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SECOND DIVISION

[G.R. No. 124013, June 05, 1998]

ROSARIO MANEJA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND MANILA MIDTOWN HOTEL, RESPONDENTS.

D E C I S I O N

MARTINEZ, J.:

Assailed in this petition for certiorari under Rule 65 of the Revised Rules of Court are the Resolution[1] dated June 3, 1994 of the respondent National Labor Relations Commission in NLRC NCR-00-10-05297-90, entitled "Rosario Maneja, *Complainant*, vs. Manila Midtown Hotel, *Respondent*," which dismissed the illegal dismissal case filed by petitioner against private respondent company for lack of jurisdiction of the Labor Arbiter over the case; and its Resolution[2] dated October 20, 1995 denying petitioner's motion for reconsideration.

Petitioner Rosario Maneja worked with private respondent Manila Midtown Hotel beginning January, 1985 as a telephone operator. She was a member of the National Union of Workers in Hotels, Restaurants and Allied Industries (NUWHRAIN) with an existing Collective Bargaining Agreement (CBA) with private respondent.

In the afternoon of February 13, 1990, a fellow telephone operator, Rowena Loleng received a Request for Long Distance Call (RLDC) form and a deposit of P500.00 from a page boy of the hotel for a call by a Japanese guest named Hirota Ieda. The call was unanswered. The P500.00 deposit was forwarded to the cashier. In the evening, Ieda again made an RLDC and the page boy collected another P500.00 which was also given to the operator Loleng. The second call was also unanswered. Loleng passed on the RLDC to petitioner for follow-up. Petitioner monitored the call.

On February 15, 1990, a hotel cashier inquired about the P1,000.00 deposit made by Ieda. After a search, Loleng found the first deposit of P500.00 inserted in the guest folio while the second deposit was eventually discovered inside the folder for cancelled calls with deposit and official receipts.

When petitioner saw that the second RLDC form was not time-stamped, she immediately placed it inside the machine which stamped the date "February 15, 1990." Realizing that the RLDC was filed 2 days earlier, she wrote and changed the date to February 13, 1990. Loleng then delivered the RLDC and the money to the cashier. The second deposit of P500.00 by Ieda was later returned to him.

On March 7, 1990, the chief telephone operator issued a memorandum[3] to petitioner and Loleng directing the two to explain the February 15 incident. Petitioner and Loleng thereafter submitted their written explanation.[4]

On March 20, 1990, a written report[5] was submitted by the chief telephone operator, with the recommendation that the offenses committed by the operators concerned covered violations of the Offenses Subject to Disciplinary Actions (OSDA): (1) OSDA 2.01: forging, falsifying official document(s), and (2) OSDA 1.11: culpable carelessness - negligence or failure to follow specific instruction(s) or established procedure(s).

On March 23, 1990, petitioner was served a notice of dismissal[6] effective April 1, 1990. Petitioner refused to sign the notice and wrote therein "under protest."

Meanwhile, a criminal case[7] for Falsification of Private Documents and Qualified Theft was filed before the Office of the City Prosecutor of Manila by private respondent against Loleng and petitioner. However, the resolution recommending the filing of a case for estafa was reversed by 2nd Asst. City Prosecutor Virgilio M. Patag.

On October 2, 1990, petitioner filed a complaint for illegal dismissal against private respondent before the Labor Arbiter. The complaint was later amended to include a claim for unpaid wages, unpaid vacation leave conversion and moral damages.

Position papers were filed by the parties. Thereafter, the motion to set the case for hearing filed by private respondent was granted by the Labor Arbiter and trial on the merits ensued.

In his decision[8] dated May 29, 1992, Labor Arbiter Oswald Lorenzo found that the petitioner was illegally dismissed. However, in the decision, the Labor Arbiter stated that:

> "Preliminarily, we hereby state that on the face of the instant complaint, it is one that revolves on the matter of the implementation and interpretation of existing company policies, which per the last par. of Art. 217 of the Labor Code, as amended, is one within the jurisdictional ambit of the grievance procedure under the CBA and thereafter, if unresolved, one proper for voluntary arbitration. This observation is re-entrenched by the fact, that complainant claims she is a member of NUWHRAIN with an existing CBA with respondent hotel.
>
> On this score alone, this case should have been dismissed outright."[9]

Despite the aforequoted preliminary statement, the Labor Arbiter still assumed jurisdiction "since Labor Arbiters under Article 217 of the same Labor Code, are conferred original and exclusive jurisdiction of all termination case(sic.)." The dispositive portion of the decision states that:

> "WHEREFORE, premises considered, judgment is hereby rendered as follows:
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> (1) Declaring complainant's dismissal by respondent hotel as illegally effected;
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> (2) Ordering respondent to immediately reinstate complainant to her previous position without loss of seniority rights;

(3) Ordering further respondent to pay complainant the full backwages due her, which is computed as follows:

3/23/90 - 10/31/90 = 7.26/mos.
P2,540 x 7.26/mos. P18,440.40

11/1/90 - 1/7/91 = 2.23/mos.
P3,224.16 x 2.23/mos. 7,189.87

1/8/91 - 4/29/92 = 15.7/mos.
P3,589.16 x 15.7/mos. 56,349.89

P81,980.08

(4) Moreover, respondent is ordered to pay the 13th month pay due the complainant in the amount of P6,831.67 including moral and exemplary damages of P15,000.00 and P10,000.00 respectively, as well as attorney's fees equivalent to ten (10) percent of the total award herein in the amount of P11,381.17;

(5) Finally, all other claims are hereby dismissed for lack of merit.

"SO ORDERED."

Private respondent appealed the decision to the respondent commission on the ground *inter alia* that the Labor Arbiter erred in "**assuming jurisdiction over the illegal dismissal case after finding that the case falls within the jurisdictional ambit of the grievance procedure under the CBA, and if unresolved, proper for voluntary arbitration**."[10] An Opposition[11] was filed by petitioner.

In the assailed Resolution[12] dated June 3, 1994, respondent NLRC dismissed the illegal dismissal case for lack of jurisdiction of the Labor Arbiter because the same should have instead been subjected to voluntary arbitration.

Petitioner's motion for reconsideration[13] was denied by respondent NLRC for lack of merit.

In this petition for certiorari, petitioner ascribes to respondent NLRC grave abuse of discretion in -

1. Ruling that the Labor Arbiter was without jurisdiction over the illegal dismissal case;
2. Not ruling that private respondent is estopped by laches from questioning the jurisdiction of the Labor Arbiter over the illegal dismissal case;
3. Reversing the decision of the Labor Arbiter based on a technicality notwithstanding the merits of the case.

Petitioner contends that Article 217(a)(2) and (c) relied upon by respondent NLRC in divesting the labor arbiter of jurisdiction over the illegal dismissal case, should be read in conjunction with Article 261[14] of the Labor Code. It is the view of petitioner that termination cases arising from the interpretation or enforcement of company

personnel policies pertaining to violations of Offenses Subject to Disciplinary Actions (OSDA), are under the jurisdiction of the voluntary arbitrator only if these are unresolved in the plant-level grievance machinery. Petitioner insists that her termination is not an unresolved grievance as there has been no grievance meeting between the NUWHRAIN union and the management. The reason for this, petitioner adds, is that it has been a company practice that termination cases are not anymore referred to the grievance machinery but directly to the labor arbiter.

In its comment, private respondent argues that the Labor Arbiter should have dismissed the illegal dismissal case outright after finding that it is within the jurisdictional ambit of the grievance procedure. Moreover, private respondent states that the issue of jurisdiction may be raised at any time and at any stage of the proceedings even on appeal, and is not in estoppel by laches as contended by the petitioner.

For its part, public respondent, through the Office of the Solicitor General, cited the ruling of this Court in Sanyo Philippines Workers Union-PSSLU vs. Cañizares[15] in dismissing the case for lack of jurisdiction of the Labor Arbiter.

The legal issue in this case is whether or not the Labor Arbiter has jurisdiction over the illegal dismissal case.

The respondent Commission, in holding that the Labor Arbiter lacks jurisdiction to hear the illegal dismissal case, cited as basis therefor Article 217 of the Labor Code, as amended by Republic Act No. 6715. It said:

> "While it is conceded that under Article 217(a), Labor Arbiters shall have original and exclusive jurisdiction over cases involving "termination disputes," the Supreme Court, in a fairly recent case ruled:
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> > 'The procedure introduced in RA 6715 of referring certain grievances originally and exclusively to the grievance machinery, and when not settled at this level, to a panel of voluntary arbitrators outlined in CBAs does not only include grievances arising from the interpretation or implementation of the CBA but applies as well to those arising from the implementation of company personnel policies. No other body shall take cognizance of these cases. x x x.' (Sanyo vs. Cañizares, 211 SCRA 361, 372)"[16]

We find that the respondent Commission has erroneously interpreted the aforequoted portion of our ruling in the case of Sanyo, as divesting the Labor Arbiter of jurisdiction in a termination dispute.

Article 217 of the Labor Code gives us the clue as to the jurisdiction of the Labor Arbiter, to wit:

> Article 217. *Jurisdiction of Labor Arbiters and the Commission*. a) Except as otherwise provided under this Code the Labor Arbiters shall have original and exclusive jurisdiction to hear and decide within thirty (30) calendar days after the submission of the case by the parties for decision without extension even in the absence of stenographic notes, the following cases involving all workers, whether agricultural or non-agricultural:

1. Unfair labor practice cases;
2. Termination disputes;
3. If accompanied with a claim for reinstatement, those cases that workers may file involving wages, rates of pay, hours of work and other terms and conditions of employment;
4. Claims for actual, moral, exemplary and other forms of damages arising from the employer-employee relations;
5. Cases arising from any violation of Article 264 of this Code, including questions involving the legality of strikes and lockouts;
6. Except claims for Employees Compensation, Social Security, Medicare and maternity benefits, all other claims, arising from employer-employee relations, including those of persons in domestic or household service, involving an amount exceeding five thousand pesos (P5,000.00) regardless of whether accompanied with a claim for reinstatement.

b) The Commission shall have exclusive appellate jurisdiction over all cases decided by Labor Arbiters.

c) Cases arising from the interpretation or implementation of collective bargaining agreements and those arising from the interpretation or enforcement of company personnel policies shall be disposed of by the Labor Arbiter by referring the same to the grievance machinery and voluntary arbitration as may be provided in said agreements."

As can be seen from the aforequoted Article, termination cases fall under the original and exclusive jurisdiction of the Labor Arbiter. It should be noted, however, that in the opening paragraph there appears the phrase: "Except as otherwise provided under this Code x x x." It is paragraph (c) of the same Article which respondent Commission has erroneously interpreted as giving the voluntary arbitrator jurisdiction over the illegal dismissal case.

However, Article 217 (c) should be read in conjunction with Article 261 of the Labor Code which grants to voluntary arbitrators original and exclusive jurisdiction to hear and decide all unresolved grievances arising from the interpretation or implementation of the collective bargaining agreement and those arising from the interpretation or enforcement of company personnel policies. Note the phrase "unresolved grievances." In the case at bar, the termination of petitioner is not an unresolved grievance.

The stance of the Solicitor General in the *Sanyo* case is totally the reverse of its posture in the case at bar. In *Sanyo*, the Solicitor General was of the view that a distinction should be made between a case involving "interpretation or implementation of Collective Bargaining Agreement" or interpretation or "enforcement" of company personnel policies, on the one hand and a case involving termination, on the other hand. It argued that the dismissal of the private respondents does not involve an "interpretation or implementation" of a Collective Bargaining Agreement or "interpretation or enforcement" of company personnel policies but involves "termination." The Solicitor General further said that where the dispute is just in the interpretation, implementation or enforcement stage, it may be referred to the grievance machinery set up in the Collective Bargaining Agreement or by voluntary arbitration. Where there was already actual termination, i.e., violation of rights, it is already cognizable by the Labor Arbiter.[17] We fully agree