702 Phil. 532

FIRST DIVISION

[G.R. No. 181738, January 30, 2013]

GENERAL MILLING CORPORATION, PETITIONER, VS. VIOLETA L. VIAJAR, RESPONDENT.

D E C I S I O N

REYES, J.:

This is a Petition[1] for Review on *Certiorari* under Rule 45 of the Rules of Court filed by petitioner General Milling Corporation (GMC), asking the Court to set aside the Decision[2] dated September 21, 2007 and the Resolution[3] dated January 30, 2008 of the Court of Appeals (CA) in CA G.R. SP No. 01734; and to reinstate the Decision[4] dated October 28, 2005 and Resolution[5] dated January 31, 2006 of the National Labor Relations Commission (NLRC) in NLRC Case No. V-000416-05.

The antecedent facts are as follows:

GMC is a domestic corporation with principal office in Makati City and a manufacturing plant in Lapu-Lapu City.

In October 2003, GMC terminated the services of thirteen (13) employees for redundancy, including herein respondent, Violeta Viajar (Viajar). GMC alleged that it has been gradually downsizing its Vismin (Visayas-Mindanao) Operations in Cebu where a sizeable number of positions became redundant over a period of time.[6]

On December 2, 2003, Viajar filed a Complaint[7] for Illegal Dismissal with damages against GMC, its Human Resource Department (HRD) Manager, Johnny T. Almocera (Almocera), and Purchasing Manager, Joel Paulino before the Regional Arbitration Branch (RAB) No. VII, NLRC, Cebu City.

In her Position Paper,[8] Viajar alleged that she was employed by GMC on August 6, 1979 as Invoicing Clerk. Through the years, the respondent held various positions in the company until she became Purchasing Staff.

On October 30, 2003, Viajar received a Letter-Memorandum dated October 27, 2003 from GMC, through Almocera, informing her that her services were no longer needed, effective November 30, 2003 because her position as Purchasing Staff at the Purchasing Group, Cebu Operations was deemed redundant. Immediately thereafter, the respondent consulted her immediate superior at that time, Thaddeus Oyas, who told her that he too was shocked upon learning about it.[9]

When Viajar reported for work on October 31, 2003, almost a month before the effectivity of her severance from the company, the guard on duty barred her from entering GMC's premises. She was also denied access to her office computer and

was restricted from punching her daily time record in the bundy clock.[10]

On November 7, 2003, Viajar was invited to the HRD Cebu Office where she was asked to sign certain documents, which turned out to be an "Application for Retirement and Benefits." The respondent refused to sign and sought clarification because she did not apply for retirement and instead asserted that her services were terminated for alleged redundancy. Almocera told her that her signature on the Application for Retirement and Benefits was needed to process her separation pay. The respondent also claimed that between the period of July 4, 2003 and October 13, 2003, GMC hired fifteen (15) new employees which aroused her suspicion that her dismissal was not necessary.[11] At the time of her termination, the respondent was receiving the salary rate of P19,651.41 per month.[12]

For its part, the petitioner insisted that Viajar's dismissal was due to the redundancy of her position. GMC reasoned out that it was forced to terminate the services of the respondent because of the economic setbacks the company was suffering which affected the company's profitability, and the continuing rise of its operating and interest expenditures. Redundancy was part of the petitioner's concrete and actual cost reduction measures. GMC also presented the required "Establishment Termination Report" which it filed before the Department of Labor and Employment (DOLE) on October 28, 2003, involving thirteen (13) of its employees, including Viajar. Subsequently, GMC issued to the respondent two (2) checks respectively amounting to P440,253.02 and P21,211.35 as her separation pay.[13]

On April 18, 2005, the Labor Arbiter (LA) of the NLRC RAB No. VII, Cebu City, rendered a Decision, the decretal portion of which reads:

> ***WHEREFORE***, foregoing considered, judgment is hereby rendered declaring that respondents acted in good faith in terminating the complainant from the service due to redundancy of works, thus, complainant's refusal to accept the payment of her allowed separation pay and other benefits under the law is ***NOT JUSTIFIED*** both in fact and law, and so, therefore complainant's case for illegal dismissal against the herein respondents and so are complainant's monetary claims are hereby ordered ***DISMISSED*** for lack of merit.
>
> ***SO ORDERED***.[14]

The LA found that the respondent was properly notified on October 30, 2003 through a Letter-Memorandum dated October 27, 2003, signed by GMC's HRD Manager Almocera, that her position as Purchasing Staff had been declared redundant. It also found that the petitioner submitted to the DOLE on October 28, 2003 the "Establishment Termination Report." The LA even faulted the respondent for not questioning the company's action before the DOLE Regional Office, Region VII, Cebu City so as to compel the petitioner to prove that Viajar's position was indeed redundant. It ruled that the petitioner complied with the requirements under Article 283 of the Labor Code, considering that the nation was then experiencing an economic downturn and that GMC must adopt measures for its survival.[15]

Viajar appealed the aforesaid decision to the NLRC. On October 28, 2005, the NLRC promulgated its decision, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the Decision of the Labor Arbiter declaring the validity of complainant's termination due to redundancy is hereby **AFFIRMED**. Respondent General Milling Corporation is hereby ordered to pay complainant's separation pay in the amount of [P]461,464.37.
>
> **SO ORDERED**.[16]

The NLRC, however, stated that it did not agree with the LA that Viajar should be faulted for failing to question the petitioner's declaration of redundancy before the DOLE Regional Office, Region VII, Cebu City. It was not imperative for Viajar to challenge the validity of her termination due to redundancy.[17] Notwithstanding, the NLRC affirmed the findings of the LA that Viajar's dismissal was legal considering that GMC complied with the requirements provided for under Article 283 of the Labor Code and existing jurisprudence, particularly citing *Asian Alcohol Corporation v. NLRC*.[18] The NLRC further stated that Viajar was aware of GMC's "reduction mode," as shown in the GMC Vismin Manpower Complement, as follows:

Year	Manpower Profile	No. of Employees Terminated (Redundancy)
2000	795	
2001	782	
2002	736	41
2003	721	24
2004	697	16
2005	696 (As of June 2005)	06[19]

The NLRC stated that the characterization of positions as redundant is an exercise of the employer's business judgment and prerogative. It also ruled that the petitioner did not exercise this prerogative in bad faith and that the payment of separation pay in the amount of P461,464.37 was in compliance with Article 283 of the Labor Code. [20]

Respondent Viajar filed a Motion for Reconsideration which was denied by the NLRC in its Resolution dated January 31, 2006.

Undaunted, Viajar filed a petition for *certiorari* before the CA. In the now assailed Decision dated September 21, 2007, the CA granted the petition, reversing the decision of the NLRC in the following manner:

> **WHEREFORE**, premises considered, this Petition for Certiorari is **GRANTED**. The *Decision*, dated 28 October 2005, and *Resolution*, dated 31 January 2006 respectively, of public respondent National Labor Relations Commission-Fourth Division, Cebu City, in NLRC Case No. V-

000416-05 (RAB VII-12-2495-03) are **SET ASIDE**. A new judgment is entered DECLARING the dismissal ILLEGAL and ordering respondent to reinstate petitioner without loss of seniority rights and other privileges with full backwages inclusive of allowances and other benefits computed from the time she was dismissed on 30 November 2003 up to the date of actual reinstatement. Further, moral and exemplary damages, in the amount of Fifty Thousand Pesos ([P]50,000.00) each; and attorney's fees equivalent to ten percent (10%) of the total monetary award, are awarded.

Costs against respondent.

SO ORDERED.[21]

Aggrieved by the reversal of the NLRC decision, GMC filed a motion for reconsideration. However, in its Resolution dated January 30, 2008, the CA denied the same; hence, this petition.

The petitioner raises the following issues, to wit:

I. THE DECISION OF SEPTEMBER 21, 2007 AND THE RESOLUTION OF JANUARY 30, 2008 OF THE COURT OF APPEALS ARE CONTRARY TO LAW AND ESTABLISHED JURISPRUDENCE.

II. THE DECISION OF SEPTEMBER 21, 2007 AND THE RESOLUTION OF JANUARY 30, 2008 OF THE COURT OF APPEALS VIOLATE THE LAW AND ESTABLISHED JURISPRUDENCE ON THE OBSERVANCE OF RESPECT AND FINALITY TO FACTUAL FINDINGS OF THE NATIONAL LABOR RELATIONS COMMISSION.

III. THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN ITS DECISION OF SEPTEMBER 21, 2007 AND RESOLUTION OF JANUARY 30, 2008 AS THE SAME ARE CONTRARY TO THE EVIDENCE ON RECORD.[22]

The petition is denied.

The petitioner argues that the factual findings of the NLRC, affirming that of the LA must be accorded respect and finality as it is supported by evidence on record. Both the LA and the NLRC found the petitioner's evidence sufficient to terminate the employment of respondent on the ground of redundancy. The evidence also shows that GMC has complied with the procedural and substantive requirements for a valid termination. There was, therefore, no reason for the CA to disturb the factual findings of the NLRC.[23]

The rule is 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 jurisdiction.[24] It is also settled that this Court is not

a trier of facts and does not normally embark in the evaluation of evidence adduced during trial.[25] This rule, however, allows for exceptions. One of these exceptions covers instances when the findings of fact of the trial court, or of the quasi-judicial agencies concerned, are conflicting or contradictory with those of the CA. When there is a variance in the factual findings, it is incumbent upon the Court to re-examine the facts once again.[26]

Furthermore, another exception to the general rule is when the said findings are not supported by substantial evidence or if on the basis of the available facts, the inference or conclusion arrived at is manifestly erroneous.[27] Factual findings of administrative agencies are not infallible and will be set aside when they fail the test of arbitrariness.[28] In the instant case, the Court agrees with the CA that the conclusions arrived at by the LA and the NLRC are manifestly erroneous.

GMC claims that Viajar was validly dismissed on the ground of redundancy which is one of the authorized causes for termination of employment. The petitioner asserts that it has observed the procedure provided by law and that the same was done in good faith. To justify the respondent's dismissal, the petitioner presented: (i) the notification Letter- Memorandum dated October 27, 2003 addressed to the respondent which was received on October 30, 2003;[29] (ii) the "Establishment Termination Report" as prescribed by the DOLE;[30] (iii) the two (2) checks issued in the respondent's name amounting to P440,253.02 and P21,211.35 as separation pay;[31] and (iv) the list of dismissed employees as of June 6, 2006 to show that GMC was in a "reduction mode."[32] Both the LA and the NLRC found these sufficient to prove that the dismissal on the ground of redundancy was done in good faith.

The Court does not agree.

Article 283 of the Labor Code provides that redundancy is one of the authorized causes for dismissal. It reads:

> Article 283. *Closure of establishment and reduction of personnel.* – The employer may also terminate the employment of any employee due to the installment 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 worker and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor-saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher**. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for