

THIRD DIVISION

[G.R. No. 104319, June 17, 1999]

**CAROLINA CASTILLO, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION AND PHILIPPINE COMMERCIAL &
INTERNATIONAL BANK, RESPONDENTS.**

D E C I S I O N

GONZAGA-REYES, J.:

This petition for *certiorari* and prohibition filed under Rule 65 seeks to annul the Decision dated December 27, 1991 and the Resolution dated January 21, 1992 of the respondent National Labor Relations Commission (NLRC, for brevity) and to prohibit, enjoin and restrain respondents from enforcing the questioned decision and resolution.

The following facts are undisputed: Petitioner was an employee since April 1981 of private respondent Philippine Commercial & International Bank (PCIB) as Foreign Remittance Clerk from 1987 to January 31, 1988 in the private respondent bank's Ermita branch.^[1]

On January 12, 1988, Faisal Al Shahab, a Jordanian national, went to respondent bank's Ermita branch to claim a foreign remittance in the amount of US\$2,000.00. Shahab paid P450.00 as commission charges as computed by petitioner. Upon re-computation, the correct amount of the charges amounted to only P248.75.^[2]

On January 13, 1988, petitioner received a Memorandum^[3] as follows:

"January 13, 1988

MEMO TO: MS. CAROLINA L. CASTILLO

REMITTANCE CLERK/RPC

ERMITA BRANCH

SUBJECT: REASSIGNMENT

In line with the Bank's policy on flexibility employee development, effective immediately, you are hereby requested to report to the Luneta Area Office for your training grid. Please report to Mr. Eufracio E. Cruz, Jr.-SM/A00 for further instructions.

Also, please accomplish the usual transfer of accountabilities and submit the same to your immediate supervising officer.

(Sgd.) ARTURO O. ALCASAR (Sgd.) GILBERTO C. MARQUEZ

RPC OO Branch Manager"

Another Memorandum dated January 13, 1988^[4] was sent to petitioner reading as follows:

"January 13, 1988

MEMO TO: MS. CAROLINA L. CASTILLO

REMITTANCE CLERK/RPC

ERMITA BRANCH

SUBJECT : REASSIGNMENT

In line with the Bank's policy on flexibility employee development and internal control, effective immediately, you are hereby reassigned temporarily as Remittance Clerk-Inquiry.

Please accomplish the usual transfer of accountabilities and submit the same to your immediate supervising officer.

(Sgd.) ARTURO O. ALCASAR

RPC OO"

On January 21, 1988, petitioner filed with the NCR Arbitration Branch a complaint-affidavit for illegal dismissal asking for her reinstatement as Foreign Remittance Clerk plus moral and exemplary damages and attorney's fees.^[5]

Subsequently, petitioner received allegedly under protest, a Memorandum dated January 25, 1988^[6] which reads:

"January 25, 1988

MEMO TO: MS. CAROLINA L. CASTILLO

REMITTANCE CLERK-INQUIRY

THRU: MR. INOCENCIO R. NASAPUY

PP/HEAD-REMITTANCE SECTION

SUBJECT: DUTIES AND RESPONSIBILITIES

Relative to your reassignment as Remittance Clerk-Inquiry effective January 21, 1988, for internal control purposes, you are hereby instructed that your specific duties and responsibilities will be confined to handling of inquiring by phone, by walk-in clients over the counter and to assist the FX Supervisor-Inquiry & Investigation in verifying inquiries of

correspondent banks, agencies, other banks and branches.

Accordingly, you are hereby instructed further to desist from performing functions of other staff positions particularly those of the Remittance Clerk-POP/Collection Items.

For your strict compliance.

(Sgd.) ARTURO O. ALCAZAR (Sgd.) GILBERTO C. MARQUEZ

RPC OO Branch Manager"

On January 25, 1988, Shahab filed a formal complaint with the branch manager of the respondent bank regarding the over-charging of commission on foreign remittances, specifically mentioning petitioner as the one who attended to his withdrawals.^[7] The branch manager decided to pursue further investigation on the matter.^[8]

On February 2, 1988, branch manager Gilbert Marquez issued a Memorandum to petitioner requiring her to explain within seventy-two (72) hours why no disciplinary action should be taken against her. Petitioner did not submit a written explanation. Respondent bank deferred further action on the matter.^[9]

In the meantime, trial ensued in the case for illegal dismissal earlier filed by petitioner and on October 8, 1990, the Labor Arbiter^[10] rendered a decision ruling that petitioner was "constructively dismissed from her employment when she was transferred to the position of Remittance Clerk-Inquiry from her position of Foreign Remittance Clerk and was later barred from reporting for work on February 5, 1988 by the security guards upon instruction of the management of respondent bank." The Labor Arbiter opined that while the positions of Foreign Remittance Clerk for Inquiry and Foreign Remittance Clerk for Payment Order Collection are within Level III of the position classification of the private respondent bank, the latter position is vested with more power and responsibilities, thus concluding that petitioner was demoted in her position. As regards petitioner's reassignment, the Labor Arbiter was of the view that although management has the right to control the nature of hiring, the status of the employee and his work assignment, such right must be anchored on just and valid grounds. The dispositive portion of the decision reads:

"WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered declaring the dismissal of complainant as illegal and ordering the respondent Philippine Commercial and International Bank, to immediately reinstate complainant to her former position as Foreign Remittance Clerk with full backwages amounting to P102,500.00 from her constructive dismissal on January 13, 1988 up to the present without loss of seniority rights, privileges and other rights granted by law.

"The claim for damages for insufficiency of evidence is hereby dismissed.

"Pursuant to Section 12 of RA 6715 amending 223 (sic) of the Labor Code, respondent PCIB is hereby ordered to immediately reinstate complainant upon receipt of this decision, to her position as Foreign

Remittance Clerk, Ermita Branch, or reinstate her in the payroll as mandated by the same law."

On appeal, the National Labor Relations Commission set aside the labor arbiter's decision. It ruled that there was no demotion because the position to which she was being reassigned belongs to the same job level as her former position and both positions have the same rate of compensation. The dispositive portion of the decision reads:

"WHEREFORE, premises considered, the appealed decision is hereby set aside, and a new judgment is entered, ordering the respondent to reinstate the complainant as Remittance Clerk Inquiry, without backwages to the position where she is being reassigned. Failure to comply on the part of the complainant within ten (10) days from receipt would be construed as abandonment of her job."

Hence, the present petition wherein petitioner raises the following assignment of errors:

"I. RESPONDENT NLRC ERRED IN DISREGARDING THE FACTUAL FINDINGS OF THE LABOR ARBITER;

II. RESPONDENT NLRC ERRED IN RULING THAT PETITIONER WAS NOT CONSTRUCTIVELY AND ILLEGALLY DISMISSED"

Private respondent PCIB filed its Comment to the petition alleging that the reassignment of petitioner could not result in demotion as both positions of Foreign Remittance Clerk for Payment Order/Collection and Foreign Remittance Clerk for Inquiry are given the same weight in terms of duties and responsibilities and there was no diminution in rank, wages and other benefits.

Public respondent NLRC, through the Office of the Solicitor General, filed its Comment arguing that it is the prerogative of management to transfer an employee from one office to another within the business establishment provided there is no demotion in rank or diminution of his salary, benefits and other privileges.

On July 1, 1992, this Court issued a Resolution^[11] giving due course to the petition and requiring the parties to submit their simultaneous memoranda.

The public respondent filed a Manifestation and Motion alleging that the issues and arguments raised in the petition had already been extensively discussed in its Comment to the petition and praying that its Comment be considered as its memorandum in this case.^[12] Said Manifestation and Motion was noted and granted by this Court in the Resolution dated August 12, 1992.^[13]

In compliance with this Court's resolution, petitioner and private respondent submitted their respective memorandum.

In her Memorandum, petitioner admits that the right to transfer or reassign an employee is an employer's exclusive right and the prerogative of management, but argues that such right is not absolute. Petitioner alleges that she refused to obey the "transfer and demotion order" from private respondent as the same was "issued arbitrarily and without any basis whatsoever," thereby depriving her of procedural

and substantive due process. The Memorandum dated January 13, 1988 was issued immediately after the incident of January 12, 1988 involving allegedly an honest mistake in computation committed by petitioner and she avers that there was no prejudice caused to management considering that no complaint was filed on that date and she finally succeeded in returning the difference to the client in the amount of P201.25. Petitioner was never apprised of any on-going investigation or even the filing of the complaint. She asseverates that there was no legal basis for her transfer and demotion order; that the order was issued to apply only to her and that for her to accede to said transfer and demotion order would have meant an admission of fault and blame for inadvertent error, thereby admitting inefficiency and incompetence.

Petitioner further alleges that private respondent immediately appointed another employee in her place and refused to allow petitioner to perform her usual functions as she became a mere fixture in the office premises to her gross humiliation. She was allegedly barred from the office premises and was thereby constructively dismissed without any legal ground and without due process. Petitioner reiterates her prayer for moral and exemplary damages for the alleged arbitrariness and highhanded actuations of private respondent in addition to reinstatement as foreign remittance clerk with back wages and all accruing benefits.

In its Memorandum, private respondent bank alleges that the respondent NLRC acted in accordance with the dictates of justice and fair play in upholding the legality of petitioner's transfer as a valid exercise of private respondent's management prerogative. The respondent bank avers that petitioner was not barred from the premises of the respondent bank contrary to her allegation.

The petition is devoid of merit.

We find that the respondent NLRC did not abuse its discretion when it reversed the findings of the Labor Arbiter.

This Court in the case of De Paul/King Philip Customs Tailor and/or Milagros Chaukay and William Go vs. NLRC, et al.,^[14] has ruled that abuse of discretion does not necessarily follow from a reversal by the NLRC of a decision of a Labor Arbiter. Mere variance in evidentiary assessment between the NLRC and the Labor Arbiter does not automatically call for a full review of the facts by this Court. The NLRC's decision, so long as it is not bereft of substantial support from the records, deserves respect from this Court.^[15] As a rule, the original and exclusive jurisdiction to review a decision or resolution of respondent NLRC in a petition for *certiorari* under Rule 65 of the Rules of Court does not include a correction of its evaluation of the evidence but is confined to issues of jurisdiction or grave abuse of discretion. Thus, the NLRC's factual findings, if supported by substantial evidence, are entitled to great respect and even finality, unless petitioner is able to show that it simply and arbitrarily disregarded the evidence before it or had misappreciated the evidence to such an extent as to compel a contrary conclusion if such evidence had been properly appreciated.^[16] We see no cogent reason to deviate from this rule.

Petitioner claims that she was constructively dismissed. We agree with the respondent Commission's finding rejecting the same. Well-settled is the rule that it is the prerogative of the employer to transfer and reassign employees for valid