

THIRD DIVISION

[G.R. NO. 157757, June 28, 2005]

ELSIE T. LAVADOR, PETITIONER, VS. "J" MARKETING CORPORATION AND ROGELIO U. SOYAO, RESPONDENTS.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

For resolution is the petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision^[1] dated November 26, 2001 and the Resolution^[2] dated February 19, 2003 rendered by the Court of Appeals in CA-G.R. SP No. 66248, entitled "*Elsie T. Lavador vs. National Labor Relations Commission (Fifth Division), J Marketing Corporation and/or Rogelio U. Soyao.*"

Records show that on January 7, 1991, Elsie T. Lavador, petitioner, was employed by "J" Marketing Corporation, respondent, as a daily paid worker. Eventually, she was promoted as assistant cashier in respondent's branch office at Butuan City, receiving a monthly salary of P3,834.00.

Claiming that respondent failed to remit the P1,000.00 payment of Robert Braza; to issue official receipt for the P1,259.00 check payment of Chelito M. Delliva; and to apply the same to his account, respondent issued inter-office memoranda dated June 9, 1999 and August 23, 1999 charging petitioner with misappropriation and directing her to submit a written explanation. In the meantime, respondent reassigned her as receptionist.

On September 1, 1999, after evaluating the evidence against petitioner, respondent issued a notice terminating her services for loss of trust and confidence.

Immediately, she filed with the Office of the Labor Arbiter a complaint for illegal dismissal against respondent and Rogelio U. Soyao, its Executive Vice President and General Manager.

After the submission of the parties' pleadings and position papers, the Labor Arbiter rendered a Decision dated December 31, 1999 finding that petitioner was not illegally dismissed from the service but ordering respondents to pay her P12,392.73 as salary differential and P1,239.27 attorney's fees.

Upon appeal, the National Labor Relations Commission (NLRC) rendered a Decision dated April 17, 2001 affirming with modification the Decision of the Labor Arbiter in the sense that the award of salary differential and attorney's fee is deleted.

Petitioner then filed a motion for reconsideration but was denied by the NLRC in a Resolution dated May 18, 2001, prompting her to file with the Court of Appeals a petition for *certiorari*, docketed as CA-G.R. SP No. 66248.

On November 26, 2001, the Appellate Court rendered a Decision affirming with modification the assailed NLRC Decision. While the said court upheld the termination of petitioner's employment, however, it ordered respondents to pay her P10,000.00 as damages for violating her right to due process, thus:

"The records disclose that petitioner twice requested that a formal administrative investigation be conducted in order for her to properly defend herself from the accusations leveled against her. Despite her pleas and that of her counsel, private respondents refused to conduct a formal administrative investigation, proceeding instead to hastily dismiss petitioner on the basis of its own probe, including the letter-explanation of petitioner. While due process connotes merely the opportunity to be heard, We cannot agree that the said principle was complied with in the present case as compliance therewith appears to be merely superficial. The fact that the supposed clients-complainants of private respondents executed conflicting statements on the matter, the latter should have granted the request of petitioner in order to ferret out the truth.

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x x x

Perforce, private respondent corporation is hereby ordered to pay the latter indemnity for damages in the amount of P10,000.00 in accordance with the ruling of the High Court in the cases of *Wenphil Corporation vs. NLRC* (170 SCRA 69), *Reta vs. NLRC* (232 SCRA 613) and *Better Buildings, Inc. vs. NLRC* (283 SCRA 242).

WHEREFORE, premises considered, the present petition is hereby PARTIALLY GRANTED. The Resolutions dated April 17, 2001 and May 18, 2001 issued by public respondent National Labor Relations Commission in NLRC CA No. M-005395-2000 (RAB 13-09-00138-99) are hereby AFFIRMED with MODIFICATION in that respondent corporation is hereby ordered to pay petitioner indemnity for damages in the amount of P10,000.00 for violating here right to due process of law.

No pronouncement as to costs.

SO ORDERED."

On December 12, 2001, petitioner filed a motion for reconsideration, but was denied by the Appellate Court in a Resolution dated February 19, 2003.

Hence, this petition for review on *certiorari*.

The basic issue here is whether petitioner was deprived of her right to due process.

Section 2, Rule XXIII, Book V of the Implementing Rules of the Labor Code provides:

"RULE XXIII

TERMINATION OF EMPLOYMENT