

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**NATIONAL SERVICE CORPORATION,
*Petitioner,***

-versus-

**G.R. No. L-64296
July 20, 1984**

**HON. DEPUTY MINISTER VICENTE
LEOGARDO, JR., acting for and in
behalf and by authority of the Minister
of Labor and Employment and
ALBERTO ANGELES,
*Respondents.***

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DECISION

GUTIERREZ, JR., J.:

This is a Petition for *Certiorari* to set aside the order of respondent Deputy Minister of Labor and Employment Vicente Leogardo, Jr., who affirmed Acting District Officer Saturnino P. Orate's order insofar as it declared the dismissal of private respondent Alberto Angeles illegal for lack of justifiable cause and ordered his reinstatement to his former position without loss of seniority rights. The respondent Deputy Minister modified the award of backwages such that it should be computed from September 12, 1977 up to his

actual reinstatement but limited the same to three years without qualification or deduction.

The facts of the case are summarized by Acting District Officer Saturnino Orate as follows:

“The records of the case reveal that Alberto Angeles had been employed on May 17, 1976 as a security guard by the respondent and his last assignment was at the PNB Lingayen, Pangasinan. On August 16, 1977, he was arrested by police authorities for creating trouble inside the Bankside Restaurant and for assault to person in authority on same date. On August 22, 1977 a criminal complaint No. 6730 was filed against him for the crime of assault upon an agent of person in authority and on August 24, 1977 another criminal case No. 6735 was filed against him for the crime of alarm and scandal. Both were filed in the Municipal Court of Lingayen, Pangasinan, and are still pending up to the present. While the complainant Alberto Angeles filed an Administrative Case No. 41-77 with the Police Commission on August 31, 1977 against four (4) policemen namely Jaime Guarin, Aning Bravo, Berting Sison and Rudy Estrada for mauling him inside the Bankside Restaurant in Lingayen, Pangasinan on August 16, 1977 at 8:00 p.m. and on October 10, 1977 filed a criminal case against the four policemen mentioned above for slight physical injuries as a result of the said mauling incident. On September 15, 1977 a memorandum was issued by Col. Ernesto Tigno to Mr. N. N. Pale, Manager, PNB Lingayen Branch to advise NASECO guard Angeles, that he is on preventive suspension effective September 12, 1977 until further notice from his employer and on same memorandum and in line with the instruction of Col. Ernesto Tigno, the Branch Manager N. N. Pale advised Alberto Angeles to cease reporting for duty as he was under preventive suspension until further notice. The respondent filed an application for clearance to terminate the services of Alberto Angeles on the ground of violation of NASECO code of Discipline, letter D, No. 10, effective December 19, 1977 with the Regional Office No. IV, Manila, furnishing him a copy of said application for clearance evidenced by Registry Receipt No. 43224.”

On May 11, 1978, the application to terminate was approved by the Regional Office of the Ministry of Labor and Employment.

On April 17, 1978, a case for illegal dismissal was, in turn, filed by private respondent Angeles before the Regional Office of the Ministry of Labor and Employment at Dagupan City against petitioner corporation.

On June 16, 1978, Acting District Officer Saturnino P. Orate issued an order declaring Angeles' complaint for illegal dismissal as having become moot and academic and his preventive suspension illegal there being no application for clearance filed in this matter. He ordered petitioner NASECO to pay backwages from September 12, 1977 up to December 6, 1977.

The private respondent appealed to the Ministry of Labor and Employment. On May 30, 1980, the Ministry of Labor and Employment set aside the order of the District Officer declaring Angeles' complaint for illegal dismissal moot and academic and remanded the case to the District Officer for further hearing and resolution.

On October 11, 1980, District Officer Saturnino Orate rendered a decision declaring the dismissal of private respondent Alberto Angeles illegal and ordered petitioner NASECO to reinstate Angeles to his former position without loss of seniority rights with full backwages from June 1, 1980 up to his actual reinstatement. The dispositive portion of his order reads:

“In the light of the foregoing, the dismissal of Alberto Angeles is hereby declared illegal for lack of justifiable ground, therefore, Alberto Angeles should be, as it is hereby ordered reinstated back to his former position without loss of seniority rights with full backwages from June 1, 1980 up to his actual reinstatement.”

On October 23, 1980, petitioner corporation filed a motion for reconsideration and/or appeal.

On April 27, 1983, respondent Deputy Minister of Labor and Employment Vicente Leogardo, Jr. modified the order of the Acting District Officer in that backwages should be computed from the time respondent Angeles was placed on preventive suspension on September 12, 1977 and that it should be limited to three (3) years without qualification or deduction. The dispositive portion of the order reads:

“WHEREFORE, subject to the modification stated above, the Order dated October 1, 1980 is hereby affirmed and the instant appeal is dismissed, for lack of merit.”

On June 20, 1983, the petitioner filed the instant petition for *certiorari*.

On June 27, 1983, we issued a temporary restraining order enjoining the respondents from enforcing the order dated April 27, 1983.

Petitioner submits that private respondent Alberto Angeles was guilty of the offenses charged as evidenced by Annexes “A” to “D”, to wit:

“A” — report covering memorandum for various offenses committed by private respondent ranging from sporting long haircut to laxity in the performance of his duties.

“B” and “B-1” — criminal complaints filed against the private respondent and the corresponding supporting documents and affidavits.

“C” — evidence of the investigation and recommendation made by the Personnel Board of petitioner NASECO (the NASECO Board which is in-charge of deliberation of Administrative cases of NASECO Personnel), recommending the termination of the services of the private respondent, for violation of the NASECO Code of Discipline.”

Petitioner further alleges that even before the Bankside Restaurant incident which led to private respondent’s dismissal he was already found guilty of similar behaviour (as contained in the Investigation Report, Annex “C”) —

- “a. sometimes went on duty under the influence of liquor;
- “b. untidiness and improper wearing of uniform, sporting long hair with moustache and beard;
- “c. entertaining outsiders at night while on duty;
- “d. the incident was the second time he has created inside the restaurant.”

Petitioner argues that because of the very nature of the work of a security guard, such scandalous and unbecoming behaviour of the private respondent, together with his earlier similar offenses, is sufficient and valid ground for dismissal.

Respondents on the other hand argue that the above incidents do not constitute proof sufficient to support dismissal —

“— the July 7, 1977 reprimand concerned untidiness and laxity in work, something unrelated to the cause invoked for the dismissal. That Angeles was merely reprimanded for these lapses show that a more severe penalty was not appropriate.

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“— There is no evidence, then and now, that Angeles has been found guilty by the court before which the charges were filed.

“— Independently of the copies of the charges of alarm and assault, petitioner company did not present evidence to show that Angeles had committed these offenses.

“— The recommendation of petitioner’s personnel board is self-serving. That recommendation shows on its face that the board relied merely on the police complaints and report concerning the charges of alarm and assault.

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“— Besides, petitioner’s board of personnel did not conduct any hearing that would have given Angeles the chance to dispute the charges against him. It took into account only the evidence against him.”

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We agree with the petitioner.

The private respondent was employed by the petitioner corporation as a security guard. As such, he is expected to conduct himself properly and with decorum at all times. His main task as a security guard is to maintain peace and order in the premises of his assigned area of responsibility. For him to get involved in a fracas, with policemen at that, and to commit exactly the same infractions which he is supposed to prevent in others at his place of employment is a breach of the responsibilities which a security guard is bound to discharge. Thus, whether the charges of “ alarm and scandal” and “assault upon an agent of a person in authority” were committed while the private respondent was off duty or were committed outside of his work assignment is immaterial.’ Whether or not the incidents eventually resulted in successful prosecutions is not significant. The records show that the incidents actually occurred.

A security guard, by the very nature of his job, must possess attributes of discipline, proper behaviour, courtesy, respect for authority, and emotional stability. There are altogether too many security guards who are trigger happy or who get mistaken notions of power simply because they are armed. Unfortunate incidents have been caused by indiscriminate resort to firearms resulting from heated arguments over such trivial items as reserved parking spaces, inspection of brief cases and bundles, wearing of ID cards, and other matters easily resolved by more disciplined and reliable persons. The employer cannot wait until a more serious or fatal incident involving its employees occurs before taking appropriate action.

While the Bankside Restaurant incident alone is ordinarily not sufficient ground for termination, the very nature of Angeles’ work as a security guard together with the allegations of untidiness, laxity in the performance of his duties, going on duty under the influence of

liquor and entertaining outsiders at night while on duty are more than sufficient to justify the termination of private respondent's employment. The public and private respondents considered these circumstances singly and separately and arrived at the conclusion that they are not sufficient to justify private respondent's termination. We should consider the different acts of misconduct committed by the private respondent in their totality and not independent from each other. Fitness for continued employment cannot be compartmentalized into tight little cubicles of aspects of character, conduct, and ability separate and independent of each other. A series of irregularities when put together may constitute serious misconduct, which under Article 283 of the Labor Code, is a just cause for termination. Thus, petitioner's Personnel Board made the following recommendation after due investigation:

"We, the members of the Personnel Board, do hereby certify that we have examined the evidences presented against Mr. Angeles relative to his violation of the Code. The Board feels that although Mr. Angeles is not yet convicted for the crime he had committed, his prolonged stay with the Corporation as security guard will not only endanger the security of the client company but may also destroy the corporate image and goodwill.

"We, therefore, recommend that corresponding clearance to terminate his service be applied with the National Labor Relations Commission, Department of Labor.

As repeatedly held by this Court:

"An employer cannot legally be compelled to continue with the employment of a person who admittedly was guilty of misfeasance or malfeasance towards his employer and whose continuance in the service of the latter is patently inimical to his interests. The law, in protecting the rights of the laborer, authorizes neither oppression nor self-destruction of the employer." (San Miguel Corporation vs. National Labor Relations, Commission, 115 SCRA 329.).

The only exception to this rule is where the suspension or dismissal is whimsical or unjustified (*Velayo vs. Republic of the Philippines*, 97 Phil. 378), and such is not the situation in the present case.

Considering, however, the various circumstances of this case, we apply equitable considerations. While ruling that the private respondent has brought by his own conduct a valid reason to justify his separation from employment, we nonetheless direct the employer to pay the private respondent the separation pay to which he may be entitled under the law, any collective bargaining agreement, or company rules or practice.

WHEREFORE, the Petition is **GRANTED**. The orders appealed from are **REVERSED** and **SET ASIDE** without prejudice to the private respondent's receiving termination pay to which he may be entitled. The temporary restraining order issued on June 27, 1983 enjoining the respondents from enforcing the order dated April 27, 1983 is made **PERMANENT**.

SO ORDERED.

Teehankee, Plana, Relova and De la Fuente, JJ., concur.
Melencio-Herrera, J., is on official leave.