

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
THIRD DIVISION**

**YUCO CHEMICAL INDUSTRIES, INC.,  
*Petitioner,***

***-versus-***

**G.R. No. 75656  
May 28, 1990**

**MINISTRY OF LABOR AND  
EMPLOYMENT thru HONORABLE  
VICENTE LEOGARDO, JR., DEPUTY  
MINISTER, GEORGE HALILI and  
AMADO MAGNO,**

***Respondents.***

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**DECISION**

**FERNAN, C.J.:**

Assailed in this Petition for *Certiorari* is the Order dated April 8, 1986 of Deputy Minister Leogardo, Jr. of the then Ministry of Labor and Employment (MOLE) which reversed the order of the officer-in-

charge of the Tarlac provincial labor office and directed petitioner “to reinstate complainants with backwages fixed at two years without deduction or qualification.”<sup>[1]</sup>

In 1978, private respondents (complainants) George Halili and Amado Magno were employed by petitioner company which is engaged in the manufacture/assembly of ice boxes in Barangay Matatalaib, Tarlac, Tarlac. They were assigned to make aluminum handles for the ice boxes.

On August 12, 1981, after obtaining a favorable legal opinion from the Tarlac provincial office of MOLE concerning the legality of moving the production of aluminum handles from Tarlac to Manila, petitioner addressed a memorandum to private respondents directing them to report for work within one week from notice at their new place of work at Felix Huertas Street, Sta. Cruz, Manila. The memorandum further stated that private respondents would be paid with a salary of P27.00 and an additional allowance of P2.00 “to meet the higher cost of living in Manila.”<sup>[2]</sup>

A day after or on August 13, 1981, instead of complying with the memorandum, private respondents filed a complaint with the provincial labor office for illegal dismissal, 13<sup>th</sup> month pay and service incentive leave pay.<sup>[3]</sup>

As a countermove, on August 21, 1981, petitioner filed an application for clearance to terminate the two employees on the ground of abandonment. On September 25, 1981, the OIC of the Tarlac labor office issued an order directing petitioner to give private respondents their separation pay within ten (10) days from receipt of notice.

Private respondents appealed to the Office of the Minister of MOLE through Deputy Minister Leogardo, Jr. who rendered the order in question with the following reasons cited:

1. At the time of acceptance of the employment relation between the parties, it was assumed that the place of work was in Matatalaib, Tarlac, Tarlac. Thus, to transfer the place of work at such a distant place as Manila without the consent of the employees concerned can no longer be construed as a

reasonable exercise of management prerogative in the assignment of personnel dictated by business exigencies;

2. If petitioner company had indeed relocated its operations from Tarlac to Manila, it is puzzling why out of the 50 employees, it singled out the two (2) plain laborers to man the Manila operations. Such actuation tended to support the allegation that private respondents were discriminated against because of their union activities and their refusal to disaffiliate from the union.

A motion for reconsideration subsequently filed by the petitioner was denied. Hence this present petition.

First, some general principles on transfer. In a number of cases, the Court has recognized and upheld the prerogative of management to transfer an employee from one office to another within the business establishment provided that there is no demotion in rank or a diminution of his salary, benefits and other privileges. This is a privilege inherent in the employer's right to control and manage its enterprise effectively. Even as the law is solicitous of the employees' welfare, it cannot ignore the right of the employer to exercise what are clearly and obviously management prerogatives. The freedom of management to conduct its business operations to achieve its purpose cannot be denied.<sup>[4]</sup>

But like all other rights, there are limits. The managerial prerogative to transfer personnel must be exercised without grave abuse of discretion and putting to mind the basic elements of justice and fair play.<sup>[5]</sup> Having the right should not be confused with the manner in which that right must be exercised. Thus it cannot be used as a subterfuge by the employer to rid himself of an undesirable worker. Nor when the real reason is to penalize an employee for his union activities and thereby defeat his right to self-organization. But the transfer can be upheld when there is no showing that it is unnecessary, inconvenient and prejudicial to the displaced employee.<sup>[6]</sup>

The reassignment of Halili and Magno to Manila is legally indefensible on several grounds. Firstly, it was grossly inconvenient

to private respondents. They are working students. When they received the transfer memorandum directing their relocation to Manila within seven days from notice, classes had already started. The move from Tarlac to Manila at such time would mean a disruption of their studies. Secondly, there appears to be no genuine business urgency that necessitated their transfer. As well pointed out by private respondents' counsel, the fabrication of aluminum handles for ice boxes does not require special dexterity. Many workers could be contracted right in Manila to perform that particular line of work.

Altogether, there is a strong basis for public respondent's conclusion that the controversial transfer was not prompted by legitimate reasons. Petitioner company had indeed discriminated against Magno and Halili when the duo was selected for reassignment to Manila. The transfer was timed at the height of union concerted activities in the firm, deliberately calculated to demoralize the other union members. Under such questionable circumstances, private respondents had a valid reason to refuse the Manila reassignment.<sup>[7]</sup> Public respondent did not err or abuse his discretion in upholding the employees' cause.

**WHEREFORE**, the questioned Order dated April 8, 1986 of Deputy Minister Leogardo, Jr. is hereby **AFFIRMED**. Assuming that the positions of private respondents have been filled up, they should be reinstated to substantially equivalent position without loss of seniority rights, privileges and benefits due them. Costs against petitioner.

**SO ORDERED.**

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

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[1] Rollo, pp. 21, 23-24.

[2] Rollo, p. 18.

[3] Annex F, Rollo, p. 73.

[4] *Dosch vs. NLRC*, G.R. No. 51182, July 5, 1982, 123 SCRA 296; *Petrophil vs. NLRC*, G.R. No. 64048, August 29, 1986, 143 SCRA 700; *Abbott Laboratories Inc. vs. NLRC*, G.R. No. 76959, October 12, 1987, 154 SCRA 713.

[5] *International Harvester Macleod vs. Intermediate Appellate Court*, G.R. No. 7328, May 18, 1987, 149 SCRA 641.

- [6] Phil. Japan Active Carbon Corp., et al. vs. NLRC and Quinanola, G.R. No. 83239, March 8, 1989.
- [7] See Bataan Shipyard and Engineering Co. Inc. vs. NLRC, G.R. No. 78604, May 9, 1988, 161 SCRA 271.

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