

TELETECH CUSTOMER CARE MANAGEMENT PHILIPPINES, INC./ CHRISTOPHER JAMES, PETITIONERS, VS. THE NATIONAL LABOR RELATIONS COMMISSION AND JENNIFER G. LEGASPI, RESPONDENTS.

Ponente: PAREDES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d1a0191df0c9/>

PAREDES, J.:

THE CASE

THIS IS ON THE SPECIAL CIVIL ACTION OF CERTIORARI under Rule 65 of the 1997 Rules of Civil Procedure filed by petitioners TELETECH Customer Care Management Philippines, Inc. (Teletech)/ Christopher James (James), which seeks to annul the Decision[1] dated August 15, 2012, and the Resolution[2] dated September 28, 2012 of respondent National Labor Relations Commission (NLRC), in NLRC LAC No. 05-001515-12/NLRC NCR CASE No. 05-07289-11, which held that respondent Jennifer J. Legaspi (Jennifer) was illegally dismissed, and denied Teletech/James' motion for reconsideration, respectively.

THE ANTECEDENTS

On September 11, 2009, an Employment Agreement[3] was entered into between Teletech and Jennifer for the position of Technical Support Associate, to commence on September 14, 2009, on a probationary period of six months until March 12, 2010. The employment agreement contains provisions on Jennifer's regularization, training, salary, position/duties and responsibilities, restrictive covenants, and termination.

On May 5, 2011, Jennifer filed a complaint[4] against Teletech/James for illegal dismissal and other claims before the Labor Arbiter. In her position paper, Jennifer narrated that her position as a Technical Support Associate, internally, has a three level responsibility, with level 2 referred to as "Orders" team, and level 3 as Complex Orders team. She stated that three months after her regularization, she was chosen to train for a level 2 position. After barely three months, she was again chosen to train for level 3. While she was undergoing training for level 3, she learned that there was an opening in the Training Team. She conveyed her interest in the position for which she was scheduled for a teaching demonstration and, thereafter, she was interviewed. The post was offered to her and she transferred to the training team, first as a training intern, then as a trainer.

While she was in the training team, she came to know of a conflict between the four trainers and their supervisor. The conflict festered even after the same was subjected to mediation by their supervisor. Such was the extent of the conflict in the training department that Jennifer became sick and was diagnosed to have tinitus in one ear and dizzy spells resulting from stress. The doctor advised her to take a leave of absence for one month. While she was on medical leave, she received a letter requiring her to report for work. She reported for work on April 5, 2011, and had a meeting with the Program Director, petitioner James, who told her that she has no place in the training team or in operations.

After hearing this, she realized that she was fired, thus, she called her lawyer. On April 15, 2011, she reported for work as her leave of absence was already over. She brought a letter addressed to the program director asking for clarification with regard to the April 5, 2011 meeting. Only Mr. Filomeno Fabunan, Jr. met her and told her to report on April 18, 2011, to assume a Level 3 position in TSR (Technical Support Representative).

On April 18, 2011, Jennifer reported for work bringing with her a letter from her lawyer stating that her return to level 3 position was tantamount to constructive dismissal. The program director, upon reading the letter, stated that there is no such position and refused to acknowledge receipt of the letter. Jennifer proceeded to the Office of the Barangay Council of Barangay Pasong Putik Proper for assistance in the delivery of the letter.

On April 25, 2011, Jennifer went to the NLRC for assistance. On May 4, 2011, Jennifer received a Notice to explain from Teletech. On May 6, 2011, Jennifer's counsel received a letter reply from petitioners' lawyer stating that Jennifer's assignment as trainer was temporary and on April 11, 2011, the program director advised her that she would resume her TSR position. She was never told that she was being dismissed.

On May 8, 2011, Jennifer received a letter informing her of her termination. On May 9, 2011, a mediation hearing was conducted at the NLRC, but the parties did not reach an agreement.

In their position paper, Teletech/James asserted that Jennifer was offered, and she accepted, a training SME assignment which she knew was interim in nature. At the end of her training, she was not able to obtain the certifications from Teletech and Teletech's client which are required for promotion to Product Trainer position. There was also no vacancy for the said position. On April 5, 2011, James informed Jennifer that she will resume her duties as a TSR after her medical leave, to which, Jennifer replied that she will file an illegal dismissal case.

On April 15, 2011, Jennifer returned bringing with her a letter from her lawyer. During the counselling session, James informed her that she had to resume her duties as a TSR; that she cannot be promoted as a Trainer because she failed to obtain the needed certification; and that there was no vacancy for her in the training team. On April 18, 2011, Teletech verbally informed her to report for work. Jennifer did not report for work. On April 20, 2011, Teletech issued a return to work directive, which reads, as follows:

Dear Ms. Legaspi:

A report has been forwarded to the Human Capital Delivery (HCD) today, April 20, 2011 that you have not reported for work since yesterday, April 19, 2011. You are hereby directed to return to work immediately upon receipt of this notice. As mentioned to you by your Program Director during the meeting on April 18, 2011, your schedule will be from 8:00am-5:00pm from Monday until Friday. You will be directly reporting to Allan Anis as your Supervisor.

If you have any clarification, please contact your Manager, Ms. Sharon Bagay and/or Program Director, Mr. Christopher James.[5]

Despite receipt of the Notice, Jennifer still did not report for work. On April 29, 2011, Teletech sent her a Notice to explain.[6] Jennifer did not submit an explanation. On May 6, 2011, Teletech sent her a Notice of termination of employment[7] on the ground of gross neglect of duties for failure to perform her duties and excessive absences.

On January 30, 2012, the Labor Arbiter issued a Decision[8] disposing the case as follows:

WHEREFORE, premises above considered, judgment is hereby rendered finding complainant to have been illegally dismissed from her work. Consequently, backwages and in lieu of reinstatement, separation pay equivalent to one (1) month pay per year [of] service, moral damages of One Hundred Thousand Pesos (P100,000.00) and exemplary damages of One Hundred Fifty Thousand Pesos (P150,000.00) plus attorney's

fees equivalent to ten percent (10%) of herein total award, for having compelled to litigate this case.

All other claims are hereby denied for (sic) without basis to award the same.

The NLRC Computation and Examination Unit of their office is hereby directed to compute the monetary award, forming part of this decision.

SO ORDERED.[9]

Teletech/James appealed the decision of the Labor Arbiter to the NLRC which, on August 15, 2012, issued the assailed Decision with the following dispositive portion:

WHEREFORE, all of the foregoing premises considered, the appeal of respondents is hereby DISMISSED for lack of merit; while the appeal of complainant is hereby declared with partial merit. The appealed Decision is hereby MODIFIED to include in the computation of the backwages and separation pay of complainant the monthly benefits of P1,000.00 meal allowance and P500.00 rice subsidy, and that for backwages to commence on April 01, 2011, both to be computed up to finality of this decision, plus the correspondingly modified 10% attorney's fees; which as of July 23, 2012 are as follows:

Backwages

-

P300,281.06

Separation pay

-

48,000.00

10% attorney's fees

-

34,828.16

Total Awards

-

P383,109.82

The computation of this Commission's Computation and Examination Unit (CEU) forms part of this Resolution.

SO ORDERED.[10]

Petitioners subsequent Motion for Reconsideration was denied in the Resolution dated September 28, 2012, as follows:

WHEREFORE, the motion for reconsideration is denied for lack of merit.

NO FURTHER MOTION OF SIMILAR NATURE SHALL BE ENTERTAINED.

SO ORDERED.[11] (Emphasis in the original)

Teletech/James cite five grounds to support their petition as follows:

I.

RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN RULING THAT RESPONDENT LEGASPI WAS ILLEGALLY DISMISSED.

II.

RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN RULING THAT RESPONDENT LEGASPI WAS CONSTRUCTIVELY DISMISSED AS EARLY AS APRIL 5, 2011.

III.

RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN AFFIRMING THE AWARD FOR SEPARATION PAY AND BACKWAGES.

IV.

RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN AFFIRMING THE LABOR ARBITER'S AWARD FOR DAMAGES AND ATTORNEY'S FEES.

V.

INDIVIDUAL PETITIONER JAMES SHOULD NOT BE HELD PERSONALLY LIABLE.

THE ISSUE

The issue for resolution is whether Jennifer was illegally dismissed.

THE COURT'S RULING

The petition is without merit.

Article 282[12] of the Labor Code provides for the grounds when an employee can be validly dismissed. In dismissing an employee, the employer is required to observe substantial and procedural due process. The employer must provide the employee two notices, one informing him/her of the ground of the dismissal and two, the notice of the dismissal itself. The employee must be given the chance to present his/her side on the matter.

In the case at bar, petitioners argue that Jennifer's termination was grounded on gross neglect of duties when she failed to report for work for some time despite being directed to do so; hence, there was no illegal dismissal because she was never told that she was being dismissed. Instead, she was informed to return to work, and when she did not report for work, she was allowed to explain in writing why she failed to do so.[13]

Gross neglect of duty "denotes a flagrant and culpable refusal or unwillingness of a person to perform a duty." It "refers to negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with a conscious indifference to consequences insofar as other persons may be affected.[14]

The facts of this case are clear. Jennifer stopped reporting for work because the program director told her that she has no place in the training team or in operations. The Labor Arbiter held that there is constructive dismissal because Jennifer can no longer go back to work after the said meeting. It is settled that:

"Constructive dismissal exists where there is cessation of work because continued employment is rendered impossible, unreasonable or unlikely, as an offer involving a demotion in rank and a diminution in pay." It is a "dismissal in disguise or an act amounting to dismissal but made to appear as if it were not." Constructive dismissal may likewise exist if an "act of clear discrimination, insensibility, or disdain by an employer becomes so unbearable on the part of the employee that it could foreclose any choice by him except to forego his continued employment." "Constructive dismissal exists when the employee involuntarily resigns due to the harsh, hostile, and unfavorable conditions set by the employer." "The test of constructive dismissal is whether a reasonable person in the employee's position would have felt compelled to give up his position under the circumstances." [15]

Teletech/James would like to impress upon us that it is Jennifer who refused to report for work. On the contrary, Jennifer has sufficiently established what transpired before April 19, 2011; that is she was called to report for work on April 5, 2011, while she was on sick leave, and the program director told her that she has no place in the training team or in operations when she protested her reassignment as TSR.

Teletech/James argues that Jennifer has no basis for refusing to return to her work as TSR because she was never promoted. In this regard, We agree with the NLRC in its findings, that:

At the outset, it must be emphasized that respondents' allegations regarding the procedure for promotion from TSR to Trainer position and the particular circumstances of the alleged interim training of complainant (Jennifer) are mainly based on the affidavits of the officers of respondent (now, petitioner) Teletech without presenting the documentary evidence from which they supported (sic) made their statements.

The affidavits of petitioner Teletech's officers may be considered as merely self-serving absent the presentation of the documentary evidence from which they based their respective allegations or statements.

A conclusion of fact or law cannot be derived from the unsubstantiated assertions of the parties, notwithstanding the demands of convenience or dispatch in legal actions, otherwise the court would be guilty of sorcery, extracting substance out of nothingness (citation omitted).

xxx xxx xxx

In contrast, a perusal of the printout to (sic) petitioner Teletech's organizational structure dated November 2010, shows that Jennifer is assigned under Training Manager Goemlet with the latter designated at Orders/Complex Orders." Notably, there is no indication that Jennifer occupied the position in an interim capacity. [16]

In sum, We find that Teletech failed to prove gross neglect of duty as basis for the termination from employment of Jennifer. Therefore, We have no other recourse but to affirm the assailed Decision and Resolution of the NLRC.

WHEREFORE, the Petition for Certiorari is DENIED. The Decision dated August 15, 2012, and the Resolution dated September 28, 2012 of the National Labor Relations Commission, in NLRC LAC No. 05-001515-12/NLRC NCR CASE No. 05-07289-11, 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.

Didican, I.P., Chairperson and Elibinias, M.P., JJ., concur.

[1] Rollo, pp. 44-63.

[2] Ibid., pp. 65-6.

[3] Rollo, pp. 178-182.

[4] Rollo, p. 107.

[5] Ibid., p. 97.

[6] Ibid., p. 98.

[7] Ibid., p. 101.

[8] Ibid., pp. 300-17.

[9] Ibid., p. 317.

[10] Rollo, pp. 61-2.

[11] Rollo, p. 66.

[12] Art. 282. Termination by employer. An employer may terminate an employment for any of the following causes:

- Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;

- Gross and habitual neglect by the employee of his duties;

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

- 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

- Other causes analogous to the foregoing.

[13] In termination cases grounded on Article 282, the employer is required to observe the procedural due process, in *Unilever Philippines, Inc. vs. Maria Ruby M. Rivera*, G.R. No. 201701, June 3, 2013 citing the case of *King*

of Kings Transport, Inc. v. Mamac, G.R. No. 166208, June 29, 2007, the detailed the steps were laid down as follows:

To clarify, the following should be considered in terminating the services of employees:

(1) The first written notice to be served on the employees should contain the specific causes or grounds for termination against them, and a directive that the employees are given the opportunity to submit their written explanation within a reasonable period. "Reasonable opportunity" under the Omnibus Rules means every kind of assistance that management must accord to the employees to enable them to prepare adequately for their defense. This should be construed as a period of at least five (5) calendar days from receipt of the notice to give the employees an opportunity to study the accusation against them, consult a union official or lawyer, gather data and evidence, and decide on the defenses they will raise against the complaint. Moreover, in order to enable the employees to intelligently prepare their explanation and defenses, the notice should contain a detailed narration of the facts and circumstances that will serve as basis for the charge against the employees. A general description of the charge will not suffice. Lastly, the notice should specifically mention which company rules, if any, are violated and/or which among the grounds under Art. 282 is being charged against the employees.

(2) After serving the first notice, the employers should schedule and conduct a hearing or conference wherein the employees will be given the opportunity to: (1) explain and clarify their defenses to the charge against them; (2) present evidence in support of their defenses; and (3) rebut the evidence presented against them by the management. During the hearing or conference, the employees are given the chance to defend themselves personally, with the assistance of a representative or counsel of their choice. Moreover, this conference or hearing could be used by the parties as an opportunity to come to an amicable settlement.

(3) After determining that termination of employment is justified, the employers shall serve the employees a written notice of termination indicating that: (1) all circumstances involving the charge against the employees have been considered; and (2) grounds have been established to justify the severance of their employment.

[14] Philippine National Bank vs. Mary Sheila Arcobillas, G.R. No. 179648, August 7, 2013.

[15] Vicente Ang vs. Ceferino San Joaquin, Jr., G.R. No. 185549, August 7, 2013.

[16] Ibid., pp. 58-9.

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.