MALAYA SHIPPING SERVICES, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND ROLANDO M. REY, RESPONDENTS.

G.R. No. 121698. March 26, 1998

Ponente: ROMERO, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-121698/

ROMERO, J.:

This petition for certiorari seeks to vacate the decision of the National Labor Relations Commission (NLRC) dated April 29, 1995, sustaining the Labor Arbiter's finding of illegal dismissal, as well as the resolution dated June 26, 1995, denying petitioner's motion for reconsideration.

Petitioner Malaya Shipping Services, Inc. is a corporation engaged in the business of repairing containers used for maritime transport and navigation. Respondent Rolando M. Rey, on the other hand, was employed as welder sometime in June 1983 and assigned at petitioner's Container Repair Department (CRD).

The petitioner's version follows:

On June 18, 1992, at around 2:00 p.m., respondent, who was supposedly on duty starting at 8:00 a.m., arrived at the company premises apparently under the influence of liquor. The security guard on duty, Bernido A. Marchan, sensing that respondent was intoxicated, refused the latter entry into the company premises. Respondent, however, was persistent and explained that his purpose was merely to procure his automated teller machine card (ATM) from the Accounting Department.

Witnessing the incident, CRD Head Mr. Edgardo M. del Rosario approached respondent and advised him to go home but this appeal was rejected. Uttering expletive remarks, he insisted vociferously that he be allowed entry to the compound. Hoping to appease him, del Rosario finally relented and even escorted him to the accounting office.

After obtaining his ATM card, respondent started to cry for no apparent reason. Upon seeing his predicament, employees tried to comfort him but this show of concern was, not only rebuffed, but worse, he hurled invectives at them. When respondent was led out of the office, he saw a co-worker, Mr. Arturo Ramirez, standing beside a delivery truck. Without warning he cursed Ramirez, saying "Putang ina mo Turing, walanghiya ka, pati Ate ko sinisilipan mo," and chased the latter with manifest intent to inflict injury upon him. Unable to get hold of Ramirez, he vented his ire on another fellow employee, Wilfredo Gregorio, who was able to dodge the blow thrown at him. Frustrated, respondent repeatedly kicked a parked delivery truck until the driver of said truck "got out and took a piece of wood with which to scare respondent."[1] When apprised of the incident, two other co-workers, a certain Jonatas and Matic, tried to pacify the respondent but again, he screamed profanities, particularly at the former in this wise; "Putang ina mo matanda ka, sinungaling ka rin."

Consequently, petitioner's Finance and Administrative Manager, Mr. Engracio L. Sagcal, Jr., scheduled an investigation on July 13, 1992 for respondent to explain his behavior and why no disciplinary action should be

imposed on him. Directed to attend the inquiry were del Rosario, Ramirez, Jonatas and Matic.

At the inquiry, respondent merely proffered self-serving denials. Forthwith, he was suspended for fifteen (15) days commencing on July 15, 1992. On the ground of serious misconduct, he was terminated from employment on August 6, 1992.

Respondent, in his position paper, argues that the cause for his dismissal was unsubstantiated and that he was denied the statutory rights of notice and hearing.

In the complaint for illegal dismissal against petitioner, Labor Arbiter Ramon Valentin C. Reyes rendered a decision dated April 15, 1994, the dispositive portion of which reads:

> "WHEREFORE, premises all considered, judgment is hereby rendered declaring the dismissal illegal and ordering respondent to:

1. Pay complainant separation pay at 1/2 mo. for every year of service and backwages from the date of the termination to the date of decision;

2. Pay complainant his 13th month pay and accrued vacation leaves; and

3. Attorney's fees of 10% of the total monetary award.

The Research and Information Unit of this Commission is hereby directed to effect necessary computation which shall form part of this decision.

SO ORDERED."[2]

On appeal, this decision was affirmed by the NLRC with the deletion, however, of the award of attorney's fees.

There is merit in the petition.

It must be underscored that the factual findings of quasi-judicial agencies like the NLRC are generally accorded, not only respect but, at times, finality if such are supported by substantial evidence.[3] The rule will not apply, however, where the substantiality of the evidence requires a reversal or modification.[4] This is one such case.

Undoubtedly, the labor arbiter and the NLRC accorded credence to respondent's rejoinder which essentially refuted petitioner's allegation that an investigation of the incident was conducted, thereby affording the former his right to due process. They alleged that the transcript[5] taken during the investigation was unreliable for several reasons, namely: (1) the transcript did not bear the signature of the respondent; (2) the specific date on which the same took place was omitted; and (3) that while the claimed investigation was conducted on July 13, 1992, the affidavits[6] of Marchan, del Rosario and Ramirez were executed only on November 9, 1992 or four months after the alleged inquiry. These contentions are specious.

In proceedings before the NLRC, there is nothing in the Labor Code or in its implementing rules and regulations which require the submission of affidavits in company investigations for infractions committed by its employees. On the contrary, they are not indispensable in such inquiries for what usually takes place therein is merely the confrontation between the witnesses for and against the employee concerned. The affidavit's importance is underscored only upon order by the labor arbiter for the party litigants to submit their respective position papers. Rule V, Section 3 of the NLRC's rules states that in the event of the failure to reach an amicable settlement, the parties shall submit their position papers accompanied by all supporting documents, including the affidavits of their respective witnesses.

Likewise, the fact that the transcript is undated and unsigned by respondent is not a sufficient ground for rejecting

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

them. In the instant case, the genuineness of the transcript was attested to by several persons who, as the record shows, had no ulterior motive to falsely testify against respondent. Thus, in the absence of convincing proof that the witnesses were impelled by improper motive to make untruthful statements against respondent, their testimony shall be worthy of full faith and credit. Besides, there is no provision of law which prescribes that an employee must affix his signature on the transcript taken during company investigations.

With regard to the charge of serious misconduct, we find that the same was amply supported by the evidence on record. The respondent failed to make a categorical assertion that he did not commit the serious misconduct on June 18, 1992 or that the accusations against him were fabricated. It must be noted that the respondent's rejoinder, upon which the labor arbiter and the NLRC based their decision, neither denied the charge of misconduct nor controverted the same. Respondent merely harped on the alleged infirmities in the procedure for dismissing employees. The acts of respondent having been squarely put in issue, he, therefore, had all the opportunity to deny and disprove the allegations of petitioner. Evidently, he failed in this respect.

It is settled that in termination cases, the employer must furnish the worker with two (2) written notices before termination of employment can be legally effected: (a) notice which apprises the employee of the particular acts or omissions for which his dismissal is sought, and (b) the subsequent notice which informs the employee of the employer's decision to dismiss him.[7] Apparently, the first notice required seem absent from the record. Respondent, however, was accorded the second notice through registered mail which formally notified him of his termination from employment effective August 6, 1992. After a careful deliberation, we conclude that partial compliance with the statutory requirements respecting the procedure to be observed in terminating employees will not suffice. While this does not render the dismissal illegal, it makes the same defective for which "the employer must be sanctioned for non-compliance with the requirements of or for failure to observe due process."[8] "The twin requirements of notice and hearing constitute the essential elements of due process, and neither of those elements can be eliminated without running afoul of the constitutional guaranty. These requisites cannot be replaced as they are not mere technicalities, but requirements of due process to which every employee is entitled to ensure that the employer's prerogative to dismiss is not exercised abitrarily."[9]

This Court has held in numerous cases[10] that fighting within company premises is a valid ground for dismissing an employee. In Seahorse Maritime Corporation v. NLRC,[11] it was ruled that serious misconduct in the form of drunkenness and disorderly and violent behavior, habitual neglect of duty and insubordination or willful disobedience to the lawful orders of his superior officer, are just causes for the dismissal of an employee. Thus, we find that respondent's failure to deny culpability is fatal to his cause and that the same, therefore, "assumes the character of an admission of liability."[12]

In view of the prevailing circumstances, we hold that a valid cause exists for respondent's dismissal from his employment. The dismissal, however, of respondent was accomplished in violation of the "necessary procedural safeguards." In the recent case of Better Buildings, Inc. v. NLRC,[13] this Court held that where an employee's dismissal is grounded upon a just or valid cause but disregards the procedural aspect thereof, the dismissed employee shall be entitled to nominal damages.[14] The award is not for the purpose of penalizing the petitioner but to vindicate or recognize private respondent's right to procedural due process which was violated by the petitioner.

WHEREFORE, in view of the foregoing, the decision of the National Labor Relations Commission dated April 29, 1995 is hereby SET ASIDE. For the non-observance of full procedural due process in effecting the dismissal, petitioner shall PAY to the private respondent the amount of P5,000.00 as nominal damages. No costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Kapunan, and Purisima, JJ., concur.

---

[1] Rollo, p. 49.

[2] Rollo, pp. 135-136.

[3] Trendline Employees Association - Southern Philippines Federation of Labor v. NLRC, G.R. No. 112923, May 5, 1997.

[4] Anderson v. NLRC, 252 SCRA 116 (1996).

[5] Annex E, Rollo, p. 65.

[6] Annexes B, C, D, Rollo, pp. 62-65

[7] Stolt-Nielsen Marine Services (Phil.), Inc. v. NRLC, 264 SCRA 307 (1996).

[8] Sebuguero v. NLRC, 248 SCRA 532 (1995).

[9] Vinta Maritime Co., Inc. v. NLRC, G.R. No. 113911, January 23, 1998.

[10] Flores v. NLRC, 256 SCRA 735 (1996); Royo v. NLRC, 256 SCRA 639 (1996); E.g., Foodmine, Inc. v. NLRC, 188 SCRA 748 (1990); Wenphil Corp. v. NLRC, 170 SCRA 69 (1989); North Camarines Lumber Co., Inc. v. Barreda, 153 SCRA 244 (1987); Haverton Shipping, Ltd. v. NLRC, 135 SCRA 685 (1985).

[11] 173 SCRA 390 (1989).

[12] Caliguia v. NLRC, 264 SCRA 110 (1996).

[13] G.R. No. 109714, December 15, 1997.

[14] ART. 2221. Nominal damages are adjudicated in order that a right of the plaintiff, which has been violated or invaded by the defendant, may be vindicated or recognized, and not for the purpose of idemnifying the plaintiff for any loss suffered by him.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

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.