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SUPREME COURT
THIRD DIVISION

GELMART INDUSTRIES (PHILS.), INC.,
***Petitioner*,**

-versus-

G.R. No. 70544.
November 5, 1987

HON. VICENTE LEOGARDO, JR., in his capacity as Deputy Minister of Labor and Employment, FRANCISCO ESTRELLA, as the then Regional Director of MOLE Region No. IV, and JENNY P. JUANILLO,
***Respondents*.**

x---x

D E C I S I O N

CORTES, *J*.:

In this Special Civil Action for Certiorari the petitioner Gelmart Industries (Phils.), Inc. (GELMART) seeks a reversal of the order of public respondent Director Francisco L. Estrella of the Regional Office No. 4, Ministry of Labor and Employment (MOLE), dated June 15, 1979 requiring the immediate reinstatement of Jenny Juanillo to her former position with full backwages reckoned from August 8, 1977 to the date of actual reinstatement without loss of seniority

rights as affirmed by Deputy Minister Vicente Leogardo, Jr. who dismissed petitioner's appeal and motion for reconsideration.

The following antecedent facts are undisputed: GELMART is a labor-intensive, export-oriented entity registered and operating under Philippine law. It had a collective bargaining agreement with the National Union of Garment, Textile Cordage and Allied Workers of the Philippine (GATCORD) for the period January 25, 1976 to January 27, 1979 covering petitioner's 8,000 rank-and-file workers among whom is the private respondent Juanillo. On August 1, 1977 GATCORD went on strike. After two return to work orders were issued by the Ministry of Labor, the second one on August 2, 1977 giving a 48-hour deadline "or face the danger of losing employment status," all workers complied except 334. Juanillo was not among those who reported back to work within the period. GELMART gave these workers notice and applied for clearance to terminate their employment. Public respondent Vicente Leogardo, Jr., Deputy Minister of Labor and Employment by order of October 5, 1977 sustained the preventive suspension imposed by GELMART but certified the case for compulsory arbitration on the issue of termination. The NLRC docketed the case as "National Union of Garment, Textile, Cordage and Allied Workers of the Philippines (GATCORD) vs. GELMART Industries, Philippines, Inc., NLRC RB-IV-13275-77." It took eleven months before the labor arbiter issued a decision dated September 13, 1978 granting clearance for dismissal, but with specific provision to exclude those who did not participate in the strike because they were absent before and during the same for justifiable causes such as illness or "validated absences." [Rollo, p. 26]. In the decision was a list of those ordered to be reinstated. Juanillo was not in the list.

Juanillo filed a complaint for illegal dismissal on February 15, 1979 docketed as Case No. R4-STF-2-1189-79 alleging that she was employed by GELMART for the last seven (7) years as sewer with a daily wage of P12.40, excluding allowance and other fringe benefits, that on July 31, 1977 through a letter sent to the respondent company, she applied for vacation leave effective August 1, 1977 to August 7, 1977; that she went home to Laguna to take care of her child who was then sick and stayed till August 7, 1977; that when she reported back for work on August 8, 1977 she was refused admittance and was

served a copy of preventive suspension for alleged participation in the mass walk-out by workers of the company on August 1, 1977; that while a substantial number of workers who had participated in the mass walk-out had already been reinstated, despite repeated representations the company refused to reinstate her; and that her dismissal in the guise of preventive suspension was without just cause and prior clearance from the Ministry of Labor. The complainant prayed for reinstatement with full backwages, for damages in the amount of P10,000 and attorneys fees.

The respondent, traversing Juanillo's complaint, asserted that the subject of the complaint was barred by prior judgment citing the decision of September 13, 1978, and the list in said decision of 63 workers who were excluded from the clearance to terminate. Juanillo's name not appearing in said list.

On June 15, 1979, the public respondent Francisco L. Estrella, then Regional Director of the Ministry of Labor and Employment (MOLE) Region No. IV issued an order finding for petitioner Juanillo, thus:
We find respondent's contentions untenable.

Firstly, at the time when the strike was staged by the workers of respondent, complainant was already in the province. In fact, before she went to the province, she even notified respondent and applied for vacation leave of absence. Consequently, respondent could not deny that she was on vacation and in the province and, therefore, could not possibly join the strike. Furthermore, it appears that complainant was dismissed without the required clearance in violation of the mandatory provision of Art. 278 (b) of the Labor Code, as amended. For these reasons therefore, we find and so hold that the dismissal of complainant is illegal and without just cause.

> WHEREFORE, premises considered, respondent is hereby ordered to immediately reinstate complainant to her former position with full backwages reckoned from August 8, 1977 up to the date of actual reinstatement without loss of seniority rights [Rollo, p. 40].

This order was affirmed on November 17, 1982 by respondent Leogardo as Deputy Minister of MOLE. Petitioner's motion for

reconsideration dated March 11, 1985 having been denied, the present petition was filed on April 18, 1985, assigning on the part of public respondents the following errors:

1. IN GRAVE ABUSE OF DISCRETION, FAULTED GELMART FOR THE ABSENCE OF RESPONDENTS' CLEARANCE IN DISMISSING MS. JUANILLO, WHEN DEPUTY MOLE MINISTER LEOGARDO HAD, IN FACT PERSONALLY SUSTAINED AND APPROVED GELMART'S CLEARANCE SINCE OCTOBER 5, 1977;

2. PUBLIC RESPONDENT LEOGARDO, IN GRAVE ABUSE OF DISCRETION, DISREGARDED HIS OCTOBER 5, 1977 ORDER TRANSMITTING MS. JUANILLO'S CASE TO THE NLRC FOR COMPULSORY ARBITRATION WHICH, WITH GATCORD'S OPPOSITION, WERE HEARD/DECIDED ON SEPTEMBER 13, 1978 IN NLRC CASE NO. RB-IV-13275-77, WHEREAT MS. JUANILLO'S TERMINATION WAS UPHELD IN A DECISION CONCLUSIVE AND BINDING ON ALL THE RESPONDENTS;

3. RESPONDENT JUANILLO'S COMPLAINT OF FEBRUARY 15, 1979, WAS FILED SEVEN (7) MONTHS AFTER THE NLRC DECISION ON HER CASE OF SEPTEMBER 13, 1978: IT IS, THEREFORE, BARRED BY FINALITY OF JUDGMENT, ESSTOPPEL AND RES JUDICATA;

4. PUBLIC RESPONDENTS' SUMMARY AND CAVALIER VALIDATION OF A GRATUITOUS AND EVIDENTIARILY UNSUPPORTED REQUEST FOR AN ALLEGED LEAVE OF ABSENCE WHICH, IF, TRUE, MS. JUANILLO PERVERSELY AND WILLFULLY KEPT IN SECRET UNTIL AFTER SHE LOST HER CASE AT THE NLRC, IS CONTRARY TO THE NORMS OF JUSTICE, EQUITY AND MORALITY; THAT THEY UNDULY PROCRASTINATED IN RESOLVING THE CASE TO GELMART'S PREJUDICE AGGRAVATES THEIR ABUSE OF DISCRETION. [Rollo, pp. 13-14].

The first three assigned errors charging the public respondents of having disregarded the clearance obtained by GELMART to dismiss workers who had staged a mass walkout and disobeyed the return to work order and the decision in the NLRC Case No. RR-IV-13275-77 upholding the dismissals are well taken. The strike was staged by GATCORD members, the return to work orders were directed to them and the decision on the illegal strike is binding on them. In this particular case, the application for clearance with preventive suspension and compulsory arbitration on the issue of termination involved GATCORD members who had not returned to work. Of these there were 334 and Juanillo was among them. However, she has taken the position that since at the time of the illegal mass walk-out she was already in the province on leave, she was not covered by NLRC Case No. RB-IV-13275-77. The compulsory arbitration precisely covered her case. All she needed to do was prove "validated absences," during the proceeding and she would have been in the list of those to be reinstated. But she did not choose to present her proof in the arbitration proceeding. Instead, she waited seven months after the decision became final before bringing a separate case. If every member of a striking union not satisfied with a decision in an arbitration case resolving the issues involved in a labor dispute arising from the strike were to be accorded the right to bring a separate individual action on an issue covered by that decision, there can be no end or solution to the controversy. The dismissal of Juanillo was an incident of the GATCORD strike against GELMART. Her action is not distinct from the issues dealt with in the compulsory arbitration case.

But even if the Court were to grant that she could bring this separate action, Juanillo would have to prove her case. The only basis of her action is the alleged leave of absence she had filed. The public respondents decided in her favor. Was there substantial evidence presented to support the decision under review?

The public respondents found as a fact that Juanillo had not participated in the mass walk-out because at the time it took place she was in the province taking care of a sick child: that before she left she had by letter filed a leave of absence. The petitioner GELMART denied having received any letter from Juanillo requesting leave and assailed the letter offered as self-serving evidence. Public

respondents, however, found that leave was obtained, that GELMART failed to prove that Juanillo was among the workers who staged the mass walk-out and that therefore her dismissal without previous clearance was illegal.

This Court will not ordinarily disturb findings of fact of administrative agencies like the public respondents. It is axiomatic that in their exercise of adjudicative functions they are not bound by strict rules of evidence and of procedure. When confronted with conflicting versions of factual matters, it is for them in the exercise of discretion to determine which party deserves credence on the basis of evidence received. [Halili vs. Floro, 90 Phil. 245 (1951); Estate of Florencio Buan vs. Pampanga Bus Co. and La Mallorca, 99 Phil. 373 (1956); Luzon Brokerage Co. vs. Luzon Labor Union, 117 Phil. 118 (1963), 7 SCRA 116].

However, as the landmark case of Ang Tibay vs. Court of Industrial Relations [69 Phil. 635 (1940)] has pointed out there are "cardinal primary rights which must be respected" in such proceedings. Not the least among them are those which refer to the evidence required to support a decision:

> (3) "While the duty to deliberate does not impose the obligation to decide right, it does imply a necessity which cannot be disregarded, namely, that of having something to support the decision. A decision with absolutely nothing to support it is a nullity, at least, when directly attacked."
>
> (4) Not only must there be some evidence to support a finding or conclusion, but evidence must be "substantial." "Substantial evidence is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." [at p. 642].

The Court finds merit in the respondents' fourth assignment of error. A careful review of the basis on which the decision of the labor arbiter as affirmed by the respondent Leogardo as deputy minister of MOLE reveals that not only is there no substantial evidence to support Juanillo's claim but also that the respondents' evidence to the contrary contravenes it.

Juanillo asserts that at the time of the strike she was on leave, to prove which she presented a letter purportedly requesting leave dated Sunday, July 31, 1977, the day before the illegal strike began. There is no proof that it was filed with or received by the company. She asserts that she was denied admission upon her return on August 8, 1977 and was served notice of "Termination with Preventive Suspension" on August 10, 1977. In the case between GELMART and GATCORD of which she is a member, the respondent Leogardo sustained the preventive suspension of those who failed to return to work but referred this case for compulsory arbitration on the issue of termination on October 5, 1977. The arbitral proceedings lasted eleven months, the decision became final and executory on September 13, 1978. In the decision, specific provision was made to exclude from termination.

Those who did not participate in the strike, who among others were absent before and during the same for justifiable causes, as for example, illness or validated absences are herewith ordered reinstated to their former positions without back wages.

Since Juanillo had received notice of the termination in August 1977 and as she claims she had made repeated representation and demands for reinstatement, it is passing strange that her claim was not ventilated in the compulsory arbitration proceeding conducted precisely on the issue of termination of GATCORD members who had not complied with the return to work order. All that was needed was to show that she had indeed not participated in the strike by presenting her letter asking for leave. Instead she filed her case seven months after the decision had become final and executory. By way of evidence all she presented was a self-serving uncorroborated letter purportedly asking for leave, receipt of which was not proved. This quantum of evidence fails the substantiality of evidence test to support a decision, a basic requirement in administrative adjudication. [Ang Tibay vs. Court of Industrial Relations, supra; Air Manila vs. Balatbat, G.R. No. L-29064, April 29, 1971, 38 SCRA 489].

WHEREFORE, the petition is hereby **GRANTED** and the order of the public respondents **REVERSED**.

SO ORDERED.

Fernan, Gutierrez, Jr. and Bidin, *JJ.*, concur.
Feliciano, *J.*, is on leave.

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