

## SECOND DIVISION

[ G.R. No. 167310, June 17, 2008 ]

**PENINSULA MANILA, ROLF PFISTERER AND BENILDA QUEVEDO-SANTOS, PETITIONERS, ELAINE M. ALIPIO, RESPONDENT.**

### DECISION

**QUISUMBING, J.:**

For review on certiorari are the Decision<sup>[1]</sup> dated August 23, 2004 and Resolution<sup>[2]</sup> dated March 11, 2005 of the Court of Appeals in CA-G.R. SP No. 67007, which reversed the Decision<sup>[3]</sup> dated December 29, 2000 of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 023890-00. The NLRC had earlier affirmed with modification the Labor Arbiter's Decision,<sup>[4]</sup> dismissing the complaint for illegal dismissal against herein petitioners, but awarding respondent herein separation pay amounting to P20,000.

The pertinent facts are as follows:

Petitioner, The Peninsula Manila, is a corporation engaged in the hotel business. Co-petitioners Rolf Pfisterer and Benilda Quevedo-Santos were the general manager and human resources manager, respectively, of the hotel at the time of the controversy.

The hotel operates a clinic 24 hours a day and employs three regular nurses who work eight hours each day on three separate shifts. The hotel also engages the services of reliever nurses who substitute for the regular nurses who are either off-duty or absent.

Respondent Elaine M. Alipio was hired merely as a reliever nurse. However, she had been performing the usual tasks and functions of a regular nurse since the start of her employment on December 11, 1993. Hence, after about four years of employment in the hotel, she inquired why she was not receiving her 13<sup>th</sup> month pay.

In response, petitioners required her to submit a summary of her tour of duty for 1997. After she had submitted the said summary, Alipio was paid P8,000 as her 13<sup>th</sup> month pay for 1997. Alipio likewise requested for the payment of her 13<sup>th</sup> month pay for 1993 to 1996, but her request was denied.

On December 18, 1998, Alipio was informed by a fellow nurse that she can only report for work after meeting up with petitioner Santos. When Alipio met with Santos on December 21, 1998, Alipio was asked regarding her payslip vouchers. She told Santos that she made copies of her payslip vouchers because Peninsula does not give her copies of the same. Santos was peeved with Alipio's response

because the latter was allegedly not entitled to get copies of her payslip vouchers. Santos likewise directed Alipio not to report for work anymore.

Aggrieved, Alipio filed a complaint for illegal dismissal against the petitioners.

After due proceedings, the Labor Arbiter dismissed the complaint for lack of merit, but directed that Peninsula pay Alipio separation pay amounting to P20,000. The Labor Arbiter held,

**WHEREFORE**, in view of the foregoing, judgment is hereby rendered **DISMISSING** the instant complaint for lack of merit. However, considering that complainant had served as reliever for respondent hotel for a long period, the respondent hotel is ordered to give her separation pay equivalent to one-half month pay for every year of complainant's reliever service, in the total amount of P20,000.00 based on an average monthly pay of P8,000.00.

**SO ORDERED.**<sup>[5]</sup>

On appeal, the NLRC affirmed with modification the Labor Arbiter's decision, to wit:

WHEREFORE, the appeal of the complainant is dismissed for lack of merit. Accordingly, the decision appealed from is affirmed with the modification that the award of separation pay is hereby deleted.

SO ORDERED.<sup>[6]</sup>

Upon further review, the Court of Appeals reversed the decision of the NLRC after ascertaining that the findings of the Labor Arbiter and the NLRC that Alipio is not an employee of Peninsula and that she was validly dismissed is not supported by the evidence on record.<sup>[7]</sup> The dispositive portion of the Decision dated August 23, 2004 of the Court of Appeals reads:

**WHEREFORE**, the petition is **GRANTED** and the Decision dated December 29, 2000 and the Order dated June 29, 2001 of the National Labor Relations Commission are **REVERSED** and **SET ASIDE**.

Private respondents The Peninsula Manila and Benilda Quevedo-Santos are ordered to reinstate petitioner Elaine M. Alipio as regular staff nurse without loss of seniority rights; to pay petitioner, jointly and severally, full backwages and all the benefits to which she is entitled under the Labor Code from December 12, 1994 up to the time of her actual reinstatement; moral damages in the amount of P30,000.00, exemplary damages in the amount of P20,000[.]00, and attorney's fees equivalent to ten (10%) percent of the total monetary award.

Let this case be remanded to the Labor Arbitration Branch, National Labor Relations Commission for the computation of the monetary claims of petitioner.

**SO ORDERED.**<sup>[8]</sup> (Emphasis supplied.)

Petitioners moved for reconsideration but their motion was denied. Hence, the instant petition for review on certiorari contending that the Court of Appeals seriously erred:

I.

IN GIVING DUE COURSE TO THE RESPONDENT'S PETITION FOR CERTIORARI WHICH WAS MAINLY BASED ON ALLEGATIONS OF SUPPOSED FACTUAL ERRORS COMMITTED BY THE NATIONAL LABOR RELATIONS COMMISSION AND IN REVERSING THE LATTER'S FINDINGS OF FACT WHICH WERE SUPPORTED BY SUBSTANTIAL EVIDENCE IN THE RECORD; AND

II.

IN DECLARING THE RESPONDENT'S DISMISSAL TO BE ILLEGAL AND ORDERING HER REINSTATEMENT WITH FULL BACK WAGES, TOGETHER WITH PAYMENT OF MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES.<sup>[9]</sup>

Petitioners contend that the Court of Appeals should have accorded the unanimous findings of the Labor Arbiter and the NLRC due respect and finality as the conclusion reached by the two bodies is supported by substantial evidence on record. Petitioners insist Alipio was terminated for a just cause and with due process. Petitioners likewise argue that Alipio cannot be reinstated as a regular staff nurse because (1) she never served in that capacity; and (2) there is no vacancy for the said position or any equivalent position to which she may be reinstated.

Alipio, for her part, counters that the NLRC decision, affirming that of the Labor Arbiter, is not beyond the scope of judicial review because palpable mistake was committed in disregarding evidence showing (1) her status as a regular employee of Peninsula; and (2) petitioners' failure to observe substantive and procedural due process. She points out that a Certification dated April 22, 1997 issued by the hotel proves she was a regular staff nurse until her illegal dismissal. She stresses that her supposed employment at the Quezon City Medical Center does not negate the fact that she also worked as a regular nurse of the hotel. Additionally, she contends that obtaining copies of her own payslips does not indicate a perverse attitude justifying dismissal for serious misconduct or willful disobedience. She adds, there is no showing that her refusal to return copies of her payslips caused material damage to petitioners. She further claims that bad faith attended her dismissal.

After carefully weighing the parties' arguments, we resolve to deny the petition.

It is doctrinal that the factual findings of quasi-judicial agencies like the NLRC are generally accorded respect and finality if such are supported by substantial evidence. In some instances, however, the Court may be compelled to deviate from this general rule if the Labor Arbiter and the NLRC misappreciated the facts, thereby resulting in the impairment of the worker's constitutional and statutory right to security of tenure.<sup>[10]</sup>

The conclusions reached by the NLRC and the Labor Arbiter, that Alipio was not a regular employee of the hotel and that she was validly dismissed, are not supported