

## **SECOND DIVISION**

**[ G.R. No. 126688, March 05, 1998 ]**

**DEL MONTE PHILIPPINES, INC. PETITIONER, VS. NATIONAL  
LABOR RELATIONS COMMISSION AND PROCESA ALSOLA,  
RESPONDENTS.**

### **D E C I S I O N**

**PUNO, J.:**

In this special civil action for certiorari, petitioner DEL MONTE PHILIPPINES, INC. seeks to set aside the Decision of the National Labor Relations Commission (NLRC), dated May 15, 1996, holding that it illegally dismissed private respondent PROCESA A. ALSOLA and directing it to pay her backwages and separation pay.

The facts show that private respondent PROCESA ALSOLA was a packer paid by the hour in the cannery of petitioner DEL MONTE PHILIPPINES, INC. in Bugo, Cagayan de Oro City. She has been in petitioner's employ since December 21, 1972.

The company rules provide for an Absence Without Permission (AWOP) policy. They require that if a worker intends to be absent from work, he should first file an application for leave and wait for its approval before going on leave. An employee violating the rule shall be declared absent without permission (AWOP). Moreover, he who receives a notice to explain his AWOP should justify his absence. The first offense is punishable with oral reprimand; the second offense, a written reprimand; the third offense, 1-7 days suspension; the fourth offense, 8-15 days suspension; the fifth offense, 16-30 days suspension, and; the sixth offense, dismissal from service.

Petitioner avers that private respondent incurred a total of 57 days of absences without permission from 1993-1994. For 1993, she was AWOP on the following days: January 2; May 17; June 10-11, 13-19, 22, 24, 28-30; July 1-2, 5; August 23, 25; October 23, 25-28; November 5-20, and; December 27-29. For 1994, she was AWOP on January 2-10 and February 4.

Petitioner claims that a total of 17 show-cause letters were sent to private respondent requiring her to explain her absences. Private respondent did not appear before the personnel manager but merely submitted medical certificates from her doctor attesting that her absences were compelled by her illness. The last show-cause letter allegedly sent by petitioner to private respondent was dated January 6, 1994 requiring her to justify in writing her absence from November 5, 1993 to January 6, 1994. Again, she submitted medical certificates attesting that she was suffering from worsening arthritis and related illness to justify her absences for said period. Petitioner claims that these medical certificates are not sufficient for they were issued by private doctors not accredited by the company. Petitioner sent private respondent a notice of hearing on February 3, 1994, but the latter failed to appear on said date. On March 10, 1994, petitioner terminated her services for absence without permission.

Private respondent filed a complaint for illegal dismissal with the labor arbiter. The labor arbiter dismissed the complaint<sup>[1]</sup> holding that petitioner's dismissal was for a valid cause, i.e., for gross and habitual neglect of duty due to repeated absences without permission.

On appeal, the National Labor Relations Commission (NLRC) reversed the decision of the labor arbiter. It held that private respondent was illegally dismissed as her repeated absences were justified by her worsening arthritis and related illness. However, considering that reinstatement was not feasible due to her physical condition, it directed petitioner to pay private respondent six (6) months backwages and separation pay of one (1) month per year of service.<sup>[2]</sup> Petitioner moved for reconsideration but was unsuccessful.

Hence this petition.

Petitioner insists that it validly dismissed private respondent for incurring numerous absences without permission. Allegedly, it sent several show-cause letters to private respondent each time she incurred an absence without leave, requiring her to justify the same. However, no written explanation was made by private respondent as she merely submitted medical certificates from her doctors, not accredited by the company, stating that her absences were due to illness. Petitioner urges that private respondent may also be considered to have abandoned her job due to her intermittent absences.

We reiterate the rule that findings of quasi-judicial agencies, such as the National Labor Relations Commission (NLRC), are accorded respect and finality if amply supported by substantial evidence.<sup>[3]</sup> Moreover, in illegal dismissal cases, the *onus* is on the employer to prove that there was valid cause for its action.<sup>[4]</sup> In the case at bar, we find that the factual finding of the NLRC that private respondent was illegally dismissed is backed by substantial evidence.

The NLRC ruling that private respondent was illegally dismissed is principally based on petitioner's failure to establish the exact days she was absent without permission. As found by the NLRC, petitioner sought to prove private respondent's absences without permission by submitting 17 show-cause letters it allegedly sent to her. However, the NLRC found that only two (2) show-cause letters were actually sent to and received by respondent: one is dated June 30, 1993, requiring her to explain her AWOPs from June 10-30, 1993; and the second is dated January 6, 1994 which required her to explain her AWOPs from November 5, 1993 to January 6, 1994. The 15 other show-cause letters were correctly ignored by the NLRC as self-serving for lack of proof that they were actually sent to and received by private respondent. Thus, from the evidence, the only absences without permission proved by petitioner cover only the period from June 10-30, 1993 and November 5, 1993 to January 6, 1994 (the period stated in the 2 show-cause letters actually sent to and received by private respondent) and these absences were supported by medical certificates.

The rule is that an employer's power to discipline its workers may not be exercised in an arbitrary manner as to erode the constitutional guarantee of security of tenure.<sup>[5]</sup> In the case at bar, even granting that private respondent incurred previous AWOPs as far back as 1992, the circumstances under which she was dismissed from service in March 1994, or two years thereafter, are highly suspect. Firstly, private respondent had no previous disciplinary record in her 22 years of service with petitioner prior to her dismissal. If there were really show-cause letters issued to her relative to her previous