

MARK ROCHE INTERNATIONAL AND/OR EDUARDO DAYOT AND SUSAN DAYOT, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, MARK ROCHE WORKERS UNION AND WILMA PATAWAY, EILEEN RUFON, LI...*G.R. No. 123825. August 31, 1999*

Ponente: BELLOSILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-123825/>**BELLOSILLO, J.:**

This is a special civil action under Rule 65 of the Rules of Court to nullify the 14 August 1995 Decision of the National Labor Relations Commission which affirmed with modification the Decision of Labor Arbiter Eduardo J. Carpio. The Labor Arbiter held that private respondents were illegally constructively dismissed and ordered petitioners to reinstate them and pay them back wages as well as their proportionate 13th month pay, service incentive leave pay and salary differentials. The NLRC set aside the award of incentive leave pay.

Petitioners Eduardo Dayot and Susan Dayot were President and Vice President, respectively, of their co-petitioner Mark Roche International (MRI), a corporation organized and existing under the laws of the Philippines, engaged in the garments business. Private respondents Eileen Rufon, Lilia Briones, Beatriz Managaytay, Delia Arellano, Anita Marcelo, Rio Mariano, Marissa Sadili, Wilma Pataway, Estella Mallari, Delia Laroya and Divina Villarba were employed as sewers of MRI with lengths of service varying from three (3) to nine (9) years.

On different dates private respondents filed separate complaints for underpayment of wages and non-payment of overtime pay against petitioners MRI, Eduardo Dayot and Susan Dayot. Private respondents alleged that they usually worked eleven (11) to twelve (12) hours daily, except on Mondays during which they worked eight (8) hours, and were paid wages on a piece-rate basis amounting to P450.00 to P600.00 per week. They likewise asserted that sometime in 1992 they were unable to avail of their SSS benefits, e.g., salary loan, sickness benefits and maternity benefits because, as they found out, the company did not remit their contributions to the SSS.

On 11 October 1992 private respondents sought the assistance of a labor organization which helped them organize the Mark Roche Workers Union (MRWU). On 14 October 1992 they registered the union with the Department of Labor and Employment - National Capital Region (DOLE-NCR) and on the same date filed a Petition for Certification Election before the Med-Arbitration Board.

On 27 October 1992 petitioners received a notice of hearing of the petition. Apparently irked by the idea of a union within the company, petitioners ordered private respondents to withdraw the petition and further threatened them that should they insist in the organization of a union they would be dismissed. Unfazed, private respondents refused. As expected, on 29 October 1992 they were discharged from work.

On 30 October 1992 private respondents amended their earlier complaints to include as additional causes of action their illegal dismissal, unfair labor practice, non-payment of 13th month pay, underpayment for legal holidays, and for damages.

Petitioners countered that private respondents were not dismissed from work but voluntarily abandoned their jobs thereby paralyzing company operations. Petitioners likewise contended that private respondents incurred numerous absences without prior notice and clearance from their superiors as evidenced by several company memos sent to them. Only Divina Villarba showed up and told petitioners that she was voluntarily resigning because she had found better employment elsewhere. It was only later that petitioners learned that private respondents' absences were due to their preoccupation with the organization of a labor union. Notwithstanding these absences, petitioners expressed their willingness to reinstate private respondents within a reasonable time. They however disclaimed knowledge of any deficiency owing to private respondents since all the benefits due them as required by law were fully paid, except overtime pay which they were not entitled to on account of their being piece-rate workers.

On 3 March 1993 the Labor Arbiter rendered his decision declaring as illegal the constructive dismissal of private respondents. Petitioners were thus ordered to immediately reinstate private respondents as sewers and to pay each of them his (a) back wages computed from 29 October 1992 to 31 March 1993 in the amount of P15,524.08 subject to adjustments until reinstated but not to exceed three (3) years; (b) proportionate share in the 13th month pay for the period January to October 1992 in the amount of P2,538.77; unpaid five (5) days service incentive leave pay for 1989, 1990 and 1991 in the amount of P1,565.00; and, (c) wage differentials in the amount of P24,707.38.

On appeal the NLRC affirmed the reinstatement of private respondents and the payment of back wages, salary differentials and proportionate 13th month pay but set aside the award of service incentive leave pay on the ground that private respondents were not entitled thereto as they were piece-rate workers. Petitioners moved for reconsideration but was denied for lack of merit.

Petitioners now contend that the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction in sustaining the Labor Arbiter by declaring private respondents as having been constructively dismissed from their jobs, hence, illegal. On the contrary, they argue that private respondents voluntarily abandoned their jobs without justifiable reason nor prior notice. The NLRC disregarded the company memos addressed to each of the private respondents which were indicative of their intention to leave the company and showed their propensity to incur frequent absences in violation of company rules and regulations.

Abandonment, as a just and valid ground for dismissal, means the deliberate and unjustified refusal of an employee to resume his employment. The burden of proof is on the employer to show an unequivocal intent on the part of the employee to discontinue employment. The intent cannot be lightly inferred or legally presumed from certain ambivalent acts. There must be a concurrence of both the intention to abandon and some overt act from which it can be deduced that the employee has no more intention to resume his work.[1]

These are not obtaining in the instant case. No overt act was established by petitioners from which to infer the clear intention of private respondents to desist from their employment. The company memos submitted by petitioner could not be the basis of such intention since they referred to absences incurred by private respondents long before their dismissal. The lack of proximity of those absences to the actual dismissal rendered them unreliable, even worthless. Moreover, as correctly found by the NLRC, it was unlikely that private respondents had abandoned their jobs considering their lengths of service in the company and the difficulty in finding similar employment. In addition, if they had truly forsaken their jobs, they would not have bothered to file a complaint for constructive dismissal against petitioners immediately after they were dismissed and prayed for their reinstatement. An employee who forthwith takes steps to protest his layoff cannot by any logic be said to have abandoned his work.[2] On the contrary, there is ample proof showing that private respondents were dismissed from their jobs for their refusal to withdraw their petition for certification election filed before the DOLE.

However, it must be made clear here that the dismissal of private respondents was not a constructive dismissal but an illegal dismissal, and this is where both the NLRC and the Labor Arbiter erred. Constructive dismissal or a constructive discharge has been defined as a quitting because continued employment is rendered impossible, unreasonable or unlikely, as an offer involving a demotion in rank and a diminution in pay.[3] In the instant case, private respondents were not demoted in rank nor their pay diminished considerably. They were simply told without prior warning or notice that there was no more work for them. After receiving the notice of hearing of the petition for certification election on 27 October 1992, petitioners immediately told private respondents that they were no longer employed. Evidently it was the filing of the petition for certification election and organization of a union within the company which led petitioners to dismiss private respondents and not petitioners' allegations of absence or abandonment by private respondents. The formation of a labor union has never been a ground for valid termination, and where there is an absence of clear, valid and legal cause, the law considers the termination illegal.[4]

Petitioners likewise contend that the NLRC acted with grave abuse of discretion in granting private respondents reinstatement with payment of back wages. They argue that reinstatement can no longer be effected in view of the lapse of a considerable period of time from the dismissal of private respondents in October 1992 to the time the order for reinstatement was released. As for the award of back wages, they assert that it is capricious and arbitrary since it only encourages indolence and promotes enrichment of private respondents at the expense of petitioners.

The award of reinstatement and back wages belongs to an illegally dismissed employee by direct provision of law and cannot be defeated by mere allegations of inconvenience, inconceivability or implausibility. Article 279 of the Labor Code provides that an illegally dismissed employee is entitled to reinstatement without loss of seniority rights and other privileges and to his full back wages from the time his compensation was withheld from him up to the time of his actual reinstatement. Back wages are granted on grounds of equity for earnings which a worker or employee has lost due to his illegal dismissal.[5] Petitioners are however given the alternative of paying separation pay to illegally dismissed employees where reinstatement is no longer possible.

Petitioners further aver that the NLRC likewise abused its discretion when it affirmed the Labor Arbiter's ruling that private respondents were not paid their money claims. They insist that they have already paid private respondents all the amounts and benefits due them and that had the Labor Arbiter conducted trial on the merits, they could have presented documents proving their claim to be true.

The decision of the Labor Arbiter not to schedule the case for another hearing could not be considered arbitrary. The holding of a hearing is discretionary with the Labor Arbiter and is something which the parties cannot demand as a matter of right.[6] It is entirely within the bounds of the Labor Arbiter's authority to decide a case based on mere position papers and supporting documents without a formal trial or hearing. The requirements of due process are satisfied when the parties are given the opportunity to submit position papers wherein they are supposed to attach all the documents that would prove their claim in case it be decided that no hearing should be conducted or was necessary.

In case of employees' money claims, the employer bears the burden to prove that employees have received their wages and benefits and that the same were paid in accordance with law. It is incumbent upon the employer to present the necessary documents to prove such claims. In their position paper, petitioners failed to present necessary documentary evidence to substantiate their allegation that private respondents' money claims were fully paid. They cannot use the absence of trial as an excuse for their failure as they could have presented documentary evidence at any time before the Labor Arbiter and, on appeal, before the NLRC. Hence, they cannot at this late stage bewail that they were not afforded due process.

Finally, as correctly held by the NLRC, private respondents as piece-rate employees are not entitled to service incentive leave pay as well as holiday pay even if they are entitled to other benefits like COLA and 13th month pay. Service incentive leave pay shall not apply to employees whose performance is unsupervised by the employer, including those who are paid in a fixed amount for performing work irrespective of the time consumed in the performance thereof.[7]

WHEREFORE, this Court finds that private respondents Eileen Rufon, Lilia Briones, Beatriz Managaytay, Delia Arellano, Anita Marcelo, Rio Mariano, Marissa Sadili, Wilma Patacay, Estrella Mallari, Delia Laroya and Divina Villarba were illegally dismissed - not merely illegally constructively dismissed - by petitioners Mark Roche International and/or Eduardo Dayot and Susan Dayot, and to this extent, the assailed Decision of public respondent National Labor Relations Commission affirming that of the Labor Arbiter, is MODIFIED. However, it is AFFIRMED insofar as it ordered the reinstatement of private respondents with back wages, salary differentials and 13th month pay. The service incentive leave pay awarded by the Labor Arbiter but deleted by the National Labor Relations Commission is likewise DELETED.

SO ORDERED.

Mendoza, Quisumbing, and Buena, JJ., concur.

[1] C. Alcantara & Sons Inc. v. NLRC, G.R. No.73521, 5 January 1994, 229 SCRA 109; Del Monte Philippines vs. NLRC, G.R. No. 126688, 5 March 1998.

[2]Bontia v. NLRC, G.R. No. 114988, 18 March 1996, 255 SCRA 167.

[3] Philippine Japan Active Carbon Corp. v. NLRC, G.R. No. 83239, 8 March 1989, 171 SCRA 164; Lemery Savings & Loan Bank v. NLRC, G.R. No. 96439, 27 January 1992, 205 SCRA 492; Gaco v. NLRC, G.R. No. 104690, 23 February 1994, 230 SCRA 260.

[4] General Baptist Bible College v. NLRC, G.R. No. 85534, 5 March 1993, 219 SCRA 549, 555.

[5] Chong Guan Trading v. NLRC, G.R. No. 81471, 26 April 1989, 172 SCRA 831.

[6] Consolidated Rural Bank (Cagayan Valley), Inc. v. NLRC and Antonia L. Sanchez, G.R. No. 123810, 20 January 1999, citing Vinta Maritime Co., Inc. v. NLRC, G.R. No. 113911, 23 January 1998; Salonga v. NLRC, G. R. No. 118120, 23 February 1996, 254 SCRA 111, 114-115; Shoemart, Inc. v. NLRC, G.R. Nos. 90795-96, 13 August 1993, 225 SCRA 311, 319; Pacific Timber Export Corporation v. NLRC, G.R. No. 106170, 30 July 1993, 224 SCRA 860, 862-863; Commando Security Agency v. NLRC, G.R. No. 95844, 20 July 1992, 211 SCRA 645, 650.

[7] Par. (d), Sec. 1, Rule V, Bk. III, Omnibus Rules Implementing The Labor Code.

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.