

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**UNITED SOUTH DOCKHANDLERS,  
INC.,**

*Petitioner,*

*-versus-*

**G.R. No. 119935  
February 3, 1997**

**NATIONAL LABOR RELATIONS  
COMMISSION (Fourth Division) and  
BEATO SINGURAN,**

*Respondents.*

X-----X

**DECISION**

**PUNO, J.:**

Petitioner United South Dockhandlers, Inc. (USDI) seeks to reverse the decision of the National Labor Relations Commission, dated December 19, 1994, for awarding Beato Singuran separation pay equivalent to 15 months per year of service despite his alleged serious misconduct.

USDI provides arrastre, stevedoring and other related cargo-handling services to all domestic vessels berthed at the government-owned Port of Cebu.

Respondent Beato Singuran worked for USDI for about seventeen (17) years. He was its foreman/timekeeper when he was dismissed on May 25, 1993.

The records show that two (2) metal lamp posts in the custody of USDI were reported missing. The lamp posts were part of the bad order cargoes (discargadas) unloaded from a vessel of Sulpicio Lines, Inc., a client of USDI, and kept at the pier area where respondent Singuran was assigned. On February 20, 1993, without the consent of USDI, Singuran ordered his subordinates to load the lamp posts into a cargo truck and had them delivered to Adelfa Homeowners Association.

Petitioner put respondent under preventive suspension pending his investigation which was set on March 26, 1993 and April 13, 1993. Singuran admitted he took the subject lamp posts and manifested that it was unnecessary to conduct an investigation. He returned the lamp posts upon USDI's demand. On May 25, 1993, he received his letter of dismissal.<sup>[1]</sup>

In return, Singuran filed a complaint for illegal dismissal with prayer for reinstatement and backwages against USDI before the Regional Arbitration Branch of the National Labor Relations Commission.<sup>[2]</sup>

On April 29, 1994, Labor Arbiter Dominador A. Almirante dismissed respondent's complaint. He ruled that Singuran occupied a position of trust and confidence; that he was afforded procedural due process; and that there was a valid cause to dismiss him based on loss of trust and confidence due to dishonesty. Despite said findings, the labor arbiter found the dismissal too severe a penalty. Thus, Singuran was awarded separation pay.<sup>[3]</sup> The rationale for the award is quoted below:

“Ordinarily, an employee who has been dismissed from the service on a legal ground does not deserve an award of separation pay. In this case, considering the length of service of the complainant of almost 18 years without any prior derogatory record, we feel that the extreme penalty of dismissal is disproportionately imposed. Respondent did not suffer any material damage by the infraction committed by complainant,

the lump [sic] posts subject of the offense having been returned by him to respondent (USDI). The value of the subject items, although not having been alleged, can be gleaned to be minimal.”

“x x x”

Petitioner appealed to the NLRC.

On December 19, 1994, the labor arbiter’s decision was affirmed by the Fourth Division (Cebu City) of the National Labor Relations Commission.<sup>[4]</sup> It held:

“We find no reversible error in the appealed Decision.

“The complainant is a long-service employee and his small misdeed herein should not be used to sever his right to tenurial security and lifeline not only for himself but likewise for his family. Moreover, as the Labor Arbiter has found, this is a case of a first offense and the lamp post, apparently of small value, was returned. In other words, there was no damage done.

“Discipline to be meaningful must be corrective and progressive, not punitive.

“However, the complainant did not question the award of the Labor Arbiter.

“WHEREFORE, the instant appeal is hereby DISMISSED for lack of merit. Consequently, the appealed Decision is hereby AFFIRMED.

“SO ORDERED.”

USDI’s Motion for Reconsideration was denied.<sup>[5]</sup> Hence, this petition.

Petitioner contends that Singuran was dismissed for a valid cause, and considering the nature and gravity of his offense, he should not have been given separation pay by public respondents.

In its Comment filed on November 17, 1995,<sup>[6]</sup> the Solicitor General supported the stand of petitioner that respondent Singuran is not entitled to separation pay because of his misconduct. Nonetheless, NLRC maintains that equity and compassionate justice demand that Singuran be awarded separation pay equivalent to 15 days month pay per year of service.<sup>[7]</sup>

We grant the petition.

The issue before us is not novel. It is settled that an employee found guilty of serious misconduct or other acts reflecting his moral character is not entitled to separation pay. Thus, in the leading case of *Philippine Long Distance Telephone, Co. vs. National Labor Relations Commission*<sup>[8]</sup> this Court, en banc, held:

“The Court feels that distinctions are in order. We note that heretofore the separation pay, when it was considered warranted, was required regardless of the nature or degree of the ground proved, be it mere inefficiency or something graver like immorality or dishonesty. The benediction of compassion was made to cover a multitude of sins, as it were, and to justify the helping hand to the validly dismissed employee whatever the reason for his dismissal. This policy should be re-examined. It is time we rationalize the exception, to make it fair to both labor and management, especially to labor.

“x x x

“We hold that henceforth separation pay shall be allowed as a measure of social justice only in those instances where the employee is validly dismissed for causes other than serious misconduct or those reflecting on his moral character. Where the reason for the valid dismissal is, for example, habitual intoxication or an offense involving moral turpitude, like theft or illicit sexual relations with a fellow worker, the employer may not be required to give the dismissed employee separation pay, or financial assistance, or whatever other name it is called, on the ground of social justice.

“A contrary rule would, as the petitioner argues, have the effect of rewarding rather than punishing the erring employee for his offense. And we do not agree that the punishment is his dismissal only and that the separation pay has nothing to do with the wrong he has committed. Of course it has. Indeed, if the employee who steals from the company is granted separation pay even as he is validly dismissed, it is not unlikely that he will commit a similar offense in his next employment because he thinks he can expect a like leniency if he is again found out. This kind of misplaced compassion is not going to do labor in general any good as it will encourage the infiltration of its ranks by those who do not deserve the protection and concern of the Constitution.

“The policy of social justice is not intended to countenance wrongdoing simply because it is committed by the underprivileged. At best it may mitigate the penalty but it certainly will not condone the offense. Compassion for the poor is not an imperative of every humane society but only when the recipient is not a rascal claiming an undeserved privilege. Social justice cannot be permitted to be refuge of scoundrels any more than can equity be an impediment to the punishment of the guilty. Those who invoke social justice may do so only if their hands are clean and their motives blameless and not simply because they happen to be poor. This great policy of our Constitution is not meant for the protection of those who have proved they are not worthy of it, like the workers who have tainted the cause of labor with the blemishes of their own character.”

The above doctrine has been consistently applied by this Court in a long line of cases.<sup>[9]</sup>

Respondent cannot use social justice to shield wrongdoing.<sup>[10]</sup> He occupied a position of trust and confidence. Petitioner relied on him to protect the properties of the company. Respondent betrayed this trust when he ordered the subject lamp posts to be delivered to the Adelfa Homeowners' Association. The offense he committed involves moral turpitude.<sup>[11]</sup> Indeed, a City Prosecutor found probable cause to file an information for qualified theft against him.

It is incorrect to state that Singuran committed a minor misdeed because of the recovery of the stolen posts. It is un rebutted that the posts were not returned voluntarily, but only after the discovery of their loss and upon demand by petitioner. The fact that USDI did not suffer pecuniary damage will not obliterate respondent's betrayal of the trust and confidence reposed by petitioner.<sup>[12]</sup> Neither would his length of service justify his dishonesty or mitigate his liability.<sup>[13]</sup> His length of service with petitioner even aggravates his offense. He should have been more loyal to petitioner company from which he has derived his family bread and butter for seventeen (17) years.

**WHEREFORE**, the Decision of the National Labor Relations Commission in NLRC Case No. V-0247-94, is **MODIFIED** by deleting the award for separation pay in favor of private respondent Beato Singuran.

**SO ORDERED.**

**Regalado, Romero, Mendoza and Torres, Jr., JJ., concur.**

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[1] In addition to the administrative sanctions, Singuran was also charged criminally before the Office of the City Prosecutor in Cebu City. In a Resolution issued on October 7, 1993, Prosecutor Eva Achas-Igot recommended the filing of the corresponding information for qualified theft against Singuran. See Rollo, pp. 33-35.

[2] Docketed as RAB-VII-06-0516-93.

[3] Rollo, pp. 17-26.

[4] Decision penned by Commissioner Amorito V. Cañete and concurred in by Presiding Commissioner Irene E. Ceniza and Commissioner Bernabe S. Batuhan; Rollo, pp. 28-30.

[5] Resolution, dated April 3, 1995; Rollo, p. 31.

[6] Rollo, pp. 111-120.

[7] Citing Villuga vs. NLRC, G.R. No. 75038, August 3, 1993, 225 SCRA 537.

[8] No. L-80609, August 23, 1988, 164 SCRA 671.

[9] Pacaña vs. National Labor Relations Commission, G.R. No. 83513, April 18, 1989, 172 SCRA 473; Del Castillo, Jr. vs. National Labor Relations Commission, G.R. 75413, August 10, 1989, 176 SCRA 229; Pampanga II Electric Cooperative, Inc. vs. National Labor Relations Commission, G.R. No. 107541, November 16, 1995, 250 SCRA 31.

- [10] Pampanga II Electric Cooperative, Inc. vs. Labor Relations Commission, G.R. No. 107541, November 16, 1995, 250 SCRA 31.
- [11] Pangasinan III Electric Cooperative, Inc., vs. National Labor Relations Commission, G.R. No. 89876, November 13, 1992, 215 SCRA 669.
- [12] University of the East vs. National Labor Relations Commission, G.R. 71065, November 22, 1985, 140 SCRA 296.
- [13] Cosmopolitan Funeral Homes, Inc. vs. Maalat and National Labor Relations Commission, G.R. No. 86693, July 2, 1990, 187 SCRA 108.

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