

RUFINO NORBERTO F. SAMSON, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, SCHERING-PLOUGH CORPORATION, LEO RICONALLA AND JOSE L. ESTINGOR, RESPONDENTS.

G.R. No. 121035. April 12, 2000

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Through this petition for certiorari, Rufino Norberto F. Samson ("petitioner") assails the Decision, dated 17 March 1995, of the National Labor Relations Commission in the consolidated cases of NLRC NCR-00-01-00652-94 and NLRC NCR-00-02-00887-94. Petitioner likewise assails the Resolution, dated 10 May 1995, of the NLRC denying his motion for reconsideration.

The assailed decision of the NLRC reversed and set aside the Decision, dated 25 August 1994, of Labor Arbiter Ricardo C. Nora finding respondent Schering-Plough Corporation ("respondent company") guilty of illegal dismissal and ordering it to reinstate petitioner to his former position as District Sales Manager and to pay him backwages.

As culled from the decisions of the labor arbiter and the NLRC, the facts of the case are as follows:

This pertains to the case (NCR-00-01-00652-94) filed by the complainant Rufino Norberto F. Samson against the respondents Schering – Plough Corp. ('SPC' for brevity) and Mr. Leo C. Riconalla, National Sales Manager, for money equivalent of rice subsidy for the period April 1990 to December 1992 and holiday pay, now deemed submitted for resolution based on records available.

On February 1, 1994, said complainant filed another case (NCR-00-02-00887-94) for illegal preventive suspension raffled to the Honorable Labor Arbiter Donato G. Quinto, Jr. and consolidated to the above case number.

Likewise, on February 4, 1994, complainant filed a Motion to Amend Complaint and averred pertinently that 'x x x complainant was placed under an indefinite preventive suspension on 25 January 1994'; and 'x x x was arbitrarily and summarily terminated from employment on 03 February 1994 on ground of loss of confidence.'

As culled from the records of the instant case, what really precipitated complainant's preventive suspension culminating to his dismissal is (sic) the incident that took place on December 17, 1993 as gleaned from the exchange of letters/memoranda from both parties.

In a letter dated 25 January 1994 (Annex 'A') addressed to the complainant Mr. Samson signed by one J.L. Estingor, the latter called the attention of (sic) the complainant's conduct 'x x x in a manner inimical to the interests of SPC' and enumerated the following acts committed by the complainant; to wit:

x x x x x x x x x

1. On or about 17 December 1993, during the Sales and Marketing Christmas gathering, you made utterances of obscene, insulting, and offensive words, referring to or directed against SPC's Management Committee, in the presence of several co-employees.

2. On that same occasion, and again in the presence of several co-employees, you uttered obscene, insulting and offensive words, and made malicious and lewd gestures, all of which referred to or were directed against Mr. Epitacio D. Titong, Jr. President and General Manager of SPC.

3. Also on that same occasion, you repeated your malicious utterances and threatened to disrupt or otherwise create violence during SPC's forthcoming National Sales Conference, and enjoined your co-employees not to prepare for the said conference.

4. Subsequently, on or about 3 January 1994, you repeated your threats to some co-employees, advising them to watch out for some disruptive actions to happen during the National Sales Conference.' (Underscoring ours)

Complainant was given two (2) days from receipt of the foregoing letter and to explain 'x x x why no disciplinary action, including termination', should be taken against the complainant and in the meantime was placed on preventive suspension effective immediately, until further notice.

Complainant on the very same date 25 January 1994 and in reply to the above-mentioned letter/memo (Annex 'B') wrote an explanation stating:

'x x x x x x x x x

Relative to the said memo I would like to categorically state the following facts:

1. That the act(s) alluded in the memo, specifically paragraph[s] 1 and 2, which alleged that I uttered obscene, insulting and offensive words is not true. If ever I happened to utter such words it was made in reference to the decision taken by the management committee on the Cua Lim case and not to any particular or specific person(s) as stated in the memo.

2. I beg to disagree with the statement made in Paragraphs 3 and 4 of the same memo as I deny to have uttered much less threaten to create violence and disrupt the holding of the National Sales Conference.

Finally, I am lodging a formal protest for being placed under preventive suspension it being contrary to the memo which gave me two (2) days within which to explain my position before any disciplinary action could be initiated. I believe that the pre-empted imposition of the preventive suspension is not only arbitrary but is violative of my constitutional 'right to due process'.

Submitted for your information.' (Underscoring ours)

Again, on January 27, 1994, complainant wrote a letter (Annex 'C') addressed to Mr. J.L. Estingor, HRD Manager, which in part reads:

'x x x x x x x x x

Being a staff (DSM) assigned in the field I seldom stay in the office except on extreme necessity or when my presence is required. Under such situation my continued employment will not in any way poses [sic] serious or imminent threat to the life and property of the company as well as my co-employees. The preventive suspension meted out against me is not only abusive, arbitrary but indiscriminately applied under the guise of managerial prerogative but violative of my right under the law.

I trust that my immediate reinstatement will be acted upon without any further delay.'

In a letter dated February 3, 1994, respondent SPC thru Mr. J.L. Estingor, wrote a letter (Annex 'D') to the complainant Mr. Samson, the dispositive part of which reads as follows:

'x x x x x x x x x

In view of the foregoing, notice is hereby given that your employment from Schering Plough Corporation is terminated effective at the close of business hours of 3 February 1994.

We reiterate our previous directive for you to turn over the service vehicle, all money, documents, records and other property in your possession or custody to the National Sales Manager. Please comply with this directive immediately.”[1]

On the basis of the pleadings filed by the parties and evidence on record, the labor arbiter rendered his Decision, dated 25 August 1994, declaring the dismissal of petitioner illegal. The labor arbiter ruled that petitioner’s conduct is not so serious as to warrant his dismissal because: 1) the alleged offensive words were uttered during an informal and unofficial get-together of employees where there was social drinking and petitioner was already tipsy; 2) the words were uttered to show disapproval over management’s decision on the "Cua Lim" case; 3) the penalty for the offense is only "verbal reminder" under respondent company’s rules and regulations; and 4) petitioner was already admonished during a meeting on 4 January 1994. Accordingly, respondent company was ordered to reinstate petitioner as District Sales Manager and to pay him backwages.[2]

Both parties appealed said decision to the NLRC. Petitioner filed a partial appeal of the denial of his claim for holiday pay and the cash equivalent of the rice subsidy. For its part, respondent company sought the reversal of the decision of the labor arbiter alleging that the latter erred in ruling that petitioner’s employment was terminated without valid cause and in ordering his reinstatement.

In reversing the labor arbiter’s decision, the NLRC found that there was just cause, i.e., gross misconduct, for petitioner’s dismissal. The NLRC made the following disquisition, thus:

It is well established in the records that complainant made insulting and obscene utterances directed at the respondent company’s management committee in the presence of several employees. Again, he directed his verbal abuse against General Manager and President Epitacio D. Titong, Jr. by uttering "Si EDT, bullshit yan", "sabihin mo kay EDT yan"; and "sabihin mo kay EDT, bullshit yan" while gesturing and making the "dirty finger" sign. (page 7, Decision) These utterances were made by the complainant in [a] loud manner. (Affidavit of Leo C. Riconalla, Annex "1", of respondents’ position paper) He was further accused of threatening to disrupt respondents’ national sales conference by telling Ms. Anita Valdezco that the conference will be a "very bloody one." (Respondents’ position paper)

We consider the foregoing actuations of the complainant as constituting gross misconduct, sufficient to justify respondents in terminating his services. The actuation of the complainant is destructive of the morals of his co-employees and, therefore, his continuance in the position of District Sales Manager would be patently inimical to the respondent company’s interest.

Complainant is a managerial employee as he is a District Sales Manager. As such, his position carries the highest degree of responsibility in improving and upholding the interests of the employer and in exemplifying the utmost standard of discipline and good conduct among his-co-employees. (Top Form Mfg. Inc., vs. NLRC, 218 SCRA 313) In terminating the employment of managerial employees, the employer is allowed a wider latitude of discretion than in the case of ordinary rank-and-file employee. (Aurelio vs. NLRC, et al., G.R. 99034, April 12, 1993)[3]

Preliminarily, we find it necessary to resolve the procedural issues raised by respondent company in its Comment (with Motion for Clarification), dated 6 September 1995. Respondent company harped on the fact that the caption of the petition did not include the docket numbers of the cases before the NLRC in violation of Supreme Court Circular 28-91. We do not find this omission fatal as the pertinent docket numbers had been set out in the first and second pages of the petition. The same constitutes substantial compliance with the requirement of the law.

Respondent company further opined that the petition should be summarily dismissed as the decision had become final and executory citing Section 114, Rule VII and Section 2 (b), Rule VIII of the Rules of Procedure of the NLRC. This contention is likewise untenable. As an original action for certiorari, the petition was merely required

to be filed within a reasonable time from receipt of a copy of the questioned decision or resolution.[4] Under the rules then in effect at the time of the filing of the instant petition, a period of three (3) months was considered to be "reasonable time".[5] In this case, petitioner received a copy of the assailed NLRC decision on 25 April 1995. He filed a motion for reconsideration on 27 April 1995 but it was denied by the NLRC in its assailed resolution, a copy of which was received by petitioner on 1 July 1995. The instant petition was filed twenty-seven (27) days after said receipt or on 28 July 1995. Clearly, the instant petition was filed well within the reglementary period provided by law.

Having settled that, we now address the substantive issue involved in this case, i.e., whether the NLRC acted with grave abuse of discretion amounting to lack or excess of jurisdiction in reversing the decision of the labor arbiter and ruling that petitioner was validly dismissed.

We rule in favor of petitioner.

The issue of whether petitioner was validly dismissed is a factual one and generally, factual findings of the NLRC are accorded respect. In this case, however, there is compelling reason to deviate from this salutary principle because the findings of facts of the NLRC are in conflict with that of the labor arbiter. Accordingly, this Court must of necessity review the records to determine which findings should be preferred as more conformable to the evidentiary facts.[6]

To constitute valid dismissal, two (2) requisites must be met: (1) the dismissal must be for any of the causes expressed in Article 282 of the Labor Code; and (2) the employee must be given an opportunity to be heard and defend himself.[7] Article 282 of the Labor Code provides:

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 representative; and
- e. Other causes analogous to the foregoing.

As borne by the records, petitioner's dismissal was brought about by the utterances he made during an informal Christmas gathering of respondent company's Sales and Marketing Division on 17 December 1993. Petitioner was heard to have uttered, "Si EDT (referring to Eptacio D. Titong, General Manager and President of respondent company), bullshit yan," "sabihin mo kay EDT yan" and "sabihin mo kay EDT, bullshit yan," while making the "dirty finger" gesture. Petitioner likewise told his co-employees that the forthcoming national sales conference of respondent company would be a "very bloody one."

The NLRC ruled that the foregoing actuation of petitioner constituted gross misconduct warranting his dismissal. Citing jurisprudence, the NLRC held that "in terminating the employment of managerial employees, the employer is allowed a wider latitude of discretion than in the case of ordinary rank-and-file." [8]

We do not agree with the findings of the NLRC.

Misconduct is improper or wrong conduct. It is the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies wrongful intent and not mere error in judgment. The misconduct to be serious must be of such grave and aggravated character and not merely trivial and unimportant. Such misconduct, however serious, must, nevertheless, be in connection with the employee's work to constitute just cause for his separation.[9]

In this case, the alleged misconduct of petitioner, when viewed in its context, is not of such serious and grave character as to warrant his dismissal. First, petitioner made the alleged offensive utterances and obscene gesture during an informal Christmas gathering of respondent company's district sales managers and marketing staff. The gathering was just a casual get-together of employees. It is to be expected during this kind of gatherings, where tongues are more often than not loosened by liquor or other alcoholic beverages, that employees freely express their grievances and gripes against their employers. Employees should be allowed wider latitude to freely express their sentiments during these kinds of occasions which are beyond the disciplinary authority of the employer. Significantly, it does not appear in the records that petitioner possessed any ascendancy over the employees who heard his utterances as to cause demoralization in the ranks.

Second, petitioner's outburst was in reaction to the decision of the management in the "Cua Lim" case. Admittedly, using the words "bullshit" and "putang ina" and making lewd gesture to express his dissatisfaction over said management decision were clearly in bad taste but these acts were not intended to malign or cast aspersion on the person of respondent company's president and general manager.

The instant case should be distinguished from the previous cases where we held that the use of insulting and offensive language constituted gross misconduct justifying an employee's dismissal. In *De la Cruz vs. NLRC*,^[10] the dismissed employee shouted "sayang ang pagka-professional mo!" and "putang ina mo" at the company physician when the latter refused to give him a referral slip. In *Autobus Workers' Union (AWU) vs. NLRC*,^[11] the dismissed employee called his supervisor "gago ka" and taunted the latter by saying "bakit anong gusto mo, tang ina mo." In these cases, the dismissed employees personally subjected their respective superiors to the foregoing verbal abuses. The utter lack of respect for their superiors was patent. In contrast, when petitioner was heard to have uttered the alleged offensive words against respondent company's president and general manager, the latter was not around.

In *Asian Design and Manufacturing Corporation vs. Deputy Minister of Labor*,^[12] the dismissed employee made false and malicious statements against the foreman (his superior) by telling his co-employees: "If you don't give a goat to the foreman you will be terminated. If you want to remain in this company, you have to give a goat." The dismissed employee therein likewise posted a notice in the comfort room of the company premises which read: "Notice to all Sander - Those who want to remain in this company, you must give anything to your foreman. Failure to do so will be terminated – Alice 80." In *Reynolds Philippine Corporation vs. Eslava*,^[13] the dismissed employee circulated several letters to the members of the company's board of directors calling the executive vice-president and general manager a "big fool," "anti-Filipino" and accusing him of "mismanagement, inefficiency, lack of planning and foresight, petty favoritism, dictatorial policies, one-man rule, contemptuous attitude to labor, anti-Filipino utterances and activities." In this case, the records do not show that petitioner made any such false and malicious statements against any of his superiors.

Third, respondent company itself did not seem to consider the offense of petitioner serious and grave enough to warrant an immediate investigation on the matter. It must be recalled that petitioner uttered the alleged offensive language at an informal gathering on 17 December 1993. He then allegedly made threatening remarks about the forthcoming sales conference on 3 January 1994. During a meeting on 4 January 1994, Mr. Titong, Jr., the president and general manager of respondent company and allegedly to whom the offensive words were directed,

merely admonished petitioner stating that, "when there is a disagreement, act in a professional and civilized manner." Respondent company allowed several weeks to pass before it deemed it necessary to require petitioner to explain why no disciplinary action should be taken against him for his behavior. This seeming lack of urgency on the part of respondent company in taking any disciplinary action against petitioner negates its charge that the latter's misbehavior constituted serious misconduct.

Further, respondent company's rules and regulations[14] provide as follows:

NATURE OF THE OFFENSE

1. xxx

2. Loafing or loitering, engaging in fistcuffs or loudmouthed quarreling or provoking or engaging others to such behaviour, inflicting bodily harm to another, any violent act or language which affects adversely morals, production or the maintenance of discipline, indecent or immoral conduct during working hours; unauthorized participation in activities during official hours which are outside of regularly assigned duties; malingering; unauthorized absence such as undertime; going on sick leave although not actually sick; frequently receiving visitors during official hours for personal matter.

3. Willful and intentional refusal without valid reason to accept work or follow specific instructions; disrespect; insolence; and like behavior towards a superior authority of a high ranking officer of the company.

P E N A L T I E S

First Offense: Verbal reminder

Second Offense: Written reprimand

Third offense: Payroll deduction for time not worked due offenses. Review with Dept. Head with written follow up.

Fourth Offense: 2nd written reprimand with warning of suspension

Fifth Offense: Suspension and final reprimand with warning of dismissal if reoccurs.

Sixth Offense: Dismissal

Petitioner's conduct on 17 December 1993 may be properly considered as falling under either paragraph number 2, i.e., use of violent language, or paragraph number 3, i.e., insolence or disrespect towards a superior authority. Being a first offense, the appropriate penalty imposable on petitioner is only a "verbal reminder" and not dismissal.

Indeed, the penalty of dismissal is unduly harsh considering that petitioner had been in the employ of respondent company for eleven (11) years and it does not appear that he had a previous derogatory record. It is settled that notwithstanding the existence of a valid cause for dismissal, such as breach of trust by an employee, nevertheless, dismissal should not be imposed, as it is too severe a penalty if the latter had been employed for a considerable length of time in the service of his employer, and such employment is untainted by any kind of dishonesty and irregularity.[15]

This concern of the Court for the termination of employment even on the assumption that conduct far from exemplary was indulged in was made evident in the case of *Almira vs. B.F. Goodrich Philippines, Inc.*,[16] where this Court held:

It would imply at the very least that where a penalty less punitive would suffice, whatever missteps may be

committed by labor ought not to be visited with a consequence so severe. It is not only because of the law's concern for the workingman. There is, in addition, his family to consider. Unemployment brings untold hardships and sorrows on those dependent on the wage-earner. The misery and pain attendant on the loss of jobs then could be avoided if there be acceptance of the view that under all circumstances of this case, petitioners should not be deprived of their means of livelihood. Nor is this to condone what had been done by them. For all this while, since private respondent considered them separated from the service, they had not been paid. From the strictly juridical standpoint, it cannot be too strongly stressed, to follow Davis in his masterly work, Discretionary Justice, that where a decision may be made to rest on informed judgment rather than rigid rules, all the equities of the case must be accorded their due weight.[17]

Given the environmental circumstances of this case, the acts of petitioner clearly do not constitute serious misconduct as to justify his dismissal. Neither is his dismissal justified on ground of loss of confidence. As a ground for dismissal, the term "trust and confidence" is restricted to managerial employees.[18] We share the view of the Solicitor General that petitioner is not a managerial employee. Before one may be properly considered a managerial employee, all the following conditions must be met:

- (1) Their primary duty consists of the management of the establishment in which they are employed or of a department or sub-division thereof;
- (2) They customarily and regularly direct the work of two or more employees therein;
- (3) They have the authority to hire or fire other employees of lower rank; or their suggestions and recommendations as to the hiring and firing and as to the promotion or any other change of status of other employees are given particular weight.[19]

Further, it is the nature of the employee's functions, and not the nomenclature or title given to his job, which determines whether he has rank-and-file, supervisory or managerial status.[20] Petitioner describes his functions as District Sales Manager as follows:

"The office of a District Sales Manager's primary responsibility is to achieve or surpass the sales and profit targets for each territory in the assigned district through: (a) efficient planning; (b) management function; and (c) auditing and control. "Management action," on the other hand, means to direct the activities of the Professional Medical Representatives [by]: (1) [making] decisions that are compatible with district, national and corporate objectives; (2) [directing] the activities of representative through - (a) frequent field visits (must spend at least 80% of working days in a quarter, allocating eight (8) working days per PMR/quarter excluding travel time); (b) written communications; (c) sales meetings - (3) [training] PMRs in medical/product knowledge; (4) [motivating] and [developing] PMRs toward greater productivity; (5) [acting] as a channel between field and home office; (6) [maintaining] records as basis for quick analysis of the district performance; (7) [overseeing] special projects assuring the cost benefit value of such benefit; (8) x x x suggesting to sales management new ideas, methods, devices to increase productivity of sales district or individual properties; and [insuring] safe custody and proper maintenance of all company properties (e.g. company cars, audio-visuals).[21]

The above job description does not mention that petitioner possesses the power "to lay down policies nor to hire, transfer, suspend, lay off, recall, discharge, assign or discipline employees." Absent this crucial element, petitioner cannot be considered a managerial employee despite his designation as District Sales Manager.

Granting *arguendo* that petitioner were to be considered a managerial employee, the ground for "loss of confidence" is still without basis. Loss of trust and confidence to be a valid ground for an employee's dismissal must be clearly established.[22] A breach is willful if it is done intentionally, knowingly and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. It must rest on substantial grounds and not on the employer's arbitrariness, whims, caprices or suspicion, otherwise, the

employee would remain at the mercy of the employer.[23] When petitioner made the offensive utterances, it can be said that he merely acted "carelessly, thoughtlessly or heedlessly" and not "intentionally, knowingly, purposely, or without justifiable excuse."

In fine, there being no just cause for petitioner's dismissal, the same is consequently unlawful. Petitioner is thus entitled to reinstatement to his position as District Sales Manager, unless such position no longer exists, in which case he shall be given a substantially equivalent position without loss of seniority rights. He is likewise entitled to the payment of his full backwages.

With respect to petitioner's other monetary claims, however, we agree with the findings of the labor arbiter that he failed to establish his entitlement thereto. We quote with approval the labor arbiter's pertinent findings as follows:

Anent the monetary claims of complainant for payment of the holiday pay and the cash equivalent of the rice subsidy for the period April 1990 to December 1992 vis-a-vis the documentary evidence available on records (Annexes "H" and "I") this Office is inclined to deny said claims for failure of the complainant to substantially and convincingly prove the same.

When complainant was appointed District Sales Manager effective April 1, 1990, his salary was increased by PESOS: Two Thousand Five Hundred Only (P2,500.00) (Annex "H") in accordance with respondent's "Salary Administrative Policy".

Again, effective January 1, 1993, complainant's salary was increased by PESOS: One Thousand One Hundred Four, so much so that in the span of two (2) years, complainant's salary reached the amount of Twenty Thousand Five Hundred Thirty Six (P20,536.00) Pesos which lends credence to the position of the respondent SPC that said claims for holiday pay and rice subsidy is already integrated in complainant's salary.[24]

WHEREFORE, the instant petition is GRANTED. The Decision, dated 17 March 1995, and Resolution, dated 10 May 1995, of the NLRC in the consolidated cases of NLRC NCR-00-01-00652-94 and NLRC NCR-00-02-00887-94 are REVERSED and SET ASIDE. The Decision, dated 25 August 1994, of the labor arbiter is REINSTATED.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Pardo, and Ynares-Santiago, JJ., concur.

[1] Decision of the Labor Arbiter, dated 25 August 1994, pp. 1-6; NLRC Decision, dated 17 March 1995, pp. 2-6. Underscoring in the original.

[2] Decision of the Labor Arbiter, *id.* at 6-13; Rollo, 41-48.

[3] NLRC Decision, *supra*, at 8-10; Rollo, pp. 59-61.

[4] *PCIB vs. NLRC*, 247 SCRA 614 (1995).

[5] *Philec Workers' Union vs. Young*, G.R. No. 101734, 22 January 1992.

[6] *Arboleda vs. NLRC*, 303 SCRA 38 (1999); *Tanala vs. NLRC*, 252 SCRA 314 (1996).

[7] *Maneja vs. NLRC*, 290 SCRA 603 (1998); *Lagatic vs. NLRC*, 285 SCRA 251 (1998).

[8] *Aurelio vs. NLRC*, 221 SCRA 432 (1993).

[9] *Cosep vs. NLRC*, 290 SCRA 704 (1998).

[10] 177 SCRA 626 (1989).

[11] 291 SCRA 219 (1998).

[12] 142 SCRA 79 (1986).

- [13] 137 SCRA 259 (1985).
- [14] Annex "E" to Petition; Rollo, pp. 66-67.
- [15] Yap vs. NLRC, 278 SCRA 272 (1997).
- [16] 58 SCRA 120 (1974).
- [17] See note 15 at 282.
- [18] Dela Cruz vs. NLRC, 268 SCRA 458 (1997); Marina Port Services, Inc. vs. NLRC, 193 SCRA 420 (1991).
- [19] Section 2(b), Rule I, Book III of the Omnibus Rules Implementing the Labor Code.
- [20] National Association of Trade Unions-Republic Planters Bank Supervisors Chapter vs. Torres, 239 SCRA 546 (1994); Batongbacal vs. Associated Bank, 168 SCRA 600 (1988).
- [21] Petition, pp. 20-21; Rollo, pp. 21-22.
- [22] Atlas Consolidated Mining and Development Corp. vs. NLRC, 290 SCRA 479 (1998); Labor vs. NLRC, 248 SCRA 183 (1995).
- [23] Surigao Del Norte Electric Cooperative vs. NLRC, G.R. No. 125212, 28 June 1999; Atlas Consolidated Mining and Development Corp., id.
- [24] see note 2 at 14-15; Rollo, pp. 49-50.

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