

FIRST DIVISION

[G.R. No. 116184, October 02, 1997]

**NATION BROADCASTING CORPORATION AND ABELARDO YABUT,
SR., PETITIONER, VS. NATIONAL LABOR RELATIONS
COMMISSION AND DOUGLAS DE LA PAZ, RESPONDENT.
D E C I S I O N**

BELLOSILLO, J.:

DOUGLAS DE LA PAZ, theorizing that his appointment as regular radio announcer from Officer-in-Charge and/or Acting Station Manager was done without due process and just cause, instituted the instant labor case. He obtained a favorable judgment from the Labor Arbiter as well as from the National Labor Relations Commission (NLRC). The Nation Broadcasting Corporation (NBC) and its President, Abelardo Yabut, Sr., are now before this Court assailing the Resolution of the NLRC.

De la Paz started in 1979 as a radio announcer in AM Radio Station DXRB Butuan owned and operated by petitioner NBC. On 19 August 1991 he was assigned as Officer-in-Charge and/or Acting Station Manager pending the appointment of a Station Manager after the former Station Manager resigned. Petitioner NBC however appeared dissatisfied with his performance. Thus on 5 November 1991 he was reverted to radio announcer, and on 12 November 1991 was placed under suspension after he was said to have violated various directives of the management. Consequently, in January 1992 he commenced the instant labor case before the NLRC Arbitration Branch in Butuan City.

De la Paz claimed that despite the improvement in the financial position of the radio station during his stint as Officer-in-Charge and/or Station Manager, he was still demoted to the position of regular announcer based on alleged unsubstantiated reports, without due process nor just cause. And, even before he could be apprised of his demotion, it was already announced over the air lanes of the radio station, causing him to succumb to a mild stroke and be confined in a hospital where he was served a notice of suspension. He was then forced to go on leave. Upon his return, he was dismayed to find out that someone else had taken over his regular slot without informing him first. He was thus assigned to other programs and was warned that if he did not accept the new assignments his services would be terminated. He submitted that his demotion and reassignment to other programs were tantamount to constructive dismissal.

On 21 October 1992 Labor Arbiter Marissa Macaraig-Guillen^[1] ruled that there was no constructive dismissal at all since it was made clear that De la Paz was appointed Station Manager only in an acting capacity, not on a permanent basis. Likewise it is on record that petitioner NBC manifested that it was willing to accept De la Paz back to his old position as regular announcer of the programs he used to hold, but he never asked for it. De la Paz was however granted service incentive leave pay and 13th month pay, and was also awarded moral and exemplary damages and

attorney's fees for having been maligned over the radio station's air lanes and for being sent "threatening memorandums."^[2] Thus -

x x x judgment is hereby rendered ordering respondent Nation Broadcasting Corporation to permit complainant Douglas de la Paz to return to work to his regular position of radio announcer with his usual schedule of radio programs and field work as discussed in this Decision.

Respondents is (sic) also hereby directed to pay complainant the sum of FIFTY-FOUR THOUSAND FIVE HUNDRED SEVEN PESOS AND SIX CENTAVOS (P54,507.06) representing service incentive leave pay, 13th month pay, moral and exemplary damages and attorney's fees x x x x^[3]

NBC appealed to the NLRC. On 3 May 1994 the NLRC^[4] modified the decision of the Labor Arbiter by deleting the award for service incentive leave pay and 13th month pay as "[t]hese claims were not pleaded or alleged either in the complaint or position paper of complainant."^[5] Thus -

x x x the decision appealed from is Affirmed with modification and the appeal Dismissed for lack of merit. The Labor Arbiter is ordered and directed to determine the practicability of the reinstatement of complainant preparatory to the execution of the judgment. Should the reinstatement be found impractical after due proceedings, complainant is granted payment of separation pay at the rate of one (1) month pay for every year of service, inclusive of other fringe benefits complainant may be entitled, if any. Finally, the monetary awards for 13th month pay and service incentive leave pay are deleted for lack of basis. No findings as to costs.

Petitioner NBC argues that "[t]he finding of the Labor Arbiter that there was definitely no constructive dismissal should have closed the door for the prayer for damages and attorney's fees. After all the basis for claiming damages and attorney's fees was found to be inexistent. There being no constructive dismissal, there is no foundation upon which the award of damages and attorney's fees can stand on."^[6] NBC submits that the cause of action for the award of damages and attorney's fees, i.e., when it supposedly allowed De la Paz to be maligned over the radio station's air lanes causing his health to worsen and his reputation besmirched, is not within the jurisdiction of the Labor Arbiter but within the competence of the civil courts. Hence, the Labor Arbiter erred in awarding damages and attorney's fees to De la Paz after holding that there was no constructive dismissal, and the NLRC committed grave abuse of discretion when it affirmed the award "there being evidence showing that respondents (NBC and its President and General Manager Abelardo Yabut, Sr.) acted with bad faith in the manner the constructive discharge of complainant (De la Paz) was effected."^[7]