

THIRD DIVISION

[G.R. No. 113911, January 23, 1998]

VINTA MARITIME CO., INC. AND ELKANO SHIP MANAGEMENT, INC., PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND LEONIDES C. BASCONCILLO, RESPONDENTS.

DECISION

PANGANIBAN, J.:

To justify an employee's dismissal, the employer has the burden of proving the presence of just cause and due process. An illegally dismissed worker whose employment is for a fixed period is entitled to payment of his salaries corresponding to the unexpired portion of his contract.

The Case

These rules of long standing are invoked by the Court in resolving this special civil action for certiorari under Rule 65 of the Rules of Court seeking the reversal of the Decision dated September 13, 1993 and the Resolution dated November 23, 1993 of the National Labor Relations Commission in NLRC CA No. 000309 [POEA Case No. (M) 87-05-327].

On April 20, 1987, Leonides C. Basconcillo, herein private respondent, filed a complaint^[1] with the Philippine Overseas Employment Administration (POEA) Workers' Assistance and Adjudication Office for illegal dismissal against Vinta Maritime Co., Inc. and Elkano Ship Management, Inc., herein petitioners. In their answer,^[2] petitioners alleged that private respondent was dismissed for his gross negligence and incompetent performance as chief engineer of the *M/V Boracay*, as exemplified by the following recorded incidents:

“3.1.a. During a maneuver of the Vessel, [private respondent] closed off the operating air valve to the bridge control system despite the large sign on the valve itself-‘DO NOT CLOSE’.

3.1.b. During a standby period, there was a loss of the main sea water pressure because the suction strainer was blocked by ice. [Private respondent's] failure to change over the sea suctions resulted in the overheating of the main engine and the auxiliaries, which forced the Vessel to stop.

3.1.c. In another instance, complainant assured that the fuel situation of the Vessel was in order. But when the fuel figures were verified, it was discovered that there were only five (5) tons of fuel left before the next bunkering, leaving thus, no margin for safety. Because of this, an unscheduled bunkering

operation in Oslo had to be done, contrary to instructions.

3.1.d. As part of the safety procedures in the Vessel, it is necessary that all items of safety equipment be tested every week and a report entered in the engine room logbook. [Private respondent] was instructed and under duty to test the engine room fire alarms by activating each one individually with a heat or smoke source depending on its type. It was, however, discovered later that [private respondent] miserably failed to do this xxx.

3.1.e. [Private respondent] as [c]hief [e]ngineer miserably failed to instill discipline among the engine room personnel who are under his direct supervision, causing unrest among them and lack of respect for him and resulting in the disruption of the smooth operations of the Vessel.

3.2. Contrary to [private respondent's] allegations, he was given fair warning and enough opportunity to explain his side in the foregoing incidents, not to mention all the chances given to him to improve his substandard work performance before he was dismissed. Because of his gross negligence and his failure to perform the duties for which he was hired, [petitioners] had no other choice than to terminate his services for cause pursuant to management's prerogative to terminate an employee because of 'gross and habitual neglect...of his duties' (Article 283, Labor Code)."

Private respondent rebutted these allegations in his position paper, stating: (1) it would be childish for an experienced chief engineer to close the operating air valve to the bridge; a low level of starting air is caused by excessive and continuous use thereof during maneuvering, and such malfunction is due to the pilot's error; (2) the loss of main water pressure due to the formation of ice on the suction strainer occurred because the sea water inlet was clogged; private respondent, who was at the engine room, contacted the master of the vessel, who was then asleep, to stop the engine and change the sea valve to activate the sea water pressure; during the same incident, it was also found that the other valve did not fully open by remote control; (3) private respondent denied that the fuel figures reached only five tons as demonstrated by the low-level alarm which, while set at ten cubic meters, did not set off even until the next bunkering of the ship; it was Peter Robinson, the ship superintendent, who panicked and caused the unscheduled bunkering operation in Oslo; (4) private respondent conducted safety equipment-testing religiously, but admitted that in one instance he did not test the equipment with a heat or smoke source, upon Robinson's advice that the alarm would upset the pilot and the crew who were then resting; (5) private respondent denied that there was unrest among the engine personnel, averring that on the contrary, they cooperated and signed the guidelines which the former issued to them; and (6) he denied having been given a chance to explain his side regarding the mentioned incidents, the truth being that he was surprised when he was told of his dismissal.^[3] Petitioners filed their position paper and supporting documents which however failed to rebut private respondent's allegations.^[4]

Despite an unopposed motion for hearing^[5] filed by private respondent, the POEA

considered the case submitted for resolution by mutual agreement of the parties after submission of their respective position papers and supporting documents. In his decision dated March 9, 1990, POEA Administrator Tomas D. Achacoso ruled that private respondent was illegally dismissed. The dispositive portion of the decision reads as follows:^[6]

"WHEREFORE, in view of the foregoing, respondents are hereby ordered to pay, jointly and severally, herein complainant the amount of SEVENTEEN THOUSAND EIGHT HUNDRED SEVENTY FIVE US DOLLARS (US\$17,875.00) or its peso equivalent at the time of actual payment, representing his salaries for the unexpired portion of his employment contract at US\$1,787.50 per month.

All other claims are hereby DISMISSED."

On appeal, the National Labor Relations Commission^[7] ("Respondent Commission," for brevity) affirmed the POEA:^[8]

"Accordingly, the decision of the POEA Administrator is hereby AFFIRMED en toto."

Respondent Commission denied the motion for reconsideration in the challenged Resolution:^[9]

"After due consideration of the Motion for Reconsideration filed by respondents-appellants Vinta Maritime Co., Inc/ Elcano Ship Management, Inc. on October 22, 1993, from the Decision of September 13, 1993, the Commission (Second Division) RESOLVED to deny the same for lack of merit."

Hence, this petition.^[10]

The Facts

The facts of this case are undisputed. The solicitor general relates the following circumstances leading to the complaint:^[11]

"This case arose from a complaint for illegal dismissal by private respondent herein, Leonides O. Basconcillo, against petitioner companies, xxx Vinta Maritime Company, Incorporation and the El Kano Ship Management Incorporated, before the POEA Adjudication Office.

On February 13, 1987, private respondent, a licensed Marine Engineer since 1970, was hired as Chief Engineer for 'M.V. Boracay' by the shipping company, xxx Vinta Maritime Company, Incorporated, thru its accredited manning agent, the Elcano Ship Management, Inc.

The crew contract for his employment was effective for a fixed duration of one (1) year, with a stipulated monthly basic pay of \$1,375.00 U.S. Dollars, and fixed overtime pay of \$402.50 U.S. Dollars a month, or a total of \$1,787.50 U.S. Dollars per month, with an additional 2½ days leave a month. So on February 18, 1987, private respondent joined the vessel at the port of Rotterdam, the Netherlands, and assumed his duties

and responsibilities as Chief Engineer.

On April 2, 1987, or barely three (3) months after boarding the vessel, private respondent was informed by Captain Jose B. Orquinaza, the ship's Master, that he was relieved of his duties per recommendation of the Marine Superintendent, Mr. Peter Robinson, due to his poor performance (Annex 'G,' Petition). He was in effect terminated from the service. This came after private respondent had a verbal altercation with Robinson, a British national, regarding the discipline or lack thereof of the Filipino crew under private respondent's supervision. No inquiry or investigation, however, regarding his supposed incompetence or negligence was ever conducted; neither was private respondent furnished with a notice or memorandum regarding the cause of his dismissal.

Private respondent was made to disembark at the port of Oslo, Norway, and immediately repatriated to the country. Contrary to his perceived incompetence, private respondent's Seamen's Book contained the following entries:

Conduct - 'Very good'

Ability - 'Very good'

Remarks - 'Highly Recommended'

(Annex 'F,' p. 5, Petition)"

Assignment of Errors

In their memorandum, petitioners submit that Respondent Commission gravely abused its discretion by:^[12]

"a. Rendering the assailed resolution and decisions without a full-blown trial on the merits, and

b. Disregarding the evidence for the petitioners and ruling that the company illegally dismissed Basconcillo."

The Court's Ruling

The petition is bereft of merit. The petitioners failed to prove the elements of a valid dismissal, namely: (1) just cause and (2) due process.

First Issue: Trial is Not Indispensable in Administrative Due Process

Petitioners claim that Respondent Commission gravely abused its discretion in upholding the POEA's decision, which was based on the position papers and documents submitted by the parties in view of a motion for trial which remained unacted upon. They insist that a hearing was an indispensable condition before a judgment could be rendered in this case. We do not agree. Although bound by law and practice to observe due process, administrative agencies exercising quasi-judicial powers are nonetheless free from the rigidity of certain procedural

requirements. As applied to these proceedings, due process requires only an opportunity to explain one's side.^[13]

In labor cases, this Court has consistently held that due process does not necessarily mean or require a hearing, but simply an opportunity or a right to be heard. The requirements of due process are deemed to have been satisfied when parties are given the opportunity to submit position papers.^[14] The holding of an adversarial trial is discretionary on the labor arbiter and the parties cannot demand it as a matter of right.^[15] More often than not, a litigant may be heard more creditably through pleadings than through oral arguments. In administrative proceedings, technical rules of procedure and evidence are not strictly applied; administrative due process cannot be fully equated with due process in its strict judicial sense.^[16] Due process was designed to afford an opportunity to be heard, and an actual verbal hearing need not always be held.^[17] The necessity of conducting a hearing is addressed to the sound discretion of the labor arbiter.

These rules equally apply to cases filed with the Philippine Overseas Employment Administration Adjudication Office. Section 6 of Rule III, Book VII of the POEA Rules and Regulations of 1991^[18] categorically states that proceedings before a POEA hearing officer is non-litigious, although they are still subject to the requirements of due process.^[19] Under the POEA Rules in force^[20] at the time the complaint was filed, summary judgments – in which the pleadings, affidavits and evidence submitted are sufficient to render a decision -- are allowed under Section 4.^[21] Where the parties fail to agree on an amicable settlement and summary judgment is not appropriate, a judgment based on position papers may be resorted to under Section 5.^[22] Where there are complicated factual issues involved which cannot be resolved through such means, the hearing officer may direct the parties to submit suggested written clarificatory questions to be propounded to the party concerned.^[23]

Applied to this particular case, it is undeniable that petitioners were given their chance to be heard. Their answer, position paper and supporting documents had become parts of the records and were considered accordingly by the POEA administrator and by the Respondent Commission in rendering their respective decisions.

Furthermore, petitioners did not deem it necessary to ask the POEA Adjudication Office to conduct a hearing. It was the private respondent who moved for a full-blown trial. Although they did not oppose the motion, they did not concur with it either. Their silence was not an assent to the motion or an argument showing its necessity. Rather, it was an eloquent statement that the position paper they submitted sufficiently covered all the issues. On the other hand, private respondent's Motion for Decision, dated November 10, 1989, indubitably shows his waiver of his earlier requested hearing.^[24] This motion was similarly unopposed by petitioners. So too, petitioners' present insistence on the necessity of a hearing is weakened by the fact that their memorandum before this Court failed to specify the matters which would have required a hearing.

In all, the Court concurs with the POEA administrator and Respondent Commission that a verbal hearing was dispensable. Petitioners' belated insistence is a veiled