

ASM TRADING CENTER CORP. AND/OR ALLAN MACASAET, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION (THIRD DIVISION) AND NESTOR V. LUCES, RESPONDENTS.

Ponente: CASTILLO, M., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/abd8d55dc793/>

CASTILLO, M., J.:

This is a petition for certiorari seeking to annul and set aside the Resolutions dated 12 July 2013[1] and 30 August 2013,[2] both of the public respondent National Labor Relations Commission, in NLRC LAC No. 05-001670-13 [NLRC NCR Case No. 07-10756-11], affirming with modification the appealed Decision of Labor Arbiter Jaime M. Reyno[3] and denying petitioners' partial motion for reconsideration, respectively.

The antecedents of this petition as faithfully summarized in the first assailed Resolution of the NLRC are as follows:[4]

Respondent-appellee company[5] is engaged in the printing business. On 16 July 1993, it hired complainant-appellant[6] as a Platemaker. At the time of his separation, he was receiving the amount of P13,595.42 as monthly salary.

On 25 May 2011, by virtue of the incident report of its security guard Joel Mangulad, respondent-appellee company issued a Notice to Explain to complainant-appellant requiring him to show cause why no disciplinary action should be taken against him for reporting to his place of work under the influence of liquor on 02 May 2011, which is in clear violation of company rules.

The following day, complainant-appellant submitted his written explanation wherein he admitted coming from a drinking spree. He asked for management's forgiveness claiming that it was unintentional on his part to do so.

On 02 June 2011, an administrative hearing was held wherein complainant-appellant acknowledged that he knew of the company rule which prohibits employees from reporting to the workplace under the influence of liquor and its corresponding penalty. He admitted his violation of said rule.

On 06 June 2011, another Notice to Explain was issued by respondents-appellees[7] to complainant-appellant for sleeping during working hours also on 02 May 2011.

Again, complainant-appellant replied and owned up to his wrongdoing. He once more sought forgiveness from management.

On 27 June 2011, complainant-appellant was issued a Notice of Termination for having violated company rules and regulations.

Aggrieved by his dismissal, complainant-appellant filed against respondents-appellees a complaint for illegal dismissal and payment of separation pay. He claimed that while he was indeed under the influence of liquor when he reported for work on 02 May 2011, he did not deserve the supreme penalty of dismissal considering his 18 years of service and his untarnished employment record. He also contended that there was no malicious intent on his part to disregard company rules and that respondents-appellees did not suffer any actual damage

by his acts.

On the other hand, respondents-appellees alleged that complainant-appellant was dismissed for cause.

Complainant-appellant was charged with violations of Company's Rules and Regulations, particularly, Section 5, Rule IV [Reporting for work while Drunk] and Section 4, Rule VII [Sleeping during Working Hours]. Having admitted his infractions in his written replies and during the administrative investigation, respondents-appellees were left with no choice but to impose the penalty as ordained by their rules.

On 18 March 2013, Labor Arbiter Jaime M. Reyno exonerated respondents-appellees from the charge of illegal dismissal. He also denied complainant-appellant's money claims.

On appeal, the NLRC in its first assailed Resolution, concurred with the finding of the labor arbiter that private respondent Nestor V. Luces was validly dismissed from his employment by petitioner ASM Trading Center Corporation (ASM) for serious misconduct or willful disobedience of the lawful orders of the employer. However, the public respondent awarded separation pay equivalent to ½ month pay for every year of service or the aggregate amount of P122,358.78 in favor of the private respondent, as and by way of financial assistance. The NLRC justified said award, as follows:[8]

An employee who is dismissed for cause is generally not entitled to any financial assistance. Equity considerations, however, provide an exception. Equity has been defined as justice outside law, being ethical rather than jural and belonging to the sphere of morals than of law. It is grounded on the precepts of conscience and not on any sanction of positive law, for equity finds no room for application where there is law xxx

Given the facts established on record, namely, that complainant-appellant had worked with respondents-appellees for a period of eighteen (18) years and without any previous derogatory record, the ends of social and compassionate justice would be better served if he is given some equitable relief in the form of separation pay equivalent to one half (1/2) month for every year of service xxx.

Petitioners moved for the NLRC to reconsider the award of separation pay to the private respondent, arguing essentially that the same was unfounded. Their motion for reconsideration was denied by the public respondent in its second assailed Resolution.

Hence, this petition.

For failure of the private respondent to file his comment on the petition for certiorari within the period granted by this Court, the filing thereof was deemed to have been waived by the private respondent and the case was submitted for decision.

Petitioners impute grave abuse of discretion on the part of the public respondent in awarding separation pay to the private respondent notwithstanding the legality of his dismissal from work. They insist that the same is baseless and that the NLRC did not act in accordance with settled jurisprudence on the matter in rendering its assailed Resolutions insofar as the award of separation pay is concerned.

We are accordingly called upon to determine the propriety of the NLRC's award of separation pay, as and by way of financial assistance, to the private respondent.

As the rule now stands, an employee is not entitled to a separation pay if he had been dismissed for any of the just causes enumerated under Article 282 of the Labor Code, which states:

ART. 282. Termination by employer. – An employer may terminate an employment for any of the following causes:

(a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or

representative in connection with his work;

(b) Gross and habitual neglect by the employee of his duties;

(c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;

(d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representatives; and

(e) Other causes analogous to the foregoing.

Such an award is authorized only in the situations contemplated in Articles 283 and 284 of the same Code.

Thus, in the recent case of *Unilever Philippines, Inc. v. Maria Ruby M. Rivera*,^[9] it was held:

The pivotal issue in the case at bench is whether or not a validly dismissed employee, like Rivera, is entitled to an award of separation pay.

As a general rule, an employee who has been dismissed for any of the just causes enumerated under Article 282 of the Labor Code is not entitled to a separation pay. Section 7, Rule I, Book VI of the Omnibus Rules Implementing the Labor Code provides:

Sec. 7. Termination of employment by employer. — The just causes for terminating the services of an employee shall be those provided in Article 282 of the Code. The separation from work of an employee for a just cause does not entitle him to the termination pay provided in the Code, without prejudice, however, to whatever rights, benefits and privileges he may have under the applicable individual or collective agreement with the employer or voluntary employer policy or practice.

In exceptional cases, however, the Court has granted separation pay to a legally dismissed employee as an act of "social justice" or on "equitable grounds." In both instances, it is required that the dismissal (1) was not for serious misconduct; and (2) did not reflect on the moral character of the employee. The leading case of *Philippine Long Distance Telephone Co. vs. NLRC* is instructive on this point:

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 correctly 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 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 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.

In the subsequent case of *Toyota Motor Philippines Corporation Workers Association (TMPCWA) v. National Labor Relations Commission*, it was further elucidated that "in addition to serious misconduct, in dismissals based on other grounds under Art. 282 like willful disobedience, gross and habitual neglect of duty, fraud or willful breach of trust, and commission of a crime against the employer or his family, separation pay should not be conceded to the dismissed employee." In *Reno Foods, Inc. v. Nagkakaisang Lakas ng Manggagawa (NLM)-Katipunan*, the Court wrote that "separation pay is only warranted when the cause for termination is not attributable to the employee's fault, such as those provided in Articles 283 and 284 of the Labor Code, as well as in cases of illegal dismissal in which reinstatement is no longer feasible. It is not allowed when an employee is dismissed for just cause."

The aforementioned rule applies with equal force to those instances where the employee who was validly dismissed for a just cause has rendered service for his employer for a long period of time. Such fact should not be taken in favor of the worker but rather, against him. The pronouncement in *Reno Foods, Inc. v. Nagkakaisang Lakas ng Manggagawa (NLM) Katipunan* is instructive on the matter:[10]

x x x Length of service is not a bargaining chip that can simply be stacked against the employer. After all, an employer-employee relationship is symbiotic where both parties benefit from mutual loyalty and dedicated service. If an employer had treated his employee well, has accorded him fairness and adequate compensation as determined by law, it is only fair to expect a long-time employee to return such fairness with at least some respect and honesty. Thus, it may be said that betrayal by a long-time employee is more insulting and odious for a fair employer.

With the foregoing as guideposts, We agree with the petitioners that the public respondent NLRC gravely abused its discretion in awarding separation pay, as and by way of financial assistance, to the private respondent under the circumstances of the case.

It bears stressing that Nestor V. Luces' dismissal is based on one of the grounds under Art. 282 of the Labor Code which is serious misconduct. He is therefore plainly not entitled to the award of separation pay.

At this juncture, We deem it prudent to reiterate the caveat to labor tribunals in indiscriminately awarding separation pay as a measure of social justice, as laid down in *Central Philippines Bandag Retreaders, Inc. v. Diasnes*:[11]

x x x Labor adjudicatory officials and the CA must demur the award of separation pay based on social justice when an employee's dismissal is based on serious misconduct or willful disobedience; gross and habitual neglect of duty; fraud or willful breach of trust; or commission of a crime against the person of the employer or his immediate family—grounds under Art. 282 of the Labor Code that sanction dismissals of employees. They must be most judicious and circumspect in awarding separation pay or financial assistance as the constitutional policy to provide full protection to labor is not meant to be an instrument to oppress the employers. The commitment of the Court to the cause of labor should not embarrass us from sustaining the employers when they are right, as here. In fine, we should be more cautious in awarding financial assistance to the undeserving and those who are unworthy of the liberality of the law.

WHEREFORE, the instant petition for certiorari is GRANTED. The award of separation pay in favor of the private respondent Nestor V. Luces in the assailed 12 July 2013 Resolution of the public respondent National Labor Relations Commission is DELETED.

SO ORDERED.

Lazaro-Javier and Galapate-Laguilles, JJ., concur.

[1] Rollo, pp. 23 - 28

[2] Rollo, pp. 30 - 31

[3] Rollo, pp. 78 - 82

[4] Rollo, pp. 23 - 24

[5] Herein petitioner ASM Trading Center Corporation

[6] Herein private respondent Nestor V. Luces

[7] Herein petitioners ASM Trading Center Corporation and its President, Allen Macasaet

[8] Rollo, pp. 26 - 27

[9] G.R. No. 201701, June 3, 2013

[10] G.R. No. 161016, 15 March 2010, 615 SCRA 240, cited in Reynaldo Hayan Moya v. First Solid Rubber Industries, Inc., G.R. No. 184011, September 18, 2013

[11] G.R. No. 163607, 14 July 2008, 558 SCRA 194, 204-205 citing San Miguel Corporation v. Lao, 433 Phil. 890, 899-890 (2002), cited in Universal Robina Corporation, et. al. v. Wilfredo Z. Castillo, G.R. No. 189686, July 10, 2013

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.