

DYNAMIC INTERNATIONAL SERVICES CORPORATION, PETITIONER, VS. HON. MICHAEL G. AGUINALDO, IN HIS CAPACITY AS DEPUTY EXECUTIVE SECRETARY FOR LEGAL AFFAIRS OF THE OFFICE OF THE PRESI...

Ponente: PAREDES, J.

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PAREDES, J.:

THE CASE

This is a Petition for Review under Rule 43 of the 1997 Rules of Civil Procedure assailing the: (1) Decision¹ dated February 15, 2012 of the Office of the President in OP Case No. 08-C-084; and (2) the Resolution² dated July 16, 2012, denying petitioners' motion for reconsideration.

THE ANTECEDENTS

The facts, as culled from the record, are as follows:

Winefredo B. Murguia (Murguia), Alfredo B. Alvarez (Alvarez), Joseph M. Lopez (Lopez) and Gil Lebria (Lebria), collectively private respondents, separately applied for work with petitioner Dynamic International Services Corporation (petitioner). Private respondents were later contracted³ to work for Formosa Plastics Corporation, a Taiwan-based corporation. They were deployed on June 5, 2005. After their arrival at the job site, private respondents spearheaded a strike, considered illegal in Taiwan and, as such, they were repatriated. Upon repatriation, they sought the help of the Overseas Workers Welfare Administration (OWWA) for the settlement of their monetary claims against their employer and the petitioner.

Meanwhile, after receipt of a report from Welfare Officer Federico Biolena, a case was *motu proprio* initiated by the Philippines Overseas Employment Agency (POEA) against the petitioner and another agency, Sanlee International Placement Co. (Sanlee), for violation of Section 2 (e), Rule I, Part VI of the 2002 POEA Rules and Regulations Governing the Recruitment and Employment of Land-Based Overseas Workers (2002 POEA Rules and Regulations). The case was docketed as POEA Case No. RV 05-08-1049.

Another case was also instituted by private respondents against petitioner and Sanlee for violation of Sections 2 (b) and (d), Rule I, Part VI of the 2002 POEA Rules and Regulations. This was docketed as POEA Case No. 05-09-1171.

In their sworn Affidavits, Murguia⁴, Lopez⁵ and Alvarez⁶ alleged that they were charged P103,000.00, received by one Corazon San Juan (San Juan) at the petitioner's office, as consideration for their deployment in Taiwan; Lebria⁷ alleged that he was charged P124,000.00. At the scheduled hearing on November 22, 2005, Alvarez and Murguia appeared. At the hearing, they amended their statements: Alvarez now claimed that in May 2005, he actually paid to San Juan, only P100,000.00 as placement fee, but that P51,000.00 was returned to him albeit the sum indicated in the receipt was only P26,611.00; while Murguia clarified that he paid only P30,000.00.

Petitioner contested these discrepancies. Also, petitioner maintained that it settled the claims of Murguia and Lopez by giving them financial assistance when the latter sought OWWA's assistance for the settlement of their monetary claims, whereby they executed individual Affidavits[8] of Quitclaim and Desistance. Lopez and Murguia claimed that they did not understand the affidavits which an OWWA officer made them sign. Thereafter, petitioner filed its Answer[9] and Consolidated Supplemental Answer[10].

On July 3, 2006, then POEA Administrator Baldoz issued an Order[11] finding petitioner liable for violating Sections 2 (b) and (d), Rule I, Part VI of the 2002 POEA Rules and Regulations, viz.:

WHEREFORE, foregoing premises considered, We find and so hold respondent Dynamic International Services Corporation (now, petitioner) liable for violation of Section 2 (b) of Rule I, Part VI of the 2002 POEA Rules and Regulations, consequently, the penalty of CANCELLATION OF LICENSE is hereby IMPOSED.

As a consequence of the penalty of cancellation of license of petitioner Dynamic International Services Corporation, its officers are hereby disqualified from engaging in any recruitment activity.

While it is true that the placement fees collected from Lopez and Alvarez were only in excess of P5,313.80, the rule does not give us any discretion in imposing the penalty of cancellation. Cancellation is an indivisible penalty that is impossible for grave offenses. And since excessive placement fee is a grave offense, the rules do not allow the application of any mitigating circumstance. This was the intention of the POEA Governing Board when it issued GB Resolution No. 01 last March 9, 2005, wherein it pronounced that "Mitigating or alternative circumstances shall not apply to serious offenses punishable by cancellation of license".

Anent violation of Section 2 (d) of the same POEA Rules and Regulations, the penalty of fine of Forty Thousand Pesos (Php40,000.00) is likewise imposed on petitioner Dynamic International Services Corporation.

Further, petitioner agency and respondent Oriental Assurance Corporation are hereby ordered to refund jointly and severally to Alfredo Alvarez the sum of P3,313.80, representing the remaining excess of the fee collected from him, partial refund having been made earlier in Taiwan.

The charge for violation of Section 2 (e) of Rule I, Part VI of the 2002 POEA Rules and Regulations against the petitioner, Dynamic International Services Corporation, is hereby dismissed for lack of merit.

The charges for violation of Section 2 (b) and (e), of Rule I, Part VI of the 2002 POEA Rules and Regulations, against respondent[,] Sanlee International Placement Co. are likewise dismissed for lack of merit.

As regards the charges and claims of complainant, Vicente Parnada, We dismiss the same without prejudice.

SO ORDERED[12].

Petitioner appealed[13]. On November 27, 2006, the Secretary of Labor and Employment, through Undersecretary Danilo P. Cruz, denied[14] the appeal. Petitioner's Motion[15] for Reconsideration was also denied in the Order[16] dated December 21, 2007.

Petitioner appealed[17] to the Office of the President (OP). On February 15, 2012, the OP rendered the assailed Decision[18], dismissing the appeal[19].

Petitioner's Motion[20] for Reconsideration was likewise denied in the assailed Resolution[21] dated July 16, 2012; hence, this petition[22] for review.

Petitioner raises, for Our consideration, the following issues:

I

WHETHER OR NOT THE OP ACTED WITH GRAVE ABUSE OF DISCRETION IN DISMISSING THE APPEAL OF THE PETITIONER ON THE GROUND THAT THE SAME IS NOT THE PROPER REMEDY; and

II

WHETHER OR NOT THE OP ACTED WITH GRAVE ABUSE OF DISCRETION WHEN, BY DISMISSING THE APPEAL OF THE PETITIONER, IT SUSTAINED THE FINDING THAT PETITIONER IS LIABLE FOR VIOLATING SECTIONS 2 (B), (D) AND (E) (sic) RULE I, PART VI OF THE 2002 POEA RULES AND REGULATIONS GOVERNING THE RECRUITMENT AND EMPLOYMENT OF LANDBASED OVERSEAS WORKERS²³.

THE COURT'S RULING

The petition is without merit.

Petitioner argues^[24] that the OP committed grave abuse of discretion in dismissing its appeal on the ground that it is not the proper remedy because the appeal does not fall under PD No. 1391^[25], the assailed decision not emanating from the National Labor Relations Commission. We disagree.

The Supreme Court has ruled that “the remedy of an aggrieved party in a Decision or Resolution of the Secretary of the DOLE is to timely file a motion for reconsideration as a precondition for any further or subsequent remedy, and then seasonably file a special civil action for certiorari under Rule 65 of the 1997 Rules of Civil Procedure”^[26]. Accordingly, any decision, resolution or ruling of the DOLE Secretary from which the Labor Code affords no remedy to the aggrieved party may be reviewed through a petition for certiorari initiated only in the Court of Appeals in deference to the principle of the hierarchy of courts^[27]. Decisions of the Labor Secretary are appealable to this Court via a petition for certiorari under Rule 65, was succinctly discussed in the case of Barairo vs. Office of the President and MST Marine Services (Phils.), Inc.^[28], thus:

Following settled jurisprudence, the proper remedy to question the decisions or orders of the Secretary of Labor is via a Petition for Certiorari under Rule 65, not via an appeal to the OP. For appeals to the OP in labor cases have indeed been eliminated, except those involving national interest over which the President may assume jurisdiction. The rationale behind this development is mirrored in the OP’s Resolution of June 26, 2009 the pertinent portion of which reads:

. . . [T]he assailed DOLE’s Orders were both issued by Undersecretary Danilo P. Cruz under the authority of the DOLE Secretary who is the alter ego of the President. Under the “Doctrine of Qualified Political Agency,” a corollary rule to the control powers of the President, all executive and administrative organizations are adjuncts of the Executive Department, the heads of the various executive departments are assistants and agents of the Chief Executive, and, except in cases where the Chief Executive is required by Constitution or law to act in person or the exigencies of the situation demand that he act personally, the multifarious executive and administrative functions of the Chief Executive are performed by and through the executive departments, and the acts of the Secretaries of such departments, performed and promulgated in the regular course of business are, unless disapproved or reprobated by the Chief Executive are presumptively the acts of the Chief Executive.

It cannot be gainsaid that petitioner’s case does not involve national interest. (citations omitted; emphasis supplied)

Further, Barairo ruled that since the appeal of the Secretary of Labor’s decision to the Office of the President did

not toll the running of the period, the assailed decision of the Secretary of Labor is deemed to have attained finality, thus:

Although appeal is an essential part of our judicial process, it has been held, time and again, that the right thereto is not a natural right or a part of due process but is merely a statutory privilege. Thus, the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but also jurisdictional and failure of a party to conform to the rules regarding appeal will render the judgment final and executory. Once a decision attains finality, it becomes the law of the case irrespective of whether the decision is erroneous or not and no court - not even the Supreme Court - has the power to revise, review, change or alter the same. The basic rule of finality of judgment is grounded on the fundamental principle of public policy and sound practice that, at the risk of occasional error, the judgment of courts and the award of quasi-judicial agencies must become final at some definite date fixed by law[29]. (Emphasis ours)

In a similar manner, petitioner's claim[30] that the OP should have assumed jurisdiction over the case as the same involves national interest does not persuade. Under the Labor Code of the Philippines[31], the President of the Philippines shall not be precluded from determining the industries that, in his opinion, are indispensable to the national interest, and from intervening at any time and assuming jurisdiction over any such labor dispute in order to settle or terminate the same[32]. Clearly, the determination of whether or not a labor issue constitutes one affecting national interest is vested with the President and such determination cannot be imposed upon him by the party to a dispute nor by this Court.

In any event, the petition still fails on its merits. In the case at bar, then POEA Administrator Baldoz and the Secretary of Labor, through Undersecretary Danilo P. Cruz, found petitioner liable for violating Section 2 (b) and (d), Rule I, Part VI of the 2002 POEA Rules and Regulations which provides:

xxx

Section 2. Grounds for imposition of administrative sanctions:

xxx

b.) Charging or accepting directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary, or making a worker pay any amount greater than that actually received by him as a loan or advance;

xxx

d.) Collecting any fee from a worker without issuing the appropriate receipt clearly showing the amount paid and the purpose for which payment was made; xxx

Petitioner questions[33] the findings of labor officials on the ground that there was no evidence on record to support their findings; and that such findings were supposedly based on the bare and self serving allegations and uncorroborated testimonies of the private respondents. We most assuredly disagree.

Petitioner's denial of culpability cannot prevail as against the positive and categorical testimonies of private respondents. Former POEA Administrator Baldoz aptly ruled that:

After due evaluation of the records at hand, We find substantial basis to hold respondent (petitioner), Dynamic International Services Corporation (Dynamic) liable for violation of Section 2 (b) and (d) of Rule I, Part VI of the 2002 POEA Rules and Regulations.

The complainants' declarations, with respect to the placement fee charged to them by the petitioner were consistent, clear and certain. The complainants stated that Dynamic charged them to pay P103,000.00 as placement fee and to be able to fully pay the said amount they were made to sign a loan agreement to pay

P7,500.00/month for 10 months plus 20%. The scheme of making the complainants sign a loan agreement, which was uniformly employed by the petitioner agency on the complainants, to enable it to ensure full payment of the placement fee, convinces us that the complainants were initially charged to pay placement fee of P103,000.00 by the petitioner agency.

Memorandum Circular No. 19, Series of 2001 states that the placement fee that may be collected by the Philippine recruitment agency from a Taiwan-bound worker should not exceed one-month salary of the worker, exclusive of documentation costs. (Underlining in the original)

Section 2 (b) of Rule 1, Part VI of the 2002 POEA Rules and Regulations prohibits any recruitment agency from charging or accepting directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary or making a worker pay any amount greater than that actually received by him as a loan or advance.

Complainants, Alfredo Alvarez and Joseph Lopez specifically claimed, that petitioner, while they were initially charged by Dynamic to pay a placement fee of P103,000.00, the amount of P49,000.00 were eventually collected from them. While an Affidavit of Quitclaim and Desistance was executed by complainant Lopez, in favor of Dynamic prior to the filing of his complaint, We however are not precluded from resolving the merits of his complaint against the said petitioner. In this case, We give weight to the firm declarations of Lopez and Alvarez, that Dynamic collected from each of them P49,000.00 as placement fee. WE are convinced that this amount was actually collected from them prior to their departure, notwithstanding the receipts and affidavits submitted by the petitioner. First, since these workers were assigned in the same worksite and had similar complaints, they could have bloated the placement fee that the agency had collected from them prior to their deployment or at the very least declare a uniform amount. They did not. Second, Alvarez could have omitted the P51,000.00 that was refunded to him by the agency, out of his initial payment of P103,000.00 if only to make his case stronger. But again, he did not. These complainants simply stated the facts relating to their recruitment and deployment to Taiwan.

The complainant's Foreign Worker's Affidavit Regarding Expenses Incurred For Entry Into The Republic of China To Work And The Wage/Salary (Foreign Worker's Affidavit) cannot be said to be conclusive that the fees and expenses stated thereon are the only amounts to be paid by them. xxx Utmost, the contents of the said Foreign Worker's Affidavit essentially suggest that the worker paid all the fees and expenses of items specified thereon. Based on their Foreign Worker's Affidavit, the fees for medical examination, NBI clearance and passport were paid directly to the entities/government agency concerned, thus, the remaining expenses chargeable to Lopez and Alvarez consist only of the following:

Joseph Lopez

Alfredo Alvarez

Placement fee

P26,611.20

Placement fee

P26,611.20

Visa fee

3,600.00

Visa fee

3,600.00

Air ticket fee

11,000.00

Air ticket fee

11,000.00

PDOS

100.00

PDOS

100.00

POEA

200.00

POEA

200.00

OWWA

1,275.00

OWWA

1,275.00

Medicare

900.00

Medicare

900.00

Total

P43,686.20

Total

P43,686.20

On the other hand, Dynamic collected from the said complainants P49,000.00, which exceeds the above[-] stated amounts the complainants were only bound to pay. Hence, We find that Dynamic clearly committed

overcharging of fees, violative of Section 2 (b) of Rule 1, Part VI of the 2002 POEA Rules and Regulations. In view however of the Affidavit of Desistance executed by Lopez, he shall no longer be reimbursed of the excess of the placement fee that he had paid.

XXX

Anent the charge for violation of Section 2 (d) of Rule I, Part VI of the 2002 POEA Rules and Regulations, We also find Dynamic liable thereof. Complainant, Lebria in particular, stated with clarity that despite his total payment of P29,000.00, which he paid in two (2) installments and on separate occasions, he was issued only a single receipt wherein the amount indicated is only P20,000.00. Likewise, Alvarez paid P49,000.00 but the receipt issued to him shows that his payment is P26,611.00. Issuance of a an appropriate receipt is required for every collection of fee from a worker and the said receipt must clearly show the amount paid and the purpose for which payment was made. Clearly, implied from the regulation requiring the issuance of appropriate receipts is POEA's duty to ensure that the agencies we regulate pay their correct taxes. And this we achieve by requiring agencies to issue appropriate receipts reflecting payments made to them and its purpose. The purpose will indicate whether the payment really redounded to the benefit of the agency of that the agency merely serves as a collecting entity for other legal fees/expenses that should be paid by the worker among which are visa, medical, airfare, PDOS, OWWA and Medicare. By doing so, recruitment agencies are able to exercise corporate social responsibility in their operations[34].

XXX

Jurisprudence is replete that findings of fact of quasi-judicial agencies which have acquired expertise because their jurisdiction is confined to specific matters are generally accorded not only respect, but at times even finality if such findings are supported by substantial evidence[35]. Specifically, settled is the rule that factual findings of labor officials, who are deemed to have acquired expertise in matters within their jurisdiction, are generally accorded not only respect but even finality by the courts when supported by substantial evidence, i.e., the amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion. Verily, their conclusions are accorded great weight upon appeal and the courts are not duty-bound to delve into the accuracy of their factual findings, in the absence of a clear showing that the same were arbitrary and bereft of any rational basis[36]. More so, when there is no showing that said findings were arrived at arbitrarily or in disregard of the evidence on record[37], a situation that We find obtains in this case.

Moreover, the petitioner's insistence[38] on the importance of the Affidavits[39] of Quitclaim and Desistance executed by private respondents Murguia and Lopez waiving and renouncing any claims and causes of action against petitioner, is of no moment. It is a well-settled principle that quitclaims are looked upon with disfavor and are frowned upon as contrary to public policy. Where the person making the waiver has done so voluntarily, with a full understanding thereof, and the consideration for the quitclaim is credible and reasonable, the transaction must be recognized as a valid and binding undertaking[40]. In this case, Murguia and Lopez claimed to have no understanding of the quitclaims they supposedly executed. Unfortunately for petitioner, it failed to present evidence which would establish that private respondents Murguia[41] and Lopez[42] understood and voluntarily signed the quitclaims. It has not escaped our attention that the name of Murguia was misspelled "Murguna" in his purported quitclaim; while in that of Lopez', beside his signature is an unidentified fingerprint. Although petitioner asserts[43] that the quitclaims must be accepted outright because these were executed before an OWWA officer, a mere perusal of the quitclaims show that this is not the case. The quitclaims appear to be pro forma printed documents of petitioner, written entirely in English, except for the last paragraph which states that "ANG LAHAT NG NILALAMAN NG SALAYSAY NA ITO AY IPINALIWANAG SA AKIN SA WIKANG TAGAOG NA AKING NAIINTINDIHAN AT SINASANG-AYUNAN", there being no showing that the conditions stated in the quitclaims were explained in a manner understood by private respondents, their claim that

they did not understand its contents acquires particular significance and underscores the veracity of their claim.

There is also no merit to petitioner's claim[44] that considering that it is a first time offender, a mitigating circumstance[45], the penalty of cancellation of license should have been reduced to the penalty next lower in degree. Section 1 (a)(6), Rule IV, Part VI of the 2002 POEA Rules and Regulations classifies the act of overcharging committed by petitioner as a serious offense with the corresponding penalty, thus:

RULE IV

Classification of Offenses and Schedule of Penalties

SECTION 1. Classification of Offenses. — Administrative offenses are classified into serious, less serious and light, depending on their gravity. The Administration shall impose the appropriate administrative penalties for every recruitment violation.

A. The following are serious offenses with their corresponding penalties:

xxx

- Charging or accepting directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary, or making a worker pay any amount greater than that actually received by him as a loan or advance.

1st Offense — Cancellation of License plus refund of the placement fee charged or collected from the worker

The penalty shall carry the accessory penalty of refund of the excessive fee charged or collected from the worker. xxx (Emphasis Ours)

Even if Sections 3[46] and 4[47], Rule IV, Part VI of the 2002 POEA Rules and Regulations considers being a first time offender a mitigating circumstance, this mitigating circumstance cannot be applied in petitioner's favor because the offense it committed was serious, meriting the penalty, even on a first offense, of cancellation of its license.

Finally, We find no error in the directive of then POEA Administrator Baldoz disqualifying, en masse, the officers and directors of the petitioner from participating in the overseas employment program of the government, even as they were not impleaded as individuals nor served with show cause orders; for while the penalty of disqualification from engaging in the business of recruitment and placement of workers was not included in the schedule of penalties for serious offenses, the disqualification is a consequence of the cancellation of petitioner's license as provided in Section 2(f), Rule I, Part II of the 2002 POEA Rules and Regulations, viz.:

SECTION 2. Disqualification. — The following are not qualified to engage in the business of recruitment and placement of Filipino workers overseas:

xxx

f.) Persons or partners, officers and Directors of corporations whose licenses have been previously cancelled or revoked for violation of recruitment laws.

xxx

It bears stressing that there is a need for the strict enforcement of the law and the rules and regulations governing Filipino contract workers abroad. Many hapless citizens of this country have sought foreign employment to earn a few dollars to ensure for their families a life worthy of human dignity and provide proper education and a decent future for their children, have found themselves enslaved by foreign masters, harassed or abused and deprived of

their employment for the slightest cause. No one should be made to unjustly profit from their suffering. Hence, recruiting agencies must not only faithfully comply with Government-prescribed responsibilities; they must impose upon themselves the duty, borne out of a social conscience, to help citizens of this country sent abroad to work for foreign principals. They must keep in mind that this country is not exporting slaves but human beings, and above all, fellow Filipinos seeking merely to improve their lives[48].

WHEREFORE, the Petition is DENIED. The Decision of the Office of the President dated February 15, 2012, and the Resolution dated July 16, 2012, in OP Case No. 08-C-084 are AFFIRMED.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Dicdican, I.P., Chairperson and Elbinias, M. P., JJ. concur.

[1] Rollo, pp. 34-5.

[2] Rollo, pp. 32-3.

[3] Rollo, pp. 37-40.

[4] Rollo, pp. 46-6.

[5] Rollo, pp. 47-8.

[6] Rollo, pp. 51-2.

[7] Rollo., pp. 49-50.

[8] Rollo, pp. 53-4.

[9] Rollo, pp. 55-70.

[10] Rollo, pp. 71-111.

[11] Rollo, pp. 113-27.

[12] Rollo, pp. 126-7.

[13] Rollo, pp. 128-56.

[14] Rollo, pp. 158-62.

[15] Rollo, pp. 163-78

[16] Rollo, pp. 180-1.

[17] Rollo, pp. 182-209.

[18] Rollo, pp. 34-5.

[19] Rollo, p. 35.

[20] Rollo, pp. 210-17.

[21] Rollo, pp. 32-3.

[22] Rollo, pp. 3-31.

[23] Rollo, p. 9.

[24] Rollo, pp. 9-10.

[25] Entitled "Amending Book V of the Labor Code of the Philippines to Insure Speedy Labor Justice and Further Stabilize Industrial Peace." Issued May 29, 1978.

[26] University of Immaculate Concepcion vs. Secretary of Labor and Employment, G.R. No. 143557. June 25, 2004 , citing NFL vs. Laguesma, G.R. No. 123426, March 10, 1999 .

[27] Lepanto Consolidated Mining Co. vs. Lepanto Capataz Union, G.R. No. 157086, Febuary 18, 2013.

[28] G.R. No.. 189314, June 15, 2011.

[29] Barairo vs. Office of the President and MST Marine Services, G.R. No. 189314, June 15, 2011, citing Land Bank of the Philippines v. Court of Appeals, G.R. No. 190660, April 11, 2011.

[30] Rollo, p. 10.

[31] See Article 263.

[32] Article 263.

[33] Rollo, pp. 10-11.

[34] Rollo, pp. 124-6.

[35] TIDCORP vs. Manalang-Demigillo, G.R. No. 176343, September 18, 2012.

[36] See Aujero vs. Philippine Communications Satellite Corp., G.R. No. 193484, January 8, 2012.

[37] Crewlink, Inc. vs. Teringtering, G.R. No. 166803, October 11, 2012.

[38] Rollo, pp. 12, 16.

[39] Rollo, pp. 53-4.

[40] See Ison vs. Crewserve, Inc., G.R. No. 173951, April 16, 2012.

[41] Rollo, p. 53.

[42] Rollo, p 54.

[43] Rollo, p. 12.

[44] Rollo, pp. 21-3.

[45] Section 3, Rule IV, Part VI of the 2002 Rules and Regulations reads:

Sec.3. Mitigating, Aggravating or Alternative Circumstances. — In the determination of the penalties to be imposed; the following mitigating; aggravating and alternative circumstances attendant to the commission of the offense shall be considered:

- First Offender;
- Admission of guilt and voluntary restitution, where applicable;
- Good faith;
- Exemplary Performance;
- Recidivism;
- Prejudice to the worker;
- Gross negligence;
- Other analogous circumstances.

[46] Ibid.

[47] Sec. 4. Manner of Imposition. — When applicable, the imposition of the penalty may be made in accordance with the manner provided below:

- The minimum of the penalty shall be imposed where only mitigating and no aggravating circumstances are present.
- The medium of the penalty shall be imposed where no mitigating and aggravating circumstances are present.
- The maximum of the penalty shall be imposed where only aggravating and no mitigating circumstances are present.
- Where aggravating and mitigating circumstances are present, paragraph (a) shall be applied where there are more mitigating circumstances present; paragraph (b) shall be applied when the circumstances equally offset each other; and paragraph (c) shall be applied where there are more aggravating circumstances..

[48] JSS Indochina Corporation vs. Ferrer, G.R No. 156381, October 14, 2005, citing Teknika Skills and Trade Services, Inc. vs. NLRC, G.R. No. 100399, August 4, 1992..

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