

**CULVER B. SUICO, TERESA D. CENIZA AND RONALD R. DACUT,
PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION,
PHILIPPINE LONG DISTANCE TELEPHONE COMPANY
(PLDT)/AUGUSTO G. COTELO,...**

G.R. NO. 146762. January 30, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

By Resolution dated January 17, 2005,[1] the Court ordered the consolidation of the Petitions for Review on Certiorari under Rule 45 of the Rules of Court docketed as G.R. No. 146762,[2] G.R. No. 153584,[3] and G.R. No. 163793.[4]

They involve parallel facts and issues:

G.R. No. 146762

Culver B. Suico, Teresa D. Ceniza, and Ronald R. Dacut (complainants) were regular employees of Philippine Long Distance Telephone Company (PLDT) Cebu Jones Exchange and members of Manggagawa ng Komunikasyon ng Pilipinas (MKP). In September 1997, MKP launched a strike against PLDT. Complainants participated in the strike by picketing the PLDT.[5]

Acting Department of Labor and Employment (DOLE) Secretary Crescencio Trajano assumed jurisdiction over the labor dispute and issued a Return-to-Work Order on September 20, 1997.[6] MKP did not heed said order but merely filed an Opposition[7] thereto. In an Order[8] dated September 29, 1997, DOLE Secretary Leonardo A. Quisumbing[9] denied MKP's Opposition.

Meanwhile, at the PLDT, complainants continued with their strike. On September 29, 1997, Ann Detelou Fernando (Fernando), a PLDT managerial employee, sustained injuries when strikers blocked her way to the premises of PLDT. Complainants were implicated in said incident. Hence, Emiliano Tanchico (Tanchico), PLDT Vice-President for Personnel Management and Development Center, sent to complainants separate notices dated October 8, 1997, which uniformly read:

Please explain in writing why you should not be terminated for committing the following act:

On September 30, 1997, while participating in an obviously illegal strike, you physically assaulted Ms. A Fernando, a Traffic Supervisor. Attached as Annex "A" is the statement of Ms. Fernando.

x x x x

Your illegal act has seriously prejudiced the company's operations, is a violation of the Code of Conduct and is considered, among others, serious misconduct, which is a ground for termination under Article 282 of the Labor Code.

Kindly submit your notarized explanation to your Division Head within 48 hours from receipt of this Notice. Failure on your part to submit a written explanation within the given period shall constitute a waiver of your right to be heard. [10]

Annex “A” to said notices is an unsworn statement in which Fernando gave a detailed account of the illegal act imputed to complainants.[11]

Complainants did not file any explanation. Tanchico sent them two other sets of notices dated October 14, 1997[12] and October 24, 1997.[13]

On October 27, 1997, complainants sent Tanchico separate but uniformly-worded letters which read:

This concerns your memo dated October 8, 1997 xxx.

In this regard, I hereby elect to exercise my right to be heard and defend myself in a formal hearing, to be set within five (5) days from my receipt of the documents hereinafter requested, pursuant to my right to due process and par. 2.5 of PLDT Systems Practice re the Handling of Administrative Cases. Moreover, kindly furnish me with the copies of formal (written) complaint filed against me as well as statements of witness(es) and preliminary investigation report(s) regarding the complaint, if any.

My election to exercise my right to be heard and defend myself in a formal hearing is without prejudice to my right to submit a written explanation at a later time, which I hereby expressly reserve.[14]

PLDT Division Head Augusto Cotelo (Cotelo) replied on November 3, 1997 that PLDT was deferring action on the request for formal hearing until complainants shall have filed their answers to the charges. Cotelo wrote:

Please submit the notarized explanation that we required in our letters of October 8 & 14, 1997 within forty-eight (48) hours upon receipt of this letter, before we can consider any formal hearing. Please be reminded that we shall consider your failure to comply as a waiver of your right to be heard, and accordingly decide on the charges against you on the basis of the evidence on hand. [15] (Emphasis ours)

Complainants merely reiterated their request for formal hearing. Thus, Cotelo sent them termination notices dated November 19, 1997 which read:

In light of the repeated demands and your consistent failure to provide the required written explanation for the following acts:

On September 30, 1997, while participating in an obviously illegal strike, you physically assaulted Ms. A. Fernando, a Traffic Supervisor. PLDT has proceeded to consider the charges against you for violation of Article 264 of the Labor Code and for serious misconduct.

Based on the available evidence, the written copy of which were duly sent to you, the Company finds you guilty as charged. The Company cannot see any reason why the evidence that the statements we considered were motivated by any purpose other than to bear witness to the truth. We find these evidence direct and positive identification of your participation in and commission of the illegal act charged.

Your act constitutes a just cause for termination under the Labor Code which authorizes an employer to terminate an employee for serious misconduct and which prohibits the commission of any act of violence, coercion or intimidation, or the obstruction of free ingress and egress, during a strike (see Art. 282-A & 264, Labor Code). There is also the additional attendant circumstances that you committed these acts during a strike that was illegally declared and conducted. Your services with Philippine Long Distance Telephone Company are consequently terminated effective upon receipt of this letter.[16]

Complainants filed a Complaint for illegal dismissal and damages with the Labor Arbiter (LA). In a Decision dated July 15, 1998, the LA declared the dismissal of complainants illegal and ordered their reinstatement.[17]

PLDT appealed to the National Labor Relations Commission (NLRC) which, in its January 3, 2000 Decision, reversed and set aside the July 15, 1998 LA Decision, thus:

WHEREFORE, premises considered, the decision of the Labor Arbiter is hereby SET ASIDE and VACATED and a new one entered DISMISSING the instant complaint.

SO ORDERED.[18]

Complainants filed a Motion for Reconsideration which the NLRC denied in its Resolution dated March 27, 2000.[19]

Thereafter, complainants filed a Petition for Certiorari under Rule 65 with the Court of Appeals (CA) but the latter dismissed it in a Decision[20] dated September 22, 2000, the dispositive portion of which states:

WHEREFORE, premises considered, the petition is DISMISSED and the assailed decision and resolution are affirmed.

SO ORDERED. [21]

The Motion for Reconsideration filed by complainants was denied by the CA in its January 11, 2001 Resolution.[22]

And so, the present Petition for Review where complainants question the CA for its September 22, 2000 Decision and January 11, 2001 Resolution on the sole ground that:

THE COURT OF APPEALS HAS DECIDED THE INSTANT DISPUTE IN A WAY NOT IN ACCORD WITH LAW AND JURISPRUDENCE WHEN IT REFUSED TO CONSIDER THAT THE DISMISSAL OF HEREIN PETITIONNERS WAS MADE IN VIOLATION OF THEIR RIGHT TO PROCEDURAL DUE PROCESS.[23]

G.R. No. 153584

Benigno Mariano, Jr. (Mariano) was an employee of PLDT Laoag City Sub-Exchange and an officer of MKP. During the September 1997 strike which MKP launched against PLDT, Mariano led a picket of the premises of the PLDT.[24] In said picket, Melvyn T. Guillermo (Guillermo), a PLDT subscriber, suffered injury and humiliation at the hands of a striker. In his letter to PLDT, Guillermo identified Mariano as the culprit and demanded that the latter be dismissed.[25]

Acting on the complaint of Guillermo, Tanchico sent Mariano the following notice dated October 13, 1997:

Please explain in writing why you should not be terminated for committing the following act:

On 19 September 1997, at around 11:50 a.m., you verbally and physically assaulted MELVYN T. GUILLERMO, a PLDT subscriber xxx. Attached for your reference as Annex "A" is the letter-complaint of Mr. Guillermo.

This act is illegal and violates express provisions of the Labor Code which among others provide:
ART. 264.

x x x x

(e) No person engaged in picketing shall commit any act of violence, coercion or intimidation or obstruct the free ingress to or egress from the employer's premises for lawful purposes or obstruct public thoroughfares.

Additionally, as provided in the law, any worker who knowingly participates in the commission of illegal acts during a strike may be declared to have lost his employment status.

Your illegal act has seriously prejudiced the company's operations, is a violation of the Code of Conduct and is considered, among others, serious misconduct, which is a ground for termination under Article 282 of the Labor Code.

Kindly submit your notarized explanation to your Division Head within 48 hours from receipt of this Notice. Failure on your part to submit a written explanation within the given period shall constitute a waiver of your right to be heard.[26]

When Mariano did not reply, Tanchico sent him another notice[27] dated October 24, 1997, instructing him to submit his notarized explanation otherwise the charges against him will be resolved based on the available evidence.

On November 6, 1997, Mariano wrote Tanchico:

Sir, your memorandum dated 13 October 1997 xxx is a gross violation of my constitutional right as worker and employee to self organization xxx.

Hence, I hereby elect to exercise my right to due process, i.e., to be heard and defend myself in a formal hearing to be set within 5 (FIVE) days from receipt of documents hereinafter requested.

Pursuant to PLDT System Practice #94-016 dated August 10, 1994 (Handling of Administrative Cases), please furnish me a copy of formal (written) complaint filed against me, statement of witness/es and preliminary investigations and/or report/s conducted on the aforesaid incident, if any.

My option to be heard and defend myself in a formal hearing is without prejudice to my right of recourse at a later time which I hereby expressly reserve.[28]

Hence, Reynaldo Puzon, PLDT Assistant Vice-President for North Luzon, sent Mariano a notice dated November 18, 1997, informing him of the termination of his employment, thus:

xxx You asked in your letter that you be allowed to defend yourself in a formal hearing but you failed to provide a written explanation.

In light of the demands and your failure to provide the required written explanation for the following acts:

On September 19, 1997, at around 11:50 a.m., you verbally and physically assaulted Mr. Melvyn Guillermo, a PLDT subscriber who had just paid his PLDT bill at the company's Laoag Business Office. After verbally abusing Mr. Guillermo by shouting invectives in his face, you boxed and slapped him, striking his face, left shoulder and arm. PLDT has proceeded to consider the charges against you for violation of Art. 264 of the Labor Code and for serious misconduct.

Based on the available evidence, the written copy of which were duly sent to you, the Company finds you guilty as charged. The Company cannot see any reason why the evidence that the statements we considered were motivated by any purpose other than to bear witness to the truth. We find these evidence direct and positive identification of your participation in and commission of the illegal act charged.

Your act constitutes a just cause for termination under the Labor Code which authorizes an employer to terminate an employee for serious misconduct and which prohibits the commission of any act of violence, coercion or intimidation, or the obstruction of free ingress and egress, during a strike (see Art. 282-A & 264, Labor Code). There is also the additional attendant circumstances that you committed these acts during a strike that was illegally declared and conducted. Your services with Philippine Long Distance Telephone Company are consequently terminated effective upon receipt of this letter.[29]

Mariano filed a Complaint[30] for illegal dismissal and damages with the LA but the latter dismissed it in a

Decision[31] dated December 15, 1998. Mariano appealed to the NLRC but to no avail as the latter, in its December 27, 1999 Resolution,[32] affirmed the December 15, 1998 LA Decision. In its Resolution[33] of March 3, 2000, the NLRC denied Mariano's Motion for Reconsideration.

Mariano filed a Petition for Certiorari[34] with the CA which rendered the following Decision[35] on February 7, 2002:

WHEREFORE, premises considered, the petition is DISMISSED and the assailed decision and resolution are AFFIRMED.

SO ORDERED.[36]

Mariano sought reconsideration of the foregoing decision but the CA denied the same in its Resolution[37] of May 9, 2002.

Mariano is now before the Court in the present petition assailing the CA Decision and Resolution claiming that:

THE COURT OF APPEALS HAD DECIDED THE INSTANT DISPUTE IN A WAY NOT IN ACCORD WITH LAW AND JURISPRUDENCE WHEN IT REFUSED TO CONSIDER THAT THE DISMISSAL OF HEREIN PETITIONER WAS MADE IN VIOLATION OF [HIS] RIGHT TO PROCEDURAL DUE PROCESS.[38]

G.R. No. 163793

Ernesto Borje (Borje) was an employee of PLDT SFU Mother Exchange and a member of MKP. During the September 1997 strike which MKP staged against PLDT, Borje took part by picketing the premises of PLDT.[39]

In a notice dated October 23, 1997 sent by Tanchico to Borje, the latter was accused of engaging in violent activities during the strike. The notice read:

Please explain in writing why you should not be terminated for committing the following acts:

- October 15, 1997, at around 8:35 a.m., you hurled a stone hitting the leg (below the knee) of Mr. Danny N. Garcia, OPM Supervisor xxx as a result of which Mr. Garcia suffered a contusion. Attached as Annex "A" is the incident report of Mr. Garcia; and

- October 15, 1997, at around 8:20 p.m, you threw stones at Mr. Amelito Visico, an employee of Southland Security Corporation of the Philippines assigned at the PLDT Exchange, San Fernando, La Union. Minutes later or at around 8:35 p.m., you again threw stones inside PLDT premises hitting and damaging the right side window of PLDT's service vehicle with body no. 96-495 and plate no. UJW-359. Attached as Annex "B" is the Affidavit of Mr. Visico.

This act is illegal and violates express provisions of the Labor Code xxx.

Additionally, as provided in the law, any worker who knowingly participates in the commission of illegal acts during a strike may be declared to have lost his employment status.

Your illegal act has seriously prejudiced the company's operations, is a violation of the Code of Conduct and is considered, among others, serious misconduct, which is ground for termination under Article 282 of the Labor Code.

Kindly submit your notarized explanation to your Division Head within 48 hours from receipt of this Notice. Failure on your part to submit a written explanation within the given period shall constitute a waiver of your right to be heard.[40]

Borje replied on November 7, 1997, to wit:

Sir, your memorandum dated 13 October 1997 xxx is a gross violation of my constitutional right as worker and employee to self organization xxx.

Hence, I hereby elect to exercise my right to due process, i.e., to be heard and defend myself in a formal hearing to be set within 5 (FIVE) days from receipt of documents hereinafter requested.

Pursuant to PLDT System Practice #94-016 dated August 10, 1994 (Handling of Administrative Cases), please furnish me a copy of formal (written) complaint filed against me, statement of witness/es and preliminary investigations and/or report/s conducted on the aforesaid incident, if any.

My election to exercise my right to be heard and defend myself in a formal hearing is without prejudice to my right to submit a written explanation at a later time, which I hereby expressly reserve. [41]

Puzon sent Borje a notice dated November 18, 1997 informing him of the termination of his employment, thus:

xxx You asked in your letter that you be allowed to defend yourself in a formal hearing but you failed to provide a written explanation.

In light of the demands and your failure to provide the required written explanation for the following acts:

On October 15, 1997, at around 8:35 a.m., you hurled a stone hitting the leg (below the knee) of Mr. Danny Garcia, OPM Supervisor. As a result of which Mr. Garcia suffered a contusion. On the same day, at around 8:20 p.m., you threw stones at Mr. Amelito Visico, an employee of Southland Security Corporation of the Philippines assigned at the PLDT Exchange, San Fernando, La Union. Minutes later or at around 8:35 p.m., you again threw stones inside PLDT premises hitting and damaging the right side window of PLDT's service vehicle with body no. 94-495 and plate no. UJW-359. PLDT has proceeded to consider the charges against you for violation of Article 264 of the Labor Code and for serious misconduct.

Based on the available evidence, the written copy of which were duly sent to you, the Company finds you guilty as charged. The Company cannot see any reason why the evidence that the statements we considered were motivated by any purpose other than to bear witness to the truth. We find these evidence direct and positive identification of your participation in and commission of the illegal act charged.

Your act constitutes a just cause for termination under the Labor Code which authorizes an employer to terminate an employee for serious misconduct and which prohibits the commission of any act of violence, coercion or intimidation, or the obstruction of free ingress and egress, during a strike (see Art. 282-A & 264, Labor Code). There is also the additional attendant circumstances that you committed these acts during a strike that was illegally declared and conducted. Your services with Philippine Long Distance Telephone Company are consequently terminated effective upon receipt of this letter.[42]

Borje filed a Complaint[43] for illegal dismissal and damages with the LA but the latter dismissed it in a Decision dated January 26, 2001.[44] Borje appealed to the NLRC which, in a Resolution dated September 28, 2001, held:

WHEREFORE, premises considered, the decision under review is AFFIRMED and complainant's appeal, DISMISSED for lack of merit.

SO ORDERED. [45]

Borje's Motion for Reconsideration was denied by the NLRC in its January 7, 2002 Resolution.[46]

However, upon Petition for Certiorari[47] filed by Borje, the CA rendered on April 12, 2002 a Decision[48] the decretal portion of which reads:

WHEREFORE, premises considered, the instant petition is GRANTED. The decision of the Labor Arbiter and the NLRC is REVERSED and new one entered ordering the REINSTATEMENT of the Petitioner without loss

of seniority rights and other privileges and to grant him full backwages, to be computed from the time of his illegal dismissal without qualification or deduction. Let the records of this case be REMANDED to the Labor Arbiter for appropriate computation of backwages.

SO ORDERED.[49]

PLDT filed a Motion for Reconsideration but the CA denied the same in a Resolution[50] dated June 1, 2004.

Petitioner PLDT is now before the Court questioning the foregoing CA Decision and Resolution on this sole ground:

THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN HOLDING THAT THE NLRC COMMITTED A GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN AFFIRMING IN TOTO THE LABOR ARBITER'S DECISION UPHOLDING THE VALIDITY OF RESPONDENT'S DISMISSAL ON THE ISSUE OF ALLEGED LACK OF DUE PROCESS, THE SAME BEING CONTRARY TO LAW AND ESTABLISHED JURISPRUDENCE THAT FOR CERTIORARI TO SUCCEED ABUSE OF DISCRETION MUST SATISFACTORILY BE SHOWN TO BE "GRAVE", WHICH IS NOT SO IN THE CASE AT BAR.[51][sic]

The petitions in G.R. No. 146762 and G.R. No. 153584 are partly meritorious in that the CA did not err in upholding the validity of the dismissal of Suico, Ceniza, Dacut, and Mariano but the PLDT should be ordered to pay said employees nominal damages pursuant to *Agabon v. National Labor Relations Commission*. [52]

The petition in G.R. No. 163793 is meritorious in that the CA erroneously reversed the NLRC by holding the dismissal of Borje illegal; but PLDT should also be ordered to pay Borje nominal damages.

In the three petitions, the substantive bases of the dismissal of Suico, Ceniza, Dacut, Mariano and Borje (hereinafter collectively referred to as Suico, et al.) is not in issue. Only the procedural aspect is in issue, specifically, whether PLDT violated the requirements of due process under the Labor Code when it dismissed said employees without heeding their request for the conduct of a formal hearing as provided for under PLDT Systems Practice No. 94-016 and prior to submission of their respective answers to the charges against them.

The minimum standards of due process in all cases of termination of employment are prescribed under Article 277(b) of the Labor Code, to wit:

Art. 277. Miscellaneous Provisions.

x x x x

(b) Subject to the constitutional right of workers to security of tenure and their right to be protected against dismissal except for a just and authorized cause and without prejudice to the requirement of notice under Article 283 of this Code, the employer shall furnish the worker whose employment is sought to be terminated a written notice containing a statement of the cause for termination and shall afford the latter ample opportunity to be heard and to defend himself with the assistance of his representative, if he so desires, in accordance with company rules and regulations promulgated pursuant to guidelines set by the Department of Labor and Employment. (Emphasis supplied).

It is implemented by Rule XXIII of the Implementing Rules of Book V of the Labor Code,[53] which provides:

Section 2. Standards of due process; requirements of notice.-

I. For termination of employment based on just causes as defined in Article 282 of the Code:

(a) A written notice served on the employee specifying the ground or grounds for termination, and giving to said employee reasonable opportunity within which to explain his side;

(b) A hearing or conference during which the employee concerned, with the assistance of counsel if the employee so desires, is given opportunity to respond to the charge, present his evidence or rebut the evidence presented against him; and

(c) A written notice of termination served on the employee indicating that upon due consideration of all the circumstances, grounds have been established to justify his termination xxx.

It is the view of PLDT that in the dismissal of employees for strike-related violence, it is sufficient to merely declare the latter to have lost their employment without having to comply with any procedure for their termination.[54] PLDT is mistaken. Art. 277 (b) in relation to Art. 264 (a)[55] and (e)[56] recognizes the right to due process of all workers, without distinction as to the cause of their termination.[57] Where no distinction is given, none is construed.[58] Hence, the foregoing standards of due process apply to the termination of employment of Suico, et al. even if the cause therefor was their supposed involvement in strike-related violence prohibited under Art. 264 (a) and (e).

Moreover, the procedure for termination prescribed under Art. 277(b) and Rule XXII of the Implementing Rules of Book V is supplemented by existing company policy. Art. 277(b) provides that the procedure for termination prescribed therein is without prejudice to the adoption by the employer of company policy on the matter, provided this conforms with the guidelines set by the DOLE such as Rule XXII of the Implementing Rules of Book V. This is consistent with the established principle that employers are allowed, under the broad concept of management prerogative, to adopt company policies that regulate all aspects of personnel administration including the dismissal and recall of workers.[59]

Company policies or practices are binding on the parties.[60] Some can ripen into an obligation on the part of the employer,[61] such as those which confer benefits on employees [62] or regulate the procedures and requirements for their termination.[63] Thus, in *Batangas Laguna Tayabas Bus Company (BLTB) v. Court of Appeals*, [64] the Court held that the employer BLTB is obliged under the Service Manual it issued to grant an erring employee the right to be heard and defend himself, and to apply the table of penalties fixed therein.

In its Comment to the Petition in G.R. No. 146762, PLDT objected to the application to this case of the ruling in *BLTB*, arguing that “xxx the more appropriate case is *Mendoza v. National Labor Relations Commission*, 194[65] SCRA 606 [1991], where the Supreme Court ruled that company procedures for discipline do not require strict observance as long as the essential requirements of due process had been observed xxx.” But even *Mendoza* favors the view that company procedure for termination should be implemented, even if not to the letter. In fact, in said case, the employer *San Miguel Corporation* implemented company procedure for termination by conducting a formal investigation, in question and answer form, against the employee *Mendoza*.

In the present case, PLDT does not deny the existence of a company procedure in termination cases known as *Systems Practice No. 94-016*, which provides:

Effective Date

August 10, 1994

HANDLING OF ADMINISTRATIVE CASES

x x x x

- PURPOSE

This practice describes the procedural guidelines for handling administrative cases.

- GENERAL

2.1 Investigation of offenses or infractions of Company regulations committed by employees shall be handled by various investigating units xxx;

x x x x

2.5 An employee under investigation for the commission of an offense or infraction shall be informed in writing of the particular act constituting the offense or infraction imputed to him. He may answer the charges against him in writing within a reasonable period of time (at least 48 hours but not more than 72 hours) or be afforded the opportunity to be heard and defend himself with the assistance of his counsel or union representative, if he so desires. (Emphasis supplied)

PLDT, however, refused to implement said policy, contending that it applies to administrative cases only and not to strike-related cases such as the ones involving Suico, et al..[66]

We are unable to see the difference. As pointed out by the CA in G.R. No. 163793, while it is true that Systems Practice No. 94-016 relates to administrative cases, PLDT failed to prove that a termination proceeding arising from strike-related violence is not an administrative case. If by administrative case, PLDT refers to cases arising from violation of company rules and regulations, then the proceedings against Suico, et al. were of that nature for the notices sent to said employees accused them not just of breach of Art. 264 of the Labor Code but also of behavior prejudicial to company operations and violative of the company code of conduct.[67] The termination proceedings against Suico, et al. were therefore administrative in nature, subject to the requirements of Systems Practice No. 94-016.

To repeat, the requirements of due process by which to test the validity of the procedure adopted by PLDT in dismissing Suico, et al. are those embodied in Art. 277 (b) of the Labor Code, Rule XXII of the Implementing Rules of Book V and Systems Practice No. 94-016.

Apparently, PLDT complied with the two-notice requirement of due process. The first notices sent to Suico, et al. set out in detail the nature and circumstances of the violations imputed to them, required them to explain their side and expressly warned them of the possibility of their dismissal should their explanation be found wanting. The last notices informed Suico, et al. of the decision to terminate their employment and cited the evidence upon which the decision was based.[68] These two notices would have sufficed had it not been for the existence of Systems Practice No. 94-016. Under Systems Practice No. 94-016, PLDT granted its employee the alternative of either filing a written answer to the charges or requesting for opportunity to be heard and defend himself with the assistance of his counsel or union representative, if he so desires.

Suico, et al. exercised their option under Systems Practice No. 94-016 by requesting that a formal hearing be conducted and that they be given copies of sworn statements and other pertinent documents to enable them to prepare for the hearing.[69] This option is part of their right to due process. PLDT is bound to comply with the Systems Practice.

Yet, instead of respecting the option exercised by Suico, et al., PLDT in G.R. No. 146762 arbitrarily disregarded the same and insisted that Suico, et al. submit their written answers first before their request for formal hearing can be entertained.[70] In G.R. No. 153584 and G.R. No. 163793, PLDT straightaway declared Mariano and Borje to have waived the right to be heard and, based on the available evidence, decided the cases against them.[71] Clearly, such refusal by PLDT to conduct a hearing was unreasonable and arbitrary as it defeated the exercise by Suico, et al. of an option which, by virtue of Systems Practice No. 94-016, was a component of their right to due process. The impairment of their option constituted an impairment of their right to due process.

All told, the procedure adopted by PLDT in dismissing Suico, et al. fell short of the requirements of due process.

It should be emphasized, however, that, consistent with our ruling in *Agabon*,^[72] the procedural deficiency in the dismissal of *Suico, et al.* did not affect the validity or effectivity of the dismissal as the substantive bases thereof were never put in issue.^[73] Thus, the April 12, 2002 CA Decision in G.R. No. 163793 was erroneous as it declared the dismissal of *Borje* illegal merely for failure of PLDT to observe due process. The CA should have affirmed the validity of the dismissal of *Borje* and awarded him nominal damages for the impairment of his statutory right to due process.

WHEREFORE, the petitions in G.R. Nos. 146762 and 153584 are PARTLY GRANTED. The assailed Decisions of the Court of Appeals dated September 22, 2000 and February 7, 2002, respectively, are AFFIRMED with MODIFICATION to the effect that *Culver B. Suico, Teresa D. Ceniza, Ronald R. Dacut* and *Benigno Mariano, Jr.* are each awarded nominal damages in the amount of P30,000.00.

The petition in G.R. No. 163793 is GRANTED. The Decision dated April 12, 2002 of the Court of Appeals is REVERSED and SET ASIDE. The Decision of the Labor Arbiter dated January 26, 2001 and the Resolution of the National Labor Relations Commission dated September 28, 2001 are REINSTATED with MODIFICATION that *Ernesto Borje* is awarded nominal damages in the amount of P30,000.00.

Costs against PLDT.

SO ORDERED.

Ynares-Santiago, (Chairperson), *Callejo, Sr.*, and *Chico-Nazario*, concur.

[1] *Rollo II* (G.R. No. 153584), p. 315.

[2] Entitled, “*Culver B. Suico, Teresa D. Ceniza and Ronald R. Dacut, Petitioners, versus National Labor Relations Commission, Philippine Long Distance Telephone Company (PLDT)/Augusto G. Cotel, Respondents*”.

[3] Entitled, “*Benigno Mariano, Jr., Petitioner versus National Labor Relations Commission and Philippine Long Distance Telephone Company, Respondents*”.

[4] Entitled, “*Philippine Long Distance Telephone Company, Petitioner versus Ernesto Borje, Respondent*”.

[5] *Rollo I* (G.R. No. 146762), pp. 52-53.

[6] *Id.* at 113.

[7] *Id.* at 116.

[8] *Id.* at 119.

[9] Now an Associate Justice of the Supreme Court.

[10] *Rollo I* (G.R. No. 146762), pp. 129, 131, and 133.

[11] *Id.* at 130, 132 and 134.

[12] *Id.* at 135.

[13] *Id.* at 136-138.

[14] *Id.* at 139-141.

[15] *Id.* at 142-143.

[16] *Id.* at 144-146.

[17] Petitioners failed to attach to their Petition copies of the Complaint, July 15, 1998 LA Decision, and March 27, 2000 NLRC Resolution. To check the contents of said documents, the Court resorted to the certified true copies of the January 3, 2000 NLRC Decision and September 22, 2000 CA Decision which contain a summary of the contents of the documents omitted (*Floren Hotel and/or Ligaya Chu v. National Labor Relations Commission*, G.R. No. 155264, May 6, 2005, 458 SCRA 128).

[18] Rollo I (G.R. No. 146762), p. 68.

[19] *Id.* at 39.

[20] Penned by Associate Justice Wenceslao L. Agnir, Jr. and concurred in by Associate Justices Oswaldo D. Agcaoili and Elvi John S. Asuncion.

[21] Rollo I (G.R. No. 146762), p. 44.

[22] *Id.* at 49.

[23] *Id.* at 11.

[24] Rollo II (G.R. No. 153584), pp. 142-143.

[25] *Id.* at 42-43.

[26] *Id.* at 44.

[27] *Id.* at 45.

[28] *Id.* at 46.

[29] *Id.* at 47.

[30] *Id.* at 48.

[31] *Id.* at 113.

[32] *Id.* at 142.

[33] *Id.* at 172.

[34] *Id.* at 173.

[35] Penned by Associate Justice Wenceslao I. Agnir, Jr. and concurred in by Associate Justices B.A. Adefuin-de la Cruz and Josefina Guevara-Salonga.

[36] Rollo II (G.R. No. 153584), p. 28.

[37] *Id.* at 39.

[38] *Id.* at 17.

[39] CA rollo (CA-G.R. No. SP-70075), pp. 43-44.

[40] Rollo III (G.R. No. 163793), pp. 46-47.

[41] *Id.* at 48.

[42] *Id.* at 49.

[43] *Id.* at 50.

[44] Id. at 52.

[45] Id. at 114-115.

[46] Id. at 116.

[47] Id. at 117.

[48] Penned by Associate Justice Eugenio S. Labitoria and concurred in by Associate Justices Mercedes Gozo-Dadole and Rosmari D. Carandang.

[49] Rollo III (G.R. No. 163793), pp. 14-15.

[50] Id. at 184.

[51] Id. at 26-27.

[52] G.R. No. 158693, November 17, 2004, 442 SCRA 573, 620.

[53] Wah Yuen Restaurant v. Jayona, G.R. No. 159448, December 16, 2005, 478 SCRA 315, 322-323.

[54] Petition, rollo III (G.R. No. 163793), p. 35.

[55] Art. 264. Prohibited activities. (a) xxx Any union officer who knowingly participates in an illegal strike and any worker or union officer who knowingly participates in the commission of illegal acts during a strike may be declared to have lost his employment status xxx.

[56] Art. 264. Prohibited Activities.

(e) No person engaged in picketing shall commit any act of violence, coercion or intimidation or obstruct the free ingress or egress from the employer's premises for lawful purposes, or obstruct public thoroughfares.

[57] Stamford Marketing Corp. v. Julian, G.R. No. 145496, February 24, 2004, 423 SCRA 633, 649.

[58] Philippine Long Distance Telephone Company v. Manggagawa ng Komunikasyon ng Pilipinas, G.R. No. 162783, July 14, 2005, 463 SCRA 418, 429.

[59] Norkis Trading Co., Inc. v. National Labor Relations Commission, G.R. No. 168159, August 19, 2005, 467 SCRA 461, 470-471; Philcom Employees Union v. Philippine Communications and Philcom Corporation, G.R. No. 144315, July 17, 2006.

[60] Coca-Cola Bottlers, Phils., Inc. v. Kapisanan ng Malayang Manggagawa sa Coca-Cola-FFW, G.R. No. 148205, February 28, 2005, 452 SCRA 480, 496; Lagatic v. National Labor Relations Commission, 349 Phil. 172, 180 (1998).

[61] This should not, of course, be taken to mean that company policy can hamstring the employer. The latter may always revoke a company policy that has become oppressive to capital (North Davao Mining Corporation v. National Labor Relations Commission, 325 Phil. 202, 212 (1996)). However, without proof that such company policy has become onerous, the same shall have to be enforced against the employer (Businessday Information Systems and Services, Inc. v. National Labor Relations Commission, G.R. No. 103575, April 5, 1993, 221 SCRA 9, 13).

[62] Hinatuan Mining Corporation v. National Labor Relations Commission, 335 Phil. 1090, 1094 (1997); American Home Assurance Co. v. National Labor Relations Commission, 328 Phil. 606, 619 (1996).

[63] Mitsubishi Motors Philippines Corporation v. Chrysler Philippines Labor Union, G.R. No. 148738, June 29,

2004, 433 SCRA 206, 219.

[64] Batangas Laguna Tayabas Bus Co. v. Court of Appeals, 163 Phil. 494 (1976).

[65] The citation should read 195 SCRA 606 (1991).

[66] Rollo I (G.R. No. 146762), p. 327; Rollo II (G.R. No. 153584), p. 212; Rollo III (G.R. No. 163793), p. 36.

[67] Supra notes 10, 27, and 41.

[68] Malabago v. National Labor Relations Commission, G.R. No. 165465, September 13, 2006.

[69] See notes 14, 28 and 41.

[70] See note 15.

[71] See notes 29 and 42.

[72] Supra. See note 52.

[73] Durban Apartments Corporation v. Catacutan, G.R. No. 167136, December 14, 2005, 477 SCRA 801, 809.

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