SUPREME COURT
FIRST DIVISION

NITTO ENTERPRISES,
***Petitioner*,**

-versus-

G.R. No. 114337
September 29, 1995

NATIONAL LABOR RELATIONS COMMISSION, and ROBERTO CAPILI,
***Respondents*.**
x----------x

D E C I S I O N

KAPUNAN, *J.*:

This is a Petition for *Certiorari* under Rule 65 of the Rules of Court seeking to annul the Decision[1] rendered by public respondent National Labor Relations Commission, which reversed the decision of the Labor Arbiter.

Briefly, the facts of the case are as follows:

Petitioner Nitto Enterprises, a company engaged in the sale of glass and aluminum products, hired Roberto Capili sometime in May 1990 as an apprentice machinist, molder and core maker as evidenced by an apprenticeship agreement[2] for a period of six (6) months from

May 28, 1990 to November 28, 1990 with a daily wage rate of P66.75 which was 75% of the applicable minimum wage.

At around 1:00 p.m. of August 2, 1990, Roberto Capili who was handling a piece of glass which he was working on, accidentally hit and injured the leg of an office secretary who was treated at a nearby hospital.

Later that same day, after office hours, private respondent entered a workshop within the office premises which was not his work station. There, he operated one of the power press machines without authority and in the process injured his left thumb. Petitioner spent the amount of P1,023.04 to cover the medication of private respondent.

The following day, Roberto Capili was asked to resign in a Letters[3] which reads:

> August 2, 1990
>
> Wala siyang tanggap ng utos mula sa superbisor at wala siyang experiensa kung papaano gamitin and "TOOL" sa pagbuhat ng salamin, sarili niyang desisyon ang paggamit ng tool at may disgrasya at nadamay pa ang isang sekretarya ng kompanya.
>
> Sa araw ding ito limang (5) minuto ang nakakalipas mula alas-singko ng hapon siya ay pumasok sa shop na hindi naman sakop ng kanyang trabaho. Pinakialaman at kinalikot ang makina at nadisgrasya niya ang kanyang sariling kamay.
>
> Nakagastos ang kompanya ng mga sumusunod:
>
> | | |
> |---|---|
> | Emergency and doctor fee | P715.00 |
> | Medicines (sic) and others | 317.04 |
>
> Bibigyan siya ng kompanya ng Siyam na araw na libreng sahod hanggang matanggal ang tahi ng kanyang kamay.
>
> Tatanggapin niya ang sahod niyang anim na araw, mula ika-30 ng Hulyo at ika-4 ng Agosto, 1990.

> Ang kompanya ang magbabayad ng lahat ng gastos pagtanggal ng tahi ng kanyang kamay, pagkatapos ng siyam na araw mula ika-2 ng Agosto.
>
> Sa lahat ng nakasulat sa itaas, hinihingi ng kompanya ang kanyang resignasyon, kasama ng kanyang confirmasyon at pag-ayon na ang lahat ng nakasulat sa itaas ay totoo.
>
> x x x
>
> Naiintindihan ko ang lahat ng nakasulat sa itaas, at ang lahat ng ito ay aking pagkakasala sa hindi pagsunod sa alintuntunin ng kompanya.
>
> *(Sgd.)*
> Roberto Capili

On August 3, 1990 private respondent executed a Quitclaim and Release in favor of petitioner for and in consideration of the sum of P1,912.79.[4]

Three days after, or on August 6, 1990, private respondent formally filed before the NLRC Arbitration Branch, National Capital Region a complaint for illegal dismissal and payment of other monetary benefits.

On October 9, 1991, the Labor Arbiter rendered his decision finding the termination of private respondent as valid and dismissing the money claim for lack of merit. The dispositive portion of the ruling reads:

> WHEREFORE, premises considered, the termination is valid and for cause, and the money claims dismissed for lack of merit.
>
> The respondent however is ordered to pay the complainant the amount of P500.00 as financial assistance.
>
> SO ORDERED.[5]

Labor Arbiter Patricio P. Libo-on gave two reasons for ruling that the dismissal of Roberto Capili was valid. First, private respondent who was hired as an apprentice violated the terms of their agreement when he acted with gross negligence resulting in the injury not only to himself but also to his fellow worker. Second, private respondent had shown that "he does not have the proper attitude in employment particularly the handling of machines without authority any proper training.[6]

On July 26, 1993, the National Labor Relations Commission issued an order reversing the decision of the Labor Arbiter, the dispositive portion of which reads:

> WHEREFORE, the appealed decision is hereby set aside. The respondent is hereby directed to reinstate complainant to his work last performed with backwages computed from the time his wages were withheld up to the time he is actually reinstated. The Arbiter of origin is hereby directed to further hear complainant's money claims and to dispose them on the basis of law and evidence obtaining.
>
> SO ORDERED.[7]

The NLRC declared that private respondent was a regular employee of petitioner by ruling thus:

> As correctly pointed out by the complainant, we cannot understand how an apprenticeship agreement filed with the Department of Labor only on June 7, 1990 could be validly used by the Labor Arbiter as basis to conclude that the complainant was hired by respondent as a plain 'apprentice' on May 28, 1990. Clearly, therefore, the complainant was respondent' s regular employee under Article 280 of the Labor Code, as early as May 28, 1990 who thus enjoyed the security of tenure guaranteed in Section 3, Article XIII of our 1987 Constitution.
>
> The complaint being for illegal dismissal (among others) it then behooves upon respondent, pursuant to Art. 277(b) and as ruled in Edwin Gesulgon vs. NLRC, et al. (G.R. No. 90349, March 5, 1993, 3rd Div., Feliciano, J.) to prove that the dismissal of

> complainant was for a valid cause. Absent such proof, we cannot but rule that the complainant was illegally dismissed.[8]

On January 28, 1994, Labor Arbiter Libo-on called for a conference at which only private respondent's representative was present.

On April 22, 1994, a Writ of Execution was issued, which reads:

> NOW, THEREFORE, finding merit in [private respondent's] Motion for Issuance of the Writ, you are hereby commanded to proceed to the premises of [petitioner] Nitto Enterprises and Jovy Foster located at No. 174 Araneta Avenue, Portero, Malabon, Metro Manila or at any other places where their properties are located and effect the reinstatement of herein [private respondent] to his work last performed or at the option of the respondent by payroll reinstatement.
>
> You are also to collect the amount of P122,690.85 representing his backwages as called for in the dispositive portion, and turn over such amount to this Office for proper disposition.

Petitioner filed a motion for reconsideration but the same was denied. Hence, the instant petition for *certiorari*.

The issues raised before us are the following:

> I
>
> WHETHER OR NOT PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION IN HOLDING THAT PRIVATE RESPONDENT WAS NOT AN APPRENTICE.
>
> II
>
> WHETHER OR NOT PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION IN HOLDING THAT PETITIONER HAD NOT ADEQUATELY PROVEN THE EXISTENCE OF A VALID CAUSE IN TERMINATING THE SERVICE OF PRIVATE RESPONDENT.

We find no merit in the petition

Petitioner assails the NLRC's finding that private respondent Roberto Capili cannot plainly be considered an apprentice since no apprenticeship program had yet been filed and approved at the time the agreement was executed.

Petitioner further insists that the mere signing of the apprenticeship agreement already established an employer-apprentice relationship.

Petitioner's argument is erroneous.

The law is clear on this matter. Article 61 of the Labor Code provides:

> Contents of apprenticeship agreement. — Apprenticeship agreements, including the main rates of apprentices, shall conform to the rules issued by the Minister of Labor and Employment. The period of apprenticeship shall not exceed six months. Apprenticeship agreements providing for wage rates below the legal minimum wage, which in no case shall start below 75% per cent of the applicable minimum wage, may be entered into only in accordance with apprenticeship program duly approved by the Minister of Labor and Employment. The Ministry shall develop standard model programs of apprenticeship. (Emphasis supplied)

In the case at bench, the apprenticeship agreement between petitioner and private respondent was executed on May 28, 1990 allegedly employing the latter as an apprentice in the trade of "care maker/molder." On the same date, an apprenticeship program was prepared by petitioner and submitted to the Department of Labor and Employment. However, the apprenticeship Agreement was filed only on June 7, 1990. Notwithstanding the absence of approval by the Department of Labor and Employment, the apprenticeship agreement was enforced the day it was signed.

Based on the evidence before us, petitioner did not comply with the requirements of the law. It is mandated that apprenticeship agreements entered into by the employer and apprentice shall be

entered only in accordance with the apprenticeship program duly approved by the Minister of Labor and Employment.

Prior approval by the Department of Labor and Employment of the proposed apprenticeship program is, therefore, a condition sine qua non before an apprenticeship agreement can be validly entered into.

The act of filing the proposed apprenticeship program with the Department of Labor and Employment is a preliminary step towards its final approval and does not instantaneously give rise to an employer-apprentice relationship.

Article 57 of t he Labor Code provides that the State aims to "establish national apprenticeship program through the participation of employers, workers and government and non-government agencies" and "to establish apprenticeship standards for the protection of apprentices." To translate such objectives into existence, prior approval of the DOLE to any apprenticeship program has to be secured as a condition sine qua non before any such apprenticeship agreement can be fully enforced. The role of the DOLE in apprenticeship programs and agreements cannot be debased.

Hence, since the apprenticeship agreement between petitioner and private respondent has no force and effect in the absence of a valid apprenticeship program duly approved by the DOLE, private respondent's assertion that he was hired not as an apprentice but as a delivery boy ("kargador" or "pahinante") deserve credence. He should rightly be considered as a regular employee of petitioner as defined by Article 280 of the Labor Code:

> ARTICLE 280. Regular and Casual Employment. — The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employee or where the work or services to be performed is

> seasonal in nature and the employment is for the duration of the season.
>
> An employment shall be deemed to be casual if it is not covered by the preceding paragraph: Provided That, any employee who has rendered at least one year of service, whether such service is continuous or broken, shall be considered a regular employee with respect to the activity in which he is employed and his employment shall continue while such activity exists. (Emphasis supplied)

And pursuant to the constitutional mandate to "protect the rights of workers and promote their welfare."[9]

Petitioner further argues that, there is a valid cause for the dismissal of private respondent.

There is an abundance of cases wherein the Court ruled that the twin requirements of due process, substantive and procedural, must be complied with, before valid dismissal exists.[10] Without which, the dismissal becomes void.

The twin requirements of notice and hearing constitute the essential elements of due process. This simply means that the employer shall afford the worker ample opportunity to be heard and to defend himself with the assistance of his representative, if he so desires.

Ample opportunity connotes every kind of assistance that management must accord the employee to enable him to prepare adequately for his defense including legal representation.[11]

As held in the case of Pepsi-Cola Bottling Co., Inc. vs. NLRC:[12]

> The law requires that the employer must furnish the worker sought to be dismissed with two (2) written notices before termination of employee can be legally effected: (1) notice which apprises the employee of the particular acts or omissions for which his dismissal is sought, and (2) the subsequent notice which informs the employee of the employer's decision to dismiss him (Sec. 13, BP 130, Sec. 2-6 Rule XIV, Book V, Rules

> and Regulations Implementing the Labor Code as amended). Failure to comply with the requirements taints the dismissal with illegality. This procedure is mandatory; in the absence of which, any judgment reached by management is void and inexistent (Tingson, Jr. vs. NLRC, 185 SCRA 498 [1990]; National Service Corp. vs. NLRC, 168 SCRA 122, Ruffy vs. NLRC. 182 SCRA 365 L [1990]).

The fact is private respondent filed a case of illegal dismissal with the Labor Arbiter only three days after he was made to sign a Quitclaim, a clear indication that such resignation was not voluntary and deliberate.

Private respondent averred that he was actually employed by petitioner a delivery boy ("kargador" or "pahinante").

He further asserted that petitioner "strong-armed" him into signing the aforementioned resignation letter and quitclaim without explaining to him the contents thereof. Petitioner made it clear to him that anyway, he did not have a choice.[13]

Petitioner cannot disguise the summary dismissal of private respondent by orchestrating the latter's alleged resignation and subsequent execution of a Quitclaim and Release. A judicious examination of both events belies any spontaneity on private respondent's part.

WHEREFORE, finding no abuse of discretion committed by public respondent National Labor Relations Commission, the appealed decision is hereby **AFFIRMED**.

SO ORDERED.

Padilla, Davide, Jr., Bellosillo and Hermosisima, Jr., *JJ.*, concur.

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[1] Rollo, pp. 12-15.
[2] Records, p. 12.
[3] Id., at 13.

[4] Id., at. 14.
[5] Id., at. 47-48.
[6] Id., p. 47.
[7] Rollo, pp. 14-15.
[8] Ibid.
[9] Sec. 18, Art. II, The 1987 Constitution of the Republic of the Philippines.
[10] Century Textiles Mills, Inc. vs. NLRC, 161 SCRA 528 (1988); Gold City-Integrated Port Services, Inc. vs. NLRC, 189 SCRA 811 (1990); Kwikway Engineering Works vs. NLRC, 195 SCRA 526 (1991).
[11] Abiera vs. National Labor Relation Commission, 215 SCRA 476 (1992).
[12] 210 SCRA 277(1992).
[13] Original Record, p. 39.