRING PETITIONERS TO PAY RESPONDENT BACKWAGES AS WELL AS DAMAGES AND ATTORNEY'S FEES.[23]

Capitol questions the appellate court's deciding of the petition of Dr. Meris on the merits, instead of merely determining whether the administrative bodies acted with grave abuse of discretion amounting to lack or excess of jurisdiction.

The province of a special civil action for certiorari under Rule 65, no doubt the appropriate mode of review by the Court of Appeals of the NLRC decision,[24] is limited only to correct errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction.[25] In light of the merits of Dr. Meris' claim, however, the relaxation by the appellate court of procedural technicality to give way to a substantive determination of a case, as this Court has held in several cases,[26] to subserve the interest of justice, is in order.

Capitol argues that the factual findings of the NLRC, particularly when they coincide with those of the Labor Arbiter, as in the present case, should be accorded respect, even finality.[27]

For factual findings of the NLRC which affirm those of the Labor Arbiter to be accorded respect, if not finality, however, the same must be sufficiently supported by evidence on record.[28] Where there is a showing that such findings are devoid of

support, or that the judgment is based on a misapprehension of facts,[29] the lower tribunals' factual findings will not be upheld.

As will be reflected in the following discussions, this Court finds that the Labor Arbiter and the NLRC overlooked some material facts decisive of the instant controversy.

Capitol further argues that the appellate court's conclusion that the ISU was not incurring losses is arbitrary as it was based solely on the supposed increase in revenues of the unit from 1989-1991, without taking into account the "Analysis of Income and Expenses" of ISU from July 1, 1990 to July 1, 1991 which shows that the unit operated at a loss;[30] and that the demand for the services of ISU became almost extinct in view of the affiliation of industrial establishments with HMOs such as Fortunecare, Maxicare, Health Maintenance, Inc. and Philamcare and of tripartite arrangements with medical insurance carriers and designated hospitals,[31] and the trend resulted in losses in the operation of the ISU.

Besides, Capitol stresses, the health care needs of the hospital employees had been taken over by other units without added expense to it;[32] the appellate court's decision is at best an undue interference with, and curtailment of, the exercise by an employer of its management prerogatives;[33] at the time of the closure of the ISU, Dr. Meris was already eligible for retirement under the Capitol's retirement plan; and the appellate court adverted to the alleged lack of notice to the DOLE regarding Dr. Meris's dismissal but the latter never raised such issue in his appeal to the NLRC or even in his petition for review before the Court of Appeals, hence, the latter did not have authority to pass on the matter.[34]

Work is a necessity that has economic significance deserving legal protection. The social justice and protection to labor provisions in the Constitution dictate so.

Employers are also accorded rights and privileges to assure their self-determination and independence and reasonable return of capital. This mass of privileges comprises the so-called management prerogatives. Although they may be broad and unlimited in scope, the State has the right to determine whether an employer's privilege is exercised in a manner that complies with the legal requirements and does not offend the protected rights of labor. One of the rights accorded an employer is the right to close an establishment or undertaking.

The right to close the operation of an establishment or undertaking is explicitly recognized under the Labor Code as one of the authorized causes in terminating employment of workers, the only limitation being that the closure must not be for the purpose of circumventing the provisions on termination of employment embodied in the Labor Code.

> ART. 283. *Closure of establishment and reduction of personnel.* – The employer may also terminate the employment of any employee due to the installation of labor saving devices, redundancy, retrenchment to prevent losses or **the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title**, by serving a written notice on the workers and the Ministry of Labor and Employment