

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**COCA-COLA BOTTLERS PHILIPPINES
INCORPORATED,**

Petitioner,

-versus-

**G.R. No. 82580
April 25, 1989**

**NATIONAL LABOR RELATIONS
COMMISSION and FERNANDO VEGA,**

Respondents.

X-----X

FERNANDO VEGA,
Petitioner,

-versus-

**G.R. No. 84075
April 25, 1989**

**NATIONAL LABOR RELATIONS
COMMISSION THIRD DIVISION,
MANILA and COCA-COLA BOTTLERS,
PHILIPPINES, INC.,**

Respondents.

X-----X

DECISION

GUTIERREZ, JR., J.:

Before us are two separate petitions docketed as G.R. No. 82680 and G.R. No. 84075 both assailing the decision of the National Labor Relations Commission in RAB Case No. VI-0038-85.

Fernando Vega, the petitioner in G.R. No. 84075, began his employment with Coca-Cola Bottlers Philippines, Inc., the petitioner in G.R. No. 82580, on November 1, 1976 as Sprite Salesman covering the Iloilo City routes. He was subsequently promoted to regular salesman in 1978. In the same year, however, on charges of issuing temporary credit sales receipts and denying dealer's accounts, he was demoted to relief salesman. He was also suspended for one (1) month and six (6) days and grounded for six (6) months.

In 1981, he was again promoted to regular salesman. He held the same position until June 26, 1984 when he was terminated from employment on the charge of falsification of route sales report.

On July 16, 1984, he filed with the then Ministry of Labor and Employment a complaint for unfair labor practice, illegal dismissal, unpaid wages and separation pay and for damages and attorney's fees. He alleged that he was dismissed without lawful cause because the falsification imputed to him did not result from deliberate and malicious intent but from honest mistake and oversight. He averred that on March 10, 1984, on the night he was about to turn over to the company the proceeds of his sales, he noticed a discrepancy of about P100.00 in his liquidation report; that after he checked his papers he found that the Incoming Load Report issued by the gate guard declared only five (5) cases of empty bottles while the duplicate copy issued by the stock clerk listed fifteen (15) cases of empties; that as he was about to correct the report, an unscheduled brown-out occurred; that he immediately submitted the uncorrected report to the pre-audit personnel with the intention to settle the error the following day. He further related that after he was informed by the cashier of his shortage, he immediately paid the amount of P100.00; that on May 12, 1984, he was grounded, and, that he submitted to an investigation hoping that his mistake will not be taken against him

but he received a letter terminating his services on June 26, 1984. He pointed out that it is unlikely that he would bargain his seven years of dedicated service to the Company for a measly sum of P100.00, and stated that the Company was bent on terminating his services because he was an active union officer.

To rebut Vega's allegations of honest mistake and oversight, however, Coca-Cola Bottlers Philippines, Inc. outlined the procedure for the liquidation of sales. It contended that because of the sensitive nature of a sales agent's job, a system of liquidation was required which consists of daily checks on the goods and accomplishment of several documents which are subject to regular audit. It narrated that on March 10, 1984, upon entering the company's premises, Vega had the contents of his truck examined by the guard; that he prepared three (3) copies of the Incoming Load Report (ILR), one copy for him, one copy for the guard, and one for the files in a box; that the copy in the files listed five (5) cases of empty bottles; that thereafter, when Vega entered the plant, the plant checker examined his cargo and prepared two copies of checker slips, one copy for the stock clerk and one for Vega; that once inside the plant, Vega prepared his Route Sales Report (RSR) and turned over to the cashier and finance officer the RSR, ILR, and checker slips together with the cash collection; that upon audit, it was discovered that while the ILR and checker slips listed only five (5) cases of empty bottles, the RSR listed fifteen (16) cases; that it was also learned that Vega's copy of the ILR and checker slips were altered and also listed fifteen (15) cases; that due to the discrepancy the company was defrauded in the amount of P100.00 more or less.

Coca-Cola Bottlers Philippines, Inc. alleged that it cannot condone Vega's acts because his job exposes him to financial transactions everyday. It further averred that Vega's acts showed willful and malicious intent to defraud the company and rendered him unworthy of its trust and confidence.

On July 24, 1986, the Labor Arbiter found in favor of Vega. He ruled that any error in the entries in the sales report was made unintentionally and may probably be due to the sudden brownout alleged by Vega. He opined that the penalty of dismissal was too severe considering Vega's seven years of dedicated service to the

company. Thus, he ordered the company to reinstate Vega to his former position and to pay him full and complete backwages and other benefits at the rate of P2,280.00 a month until reinstated, 10% attorney's fees and the amount of P5,000.00 as transportation and other incidental expenses.

On appeal to the National Labor Relations Commission; the decision was modified. The NLRC was not convinced that the falsification was unintentional. It further observed that under company rules, the infraction calls for the penalty of dismissal. It, however, noted Vega's seven years of service to the company and accordingly ordered his reinstatement with only three (3) months backwages.

Both parties appealed from the decision. Coca-Cola Bottlers Philippines, Inc. filed its petition for review docketed as G.R. No. 82580 on April 6, 1988 while Vega filed the present petition for review on certiorari docketed as G.R. No. 84075 on April 21, 1988.

In a resolution dated October 17, 1988, this Court ordered the two cases consolidated considering that the subject matter and the issues involved in the two cases emanated from the same decision of the NLRC. In accordance with the Manifestation filed by the Office of the Solicitor General for the respondent NLRC, the Comment filed in G.R. No. 82580 is considered as the Comment required by this Court in G.R. No. 84076. We treat the Comments as Answers and decide these petitions on their merits.

Coca-Cola Bottlers Philippines, Inc. alleges that the NLRC erred in ordering Vega's reinstatement notwithstanding its finding that falsification was clearly committed by Vega. It contends that length of service does not warrant an employee's reinstatement where there is a clear showing that he committed acts constituting just causes of termination.

On the other hand, Vega alleges that the NLRC committed grave abuse of discretion in considering facts not alleged in the labor arbiter's decision. He further states that the NLRC erred in denying him full backwages in spite of the fact that the labor arbiter clearly found that Coca-Cola Bottlers Philippines, Inc. committed an unfair labor practice.

We rule in favor of Coca-Cola Bottlers Philippines, Inc. The NLRC's order of reinstatement based on the sole ground of length of service does it find support in either law or jurisprudence.

When adequately proven, the dual grounds of breach of trust and loss of confidence constitute valid and ample bases to warrant termination of an errant employee. (Manila Midtown Commercial Corporation vs. Nuwhrain (Ramada Chapter), 159 SCRA 212 [1988]). The employer's obligation to give his workers just compensation and treatment carries with it the corollary right to expect from the workers adequate work, diligence and good conduct. (Firestone Tire and Rubber Co. of the Phils. vs. Lariosa, 148 SCRA 187 [1987]). In the last cited case, this Court held:

“Although as a rule this Court leans over backwards to help workers and employees continue with their employment or to mitigate the penalties imposed on them, acts of dishonesty in the handling of company property are a different matter.

“Thus under Article 283 of the Labor Code, an employer may terminate an employment for ‘serious misconduct’ or for fraud or willful breach by the employee of the trust reposed in him by his employer or representative.

“If there is sufficient evidence that an employee has been guilty of a breach of trust or that his employer has ample reasons to distrust him, the labor tribunal cannot justly deny to the employer the authority to dismiss such an employee.”

There is no question that Coca-Cola Bottlers Philippines, Inc., is correct when it states that Vega's position as a sales agent is of such a nature as to require a substantial amount of trust and confidence on the part of the employer. The work of a salesman exposes him to voluminous financial transactions involving his employer's goods. The life of the softdrinks company depends not so much on the bottling or production of the product since this is primarily done by automatic machines and personnel who are easily supervised but upon mobile and far ranging salesmen who go from store to store all over the country or region. Salesmen are highly individualistic

personnel who have to be trusted and left essentially on their own. A high degree of confidence is reposed in them when they are entrusted with funds or properties of their employer.

As a general rule, employers are allowed a wider latitude of discretion in terminating the employment of managerial personnel or those who, while not of similar rank, perform functions which by their nature require the employer's full trust and confidence. This must be distinguished from the case of ordinary rank-and-file employees, whose termination on the basis of these same grounds requires a higher proof of involvement in the events in question; mere uncorroborated assertions and accusations by the employer will not suffice. (See *Manila Midtown Commercial Corporation vs. Nuwhrain (Ramada Chapter)*, supra). Thus, in the case of *San Miguel Corp. vs. National Labor Relations Commission* (142 SCRA 376, 384 [1986]), this Court held:

“Private respondent represents petitioner in his dealings with the public. When charges of theft of customer's properties and misconduct on the job are imputed on the sales agent, and these charges are supported with evidence, they constitute sufficient reasons for termination of employment. Well established in our jurisprudence is the right of an employer to dismiss an employee whose continuance in the service is inimical to the employer's interest. (*Manila Trading and Supply, Co. vs. Philippine Labor Union*, 71 Phil. 124; *Engineering Equipment, Inc. vs. NLRC*, 133 SCRA 752)”

In this case, the employee's infraction was not his first offense. We note that he was suspended and grounded for other offenses he committed in 1978. We regret, then, that this Court is powerless to extend to him the remedy of reinstatement even on the ground of equity based on his length of service. As this Court held in the case of *Piedad vs. Lanao del Norte Electric Cooperative, Inc.* (153 SCRA 500, 509 [1987]):

“The precedents on the issue before us are clear. Dismissal of a dishonest employee is to the best interest not only of management but also of labor (*International Hardwood and Veneer Co. of the Phils. vs. Leogardo, Jr.*, 117 SCRA 967). As a

measure of self-protection against acts inimical to its interest, a company has the right to dismiss its erring employees (Dole Phils., Inc. vs. National Labor Relations Commission, supra). An employer cannot be compelled to continue in employment an employee guilty of acts inimical to its interest, justifying loss of confidence in him (International Hardwood and Veneer Co., of the Philippines vs. Leogardo, Jr. supra; National Service Corporation vs. Leogardo, Jr.; supra; Engineering Equipment, Inc. vs. National Labor Relations Commission, supra). The law does not impose unjust situations on either labor or management.”

Because of the difference between the findings of the Labor Arbiter and the NLRC, we have examined this aspect of the petition carefully. We affirm the NLRC conclusion that there was a clear falsification of commercial documents in this case. The tampered documents in the hands of Mr. Vega and presented to the cashier and finance officer showed fifteen cases of soft drinks bottles while the earlier copies of the same documents in the hands of the gate guard and the stock clerk and in the files reflected only five cases returned to the employer. There was no brownout yet when the “incoming load report” was given at the guard house and the checker slip given to the stock clerk. It cannot be reason for the discrepancy. Besides, why should a salesman prepare basic reports in the dark? The tampering to reflect a bigger number of returns was effected when the salesman presented his reports for the cashier and finance officer. The allegation that the salesman would not risk his job for such a small amount is not a defense because minor pilferages or thefts carried on over a long period of time through false reports or juggling of funds and properties may, as intended by the employee, remain unnoticed but they would destroy the company nonetheless if unchecked or tolerated. The Labor Arbiter is wrong; the NLRC is correct insofar as the appreciation of facts is concerned.

WHEREFORE, the assailed Decision of the National Labor Relations Commission is hereby **REVERSED** and **SET ASIDE**. The dismissal of petitioner Fernando Vega from his employment by Coca-Cola Bottlers Philippines, Incorporated is **AFFIRMED** as valid and according to law.

SO ORDERED.

Fernan, *C.J.*, Feliciano, Bidin and Cortes, *JJ.*, concur.

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