

MITSUBISHI MOTORS PHILIPPINES CORPORATION, PETITIONER, VS. CHRYSLER PHILIPPINES LABOR UNION AND NELSON PARAS, RESPONDENTS.

G.R. No. 148738. June 29, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for review on certiorari of the Decision[1] of the Court of Appeals in CA-GR SP No. 46030 and the Resolution denying the motion for reconsideration filed by petitioner Mitsubishi Motors Philippines Corporation.

The Antecedents

Mitsubishi Motors Philippines Corporation (MMPC) is a domestic corporation engaged in the assembly and distribution of Mitsubishi motor vehicles. Chrysler Philippines Labor Union (CPLU) is a legitimate labor organization and the duly certified bargaining agent of the hourly-paid regular rank and file employees of MMPC. Nelson Paras was a member of CPLU. His wife, Cecille Paras, was the President of the Chrysler Philippines Salaried Employees Union (CPSU).

Nelson Paras was first employed by MMPC as a shuttle bus driver on March 19, 1976. He resigned on June 16, 1982. He applied for and was hired as a diesel mechanic and heavy equipment operator in Saudi Arabia from 1982 to 1993. When he returned to the Philippines, he was re-hired as a welder-fabricator at the MMPC tooling shop from October 3, 1994 to October 31, 1994.[2] On October 29, 1994, his contract was renewed from November 1, 1994 up to March 3, 1995.[3]

Sometime in May of 1996, Paras was re-hired on a probationary basis as a manufacturing trainee at the Plant Engineering Maintenance Department. He and the new and re-hired employees were given an orientation on May 15, 1996[4] by Emma P. Aninipot, respecting the company's history, corporate philosophy, organizational structure, and company rules and regulations, including the company standards for regularization, code of conduct and company-provided benefits.[5]

Paras started reporting for work on May 27, 1996. He was assigned at the paint ovens, air make-up and conveyors. As part of the MMPC's policy, Paras was evaluated by his immediate supervisors Lito R. Lacambacal[6] and Wilfredo J. Lopez[7] after six (6) months, and received an average rating. Later, Lacambacal informed Paras that based on his performance rating, he would be regularized.[8]

However, the Department and Division Managers, A.C. Velando and H.T. Victoria,[9] including Mr. Dante Ong,[10] reviewed the performance evaluation made on Paras. They unanimously agreed, along with Paras' immediate supervisors, that the performance of Paras was unsatisfactory.[11] As a consequence, Paras was not considered for regularization. On November 26, 1996, he received a Notice of Termination dated November 25, 1996, informing him that his services were terminated effective the said date since he failed to meet the required company standards for regularization.[12]

Utilizing the grievance machinery in the collective bargaining agreement, the CCLU demanded the settlement of the dispute which arose from Paras' termination.[13] The dispute was thereafter submitted for voluntary arbitration, as the parties were unable to agree on a mutually acceptable solution. CCLU posited that Paras was dismissed on his one hundred eighty third (183rd) day of employment, or three (3) days after the expiration of the probationary period of six (6) months. It was contended that Paras was already a regular employee on the date of the termination of his "probationary employment."

According to CCLU and Paras, the latter's dismissal was an offshoot of the heated argument during the CBA negotiations between MMPC Labor Relations Manager, Atty. Carlos S. Cao, on the one hand, and Cecille Paras, the President of the Chrysler Philippines Salaried Employees Union (CPSU) and Paras' wife, on the other.

On November 3, 1997, the Voluntary Arbitrator (VA) rendered a decision finding the dismissal of Paras valid for his failure to pass the probationary standards of MMPC. The dispositive portion of the decision reads:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered finding the termination of Mr. Paras was valid for cause – his failure to pass the probationary period.[14]

The VA declared that hiring an employee on a probationary basis to determine his or her fitness for regular employment was in accord with the MMPC's exercise of its management prerogative. The VA pointed out that MMPC had complied with the requirement of apprising Paras of the standards of performance evaluation and regularization at the inception of his probationary employment. The VA agreed with the MMPC that the termination of Paras' employment was effected prior to the expiration of the six-month probationary period. As to Paras' contention that he was already a regular employee before he was dismissed in 1994 considering that he had an accumulated service of eleven (11) months, the VA ruled that Paras' delay in filing a complaint for regularization only in 1996, for services rendered in October 1994 to March 1995, militated against him. The VA stated that Paras' dismissal was based on the unsatisfactory performance rating given to him by his direct supervisors Lito Lacambacal and Wilfredo Lopez. The VA also found that the alleged heated argument between Atty. Carlos S. Cao, the Labor Relations Manager of MMPC, and Cecille Paras, the President of CPSU, was irrelevant in the termination of Paras' services.[15]

The Case Before the Court of Appeals

Aggrieved, Paras and CCLU filed a petition for review under Rule 43 of the Rules of Court before the Court of Appeals, docketed as C.A.-G.R. SP No. 46030. They assigned the following errors:

I

THE VOLUNTARY ARBITRATOR COMMITTED A SERIOUS ERROR OF LAW IN FAILING TO HOLD THAT THE NOTICE OF TERMINATION WAS SERVED UPON PETITIONER NELSON PARAS AFTER HE HAS ALREADY BECOME A REGULAR EMPLOYEE, HIS PERIOD FOR PROBATION HAVING EXPIRED.

II

THE VOLUNTARY ARBITRATOR SERIOUSLY ERRED AND GRAVELY ABUSED HIS DISCRETION IN HOLDING THAT PETITIONER NELSON PARAS' SUPPOSED DELAY IN FILING THE ILLEGAL DISMISSAL CASE WORKED AGAINST HIM.

III

THE VOLUNTARY ARBITRATOR ACTED WITH GRAVE ABUSE OF DISCRETION AND COMMITTED SERIOUS ERRORS OF FACT AND LAW IN NOT HOLDING THAT THE PERFORMANCE OF NELSON PARAS WAS SATISFACTORY AND THAT HIS DISMISSAL WAS POLITICALLY MOTIVATED.[16]

Therein, Paras and CPLU asserted that pursuant to Article 13 of the New Civil Code, the period of May 27, 1996 to November 26, 1996 consisted of one hundred eighty-three (183) days. They asserted that the maximum of the probationary period is six (6) months, which is equivalent to 180 days; as such, Paras, who continued to be employed even after the 180th day, had become a regular employee as provided for in Article 282 of the Labor Code. They averred that as a regular employee, Paras' employment could be terminated only for just or authorized causes as provided for under the Labor Code, and after due notice. They posited that in the Letter of Termination dated November 25, 1996, the ground for Paras' termination was not among those sanctioned by the Labor Code; hence, his dismissal was illegal.

Paras and CPLU also stressed that he had already been in the employ of MMPC from October 3, 1994 to March 3, 1995 as a welder-fabricator in the production of jigs and fixtures, a function necessary and desirable to the usual business of MMPC. Such period, in addition to the six-month probationary period, amounted to eleven (11) months of service, which is sufficient for him to be considered as a regular employee.

Paras and CPLU averred that the filing of an illegal dismissal complaint only after his termination in 1996 did not make Paras' claim for regularization specious, since an illegally dismissed employee, like him, has four (4) years within which to file a complaint.[17]

They emphasized that Paras' performance evaluation was changed to unsatisfactory as an off-shoot of the arguments between the latter's wife, the President of the CPSU, and Atty. Carlos S. Cao, one of MMPC's negotiators, over the provisions in the CBA.[18]

The MMPC, for its part, averred that under Article 13 of the New Civil Code, Paras' probationary employment which commenced on May 27, 1996 would expire on November 27, 1996. Since he received the notice of termination of his employment on November 25, 1996, the same should be considered to have been served within the six-month probationary period.

The MMPC asserted that the VA acted correctly in not considering the five-month period of Paras' contractual employment as a welder-fabricator to qualify him for regularization. It argued that his rating showed that his immediate supervisors, in tandem with his department head, found his performance unsatisfactory. Thus, his failure to meet a satisfactory performance rating justified the termination of his probationary employment.

For its part, the Office of the Solicitor General (OSG), in representation of Voluntary Arbitrator Danilo Lorredo, agreed that Paras and CPLU's allegation, that the notice of termination was served on Paras' 183rd day, was erroneous. The OSG opined that the six-month probationary period was to expire on November 27, 1996 and since Paras was served such notice on November 25, 1996, his employment was deemed terminated within the six-month probationary period. It posited that the failure of Paras to get a satisfactory performance rating justified the termination of his probationary employment, and that the inclusion of his five-month contractual employment as welder-fabricator did not qualify him for regular employment.

Finally, the OSG contended that the appointment of a probationary employee to a regular status is voluntary and discretionary on the part of the employer.

In a Decision promulgated on September 13, 2000, the CA reversed the ruling of the Voluntary Arbitrator, the dispositive portion of which is herein quoted:

WHEREFORE, the petition is GRANTED. The Decision of public respondent, dated November 3, 1997, is REVERSED and SET ASIDE. In lieu thereof, judgment is hereby entered declaring Mitsubishi Motors Phils. Corporation's dismissal of Nelson Paras as ILLEGAL and ORDERING the former to reinstate Paras to his former position without loss of seniority rights and other privileges. Conformably with the latest

pronouncement of the Supreme Court on backwages, supra, Mitsubishi Motors Phils. Corporation is further ORDERED to pay Paras full backwages (without qualifications or deductions), inclusive of allowances, and his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. Petitioners' claims for attorney's fees, moral and exemplary damages are, nevertheless, DENIED for lack of sufficient basis. No costs.[19]

The CA agreed with Paras and CPLU's interpretation that six (6) months is equivalent to one hundred eighty (180 days) and that computed from May 27, 1996, such period expired on November 23, 1996. Thus, when Paras received the letter of termination on November 26, 1996, the same was served on the 183rd day or after the expiration of the six-month probationary period. The CA stated that since he was allowed to work beyond the probationary period, Paras became a regular employee. Hence, his dismissal must be based on the just and authorized causes under the Labor Code, and in accordance with the two-notice requirement provided for in the implementing rules. The appellate court concluded that for MMPC's failure to show that Paras was duly notified of the cause of his dismissal, the latter was illegally dismissed; hence, his actual reinstatement without loss of seniority rights and the payment of backwages up to the time of his reinstatement were in order.

Dissatisfied, the MMPC filed a motion for reconsideration of the decision, alleging that the CA erred in holding that the six-month probationary period which commenced on May 27, 1996, expired on November 23, 1996.

The MMPC contended that the reinstatement of Paras to his former position had become moot and academic because it had retrenched approximately seven hundred (700) employees as a result of its financial losses in 1997. It posited that the payment of full backwages should only be computed up to February 1998, the date when MMPC effected the first phase of its retrenchment program.

The CA denied the motion in a Resolution dated June 18, 2001.[20]

The Present Petition

Undaunted, the MMPC, now the petitioner, filed this instant petition, alleging as follows:

A.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN REVERSING THE 3 NOVEMBER 1997 DECISION OF THE HONORABLE VA DANILO LORREDO, AND IN FINDING THAT RESPONDENT PARAS (WAS) ILLEGALLY DISMISSED AND ORDERING HIS REINSTATEMENT.

B.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN ORDERING THE REINSTATEMENT OF PARAS WITH FULL BACKWAGES DESPITE THE CHANGE IN THE FINANCIAL CIRCUMSTANCES OF THE COMPANY.

C.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT THE SIX-MONTH PROBATIONARY PERIOD OF PARAS WHICH STARTED ON 27 MAY 1996 HAD EXPIRED 23 NOVEMBER 1996.[21]

The petitioner asserts that the CA erred in ruling that respondent Paras was already a regular employee when he was served the notice of termination. Citing Article 13 of the New Civil Code, the petitioner argued that the six-month probationary period should be computed as follows:

May 27-31

=

4 days

Jun(e) 1-30

=

1 month (30 days)

July 1-31

=

1 month (30 days)

Aug(.) 1-31

=

1 month (30 days)

Sept(.) 1-30

=

1 month (30 days)

Oct(.) 1-31

=

1 month (30 days)

Nov(.) 1-26

=

26 days[22]

Hence, according to the petitioner, when the termination letter was served on November 26, 1996, Paras was still a probationary employee. Considering that he did not qualify for regularization, his services were legally terminated. As such, the CA erred in ordering his reinstatement and the payment of his backwages.

According to the petitioner, even assuming that respondent Paras was a regular employee when he was dismissed, his reinstatement had already become moot and academic because of the retrenchment program effected as a result of the business losses it had suffered in the year 1997. Respondent Paras, who was employed only in May 27, 1996, would have been included in the first batch of employees retrenched in February of 1998, in accordance with the “last in first out policy” embedded in the CBA. The petitioner further contends that Paras’ backwages should be computed only up to February of 1998.

In their comment on the petition, the respondents argue that the CA was correct in concluding that the termination letter was served on respondent Paras’ one hundred eighty third (183rd) day of employment with the petitioner, asserting that six (6) months is equivalent to one hundred eighty (180) days. Since respondent Paras was employed on May 27, 1996, the 180th day fell on November 23, 1996. Thus, respondent Paras was already a regular employee when the termination letter was served on him. Consequently, his dismissal should be based on the just or authorized causes provided for by the Labor Code, and after proper notice.

The respondents, likewise, contend that the petitioner cannot raise new and unsubstantiated allegations in its

petition at bar.

The Issues

The issues for resolution are the following: (a) whether or not respondent Paras was already a regular employee on November 26, 1996; (b) whether or not he was legally dismissed; (c) if so, whether or not his reinstatement had been rendered moot and academic; and, (d) whether or not his backwages should be computed only up to February of 1998.

The Court's Ruling

The petition is partially granted.

At the outset, we must stress that only errors of law are generally reviewed by this Court in petitions for review on certiorari of CA decisions.[23] Questions of fact are not entertained.[24] This Court is not a trier of facts and, in labor cases, this doctrine applies with greater force. Factual questions are for labor tribunals to resolve.[25] The findings of fact of quasi-judicial bodies like the National Labor Relations Commission (NLRC), are accorded with respect, even finality, if supported by substantial evidence. Particularly when passed upon and upheld by the Court of Appeals, such findings are binding and conclusive upon the Supreme Court and will not normally be disturbed.[26]

However, when the findings of the NLRC and the Court of Appeals are inconsistent with each other, there is a need to review the records to determine which of them should be preferred as more conformable to the evidentiary facts.[27] Considering that the CA's findings of fact clash with those of the Voluntary Arbitrator, this Court is compelled to go over the records of the case, as well as the submissions of the parties.[28]

Regularization of Employment

Indeed, an employer, in the exercise of its management prerogative, may hire an employee on a probationary basis in order to determine his fitness to perform work.[29] Under Article 281 of the Labor Code, the employer must inform the employee of the standards for which his employment may be considered for regularization. Such probationary period, unless covered by an apprenticeship agreement, shall not exceed six (6) months from the date the employee started working. The employee's services may be terminated for just cause or for his failure to qualify as a regular employee based on reasonable standards made known to him.[30]

Respondent Paras was employed as a management trainee on a probationary basis. During the orientation conducted on May 15, 1996, he was apprised of the standards upon which his regularization would be based. He reported for work on May 27, 1996. As per the company's policy, the probationary period was from three (3) months to a maximum of six (6) months.

Applying Article 13 of the Civil Code,[31] the probationary period of six (6) months consists of one hundred eighty (180) days.[32] This is in conformity with paragraph one, Article 13 of the Civil Code, which provides that the months which are not designated by their names shall be understood as consisting of thirty (30) days each. The number of months in the probationary period, six (6), should then be multiplied by the number of days within a month, thirty (30); hence, the period of one hundred eighty (180) days.

As clearly provided for in the last paragraph of Article 13, in computing a period, the first day shall be excluded and the last day included. Thus, the one hundred eighty (180) days commenced on May 27, 1996, and ended on November 23, 1996. The termination letter dated November 25, 1996 was served on respondent Paras only at 3:00 a.m. of

November 26, 1996. He was, by then, already a regular employee of the petitioner under Article 281 of the Labor Code.

The Legality of The Dismissal

An employee cannot be dismissed except for just or authorized cause as found in the Labor Code and after due process.[33] The following grounds would justify the dismissal of an employee:

(a)

Serious misconduct or willful disobedience by the employee of the lawful orders of the 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 of any immediate member of his family or his duly authorized representative; and

(e) Other causes analogous to the foregoing.[34]

The basis for which respondent Paras' services were terminated was his alleged unsatisfactory rating arising from poor performance. It is a settled doctrine that the employer has the burden of proving the lawfulness of his employee's dismissal. The validity of the charge must be clearly established in a manner consistent with due process.[35]

Under Article 282 of the Labor Code, an unsatisfactory rating can be a just cause for dismissal only if it amounts to gross and habitual neglect of duties. Gross negligence has been defined to be the want or absence of even slight care or diligence as to amount to a reckless disregard of the safety of person or property. It evinces a thoughtless disregard of consequences without exerting any effort to avoid them.[36] A careful perusal of the records of this case does not show that respondent Paras was grossly negligent in the performance of his duties.

The company policy provides the following rule in performance evaluation:

The performance rating sheet must be accomplished by the immediate supervisor, then reviewed by the Department Head, and concurred by the Division Head. The Personnel Manager likewise must note all submitted performance sheets.

Once the rating sheet has gone through this standard procedure, the immediate supervisor shall discuss the results of the performance rating with the employee. The discussion/conference may be done in the presence of the Department Head. This is to emphasize the point that the employee is given due importance especially in matters pertaining to his development as a person and employee.[37]

In the present case, the immediate supervisor of respondent Paras gave him an average performance rating and found him fit for regularization.[38] Thereafter, his immediate supervisor and the department head reviewed the said rating, which was duly noted by the personnel manager. However, in a complete turn around, the petitioner made it appear that after the performance evaluation of respondent Paras was reviewed by the department and

division heads, it was unanimously agreed that the respondent's performance rating was unsatisfactory, making him unfit for regularization.

There is no showing that respondent Paras was informed of the basis for the volte face of the management group tasked to review his performance rating. His immediate supervisor even told him that he had garnered a satisfactory rating and was qualified for regularization, only to later receive a letter notifying him that his employment was being terminated.

Considering that respondent Paras was not dismissed for a just or authorized cause, his dismissal from employment was illegal. Furthermore, the petitioner's failure to inform him of any charges against him deprived him of due process. Clearly, the termination of his employment based on his alleged unsatisfactory performance rating was effected merely to cover up and "deodorize" the illegality of his dismissal.

Reinstatement and Backwages

The normal consequences of illegal dismissal are reinstatement without loss of seniority rights and the payment of backwages computed from the time the employee's compensation was withheld from him.[39] Since respondent Paras' dismissal from employment is illegal, he is entitled to reinstatement and to be paid backwages from the time of his dismissal up to the time of his actual reinstatement.

The petitioner asserts that assuming respondent Paras was illegally dismissed, his reinstatement had become moot and academic because of its retrenchment program which was effected beginning February 1998. The petitioner posits that even if respondent Paras had become a regular employee by November 26, 1996, he would have been included in the first phase of its retrenchment program, pursuant to the "last in first out policy" embedded in the CBA. Hence, the petitioner concludes, the payment of backwages should be computed up to February of 1998.

The respondents, for their part, aver that the petitioner is proscribed from alleging new circumstances and allegations of fact, particularly on financial reverses, before the Court of Appeals and the Voluntary Arbitrator.

We do not agree with the respondents.

A cursory examination of the records shows that the petitioner could not raise its retrenchment program as an issue before the VA, because it was implemented only in February 1998, when the case was already in the CA. However, we note that the petitioner did not raise the same in its comment to the petition. The petitioner asserted the matter only in its October 20, 2000 motion for reconsideration of the decision of the CA, where it alleged that the retrenchment program was effected to arrest the continuing business losses resulting from the financial reverses it experienced in 1997.

Nevertheless, it is not denied that because of the petitioner's losses, it retrenched seven hundred (700) employees. Business reverses or losses are recognized by law as an authorized cause for termination of employment. Still, it is an essential requirement that alleged losses in business operations must be proven convincingly. Otherwise, such ground for termination would be susceptible to abuse by scheming employers, who might be merely feigning business losses or reverses in their business ventures to ease out employees.[40] Retrenchment is an authorized cause for termination of employment which the law accords an employer who is not making good in its operations in order to cut back on expenses for salaries and wages by laying off some employees. The purpose of retrenchment is to save a financially ailing business establishment from eventually collapsing.[41]

In this case, the petitioner submitted in the CA its financial statements for 1996, 1997 and 1998[42] as well as its application for retrenchment. In its Statements of Income and Unappropriated Retained Earning, it was shown that

in 1996, the parent company of the petitioner had a net income of P467,744,285. In 1997, it had a net loss of P29,253,511.[43] In 1998, its net loss, after effecting retrenchment and closing several plants, was arrested and dropped to P8,156,585.[44] This shows that even after the retrenchment, the petitioner MMPC still suffered net losses.

In 1996, the petitioner's current assets amounted to P5,381,743,576; it increased to P8,033,932,745[45] in 1997, while in 1998, it was reduced to P5,053,874,359.[46] This shows that the petitioner's assets acquired in 1997 diminished in 1998. The figures for Current Liabilities are consistent with the movement of current assets for 1997 and 1998.

In 1996, the petitioner incurred current liabilities of P1,966,445,401 which increased to P5,088,990,117[47] in 1997 and decreased to P2,880,259,811[48] in 1998. To reduce its losses, the petitioner had to dispose of some of its current assets to cover the increased liability incurred in 1997, and had to resort to borrowings in 1998. The continuity of losses which started in 1997 is further illustrated in the figures on retained earnings for 1996, 1997 and 1998. In 1996, retained earnings stood at P1,838,098,175,[49] which decreased to P994,942,628[50] in 1997 and further decreased to P592,614,548[51] in 1998.

The petitioner's losses in 1997 and 1998 are not insignificant. It is beyond cavil then, that the serious and actual business reverses suffered by the petitioner justified its resort to retrenchment of seven hundred (700) of its employees.

The records show that the petitioner informed the Department of Labor and Employment of its plight and intention to retrench employees as a result of the shutdown of its plants.[52] The termination of the five hundred thirty-one (531) affected employees were made effective a month from receipt of the termination letter mailed on February 25, 1998.[53]

In accordance with the CBA between MMPC and CPLU, employees who were recently hired were the ones retrenched. Considering that respondent Paras had just been regularized on November 24, 1996, he would have been included among those who had been retrenched had he not been dismissed.

The unfavorable financial conditions of the petitioner may not justify reinstatement. However, it is not a sufficient ground to deny backwages to respondent Paras who was illegally dismissed.[54] Considering that notices of retrenchment were mailed on February 25, 1998 and made effective one month therefrom, respondent Paras should be paid full backwages from the date of his illegal dismissal up to March 25, 1998. Pursuant to Article 283 of the Labor Code, he should be paid separation pay equivalent to one (1) month salary, or to at least one-half month pay for every year of service, whichever is higher, a fraction of at least six months to be considered as one (1) year.[55]

IN LIGHT OF ALL THE FOREGOING, the petition is **PARTIALLY GRANTED**. The September 13, 2000 Decision of the Court of Appeals in CA-GR SP No. 46030 is hereby **AFFIRMED WITH MODIFICATIONS**. The petitioner is **ORDERED** to pay respondent Nelson Paras separation pay equivalent to one (1) month, or to at least one-half (1/2) month pay for every year of service, whichever is higher, a fraction of at least six (6) months to be considered as one year; and to pay full backwages, computed from the time of his dismissal up to March 25, 1998. That portion of the decision of the Court of Appeals directing the reinstatement of the respondent Paras is **DELETED**.

No costs.

SO ORDERED.

Puno, Quisumbing, and Tinga, JJ., concur.
Austria-Martinez, J., on leave.

[1] Penned by Associate Justice Eriberto U. Rosario, Jr. and concurred in by Associate Justices Eubolo G. Verzola and Roberto A. Barrios; promulgated on September 13, 2000; Rollo, pp. 35-44.

[2] CA Rollo, p. 191.

[3] Id. at 192.

[4] Orientation for New Employees (ONE).

[5] CA Rollo, p. 192-A.

[6] Foreman at Section 3410 of MMPC.

[7] Foreman at Section 3400 of MMPC.

[8] Rollo, p. 126.

[9] Department Managers.

[10] First Vice-President for Manufacturing.

[11] Rollo, p. 51.

[12] Id. at 52.

[13] CA Rollo, p. 131.

[14] Id. at 7.

[15] Rollo, p. 134.

[16] CA Rollo, pp. 14-15.

[17] Id. at 19.

[18] Id. at 24.

[19] Rollo, pp. 40-41.

[20] CA Rollo, p. 385.

[21] Rollo, pp. 13-14.

[22] Id. at 27.

[23] Producers Bank v. Court of Appeals, 397 SCRA 651 (2003).

[24] Alfaro v. Court of Appeals, 363 SCRA 799 (2001).

[25] Hacienda Fatima v. NLRC, 396 SCRA 518 (2003).

[26] Shoppes Manila, Inc. v. The Honorable National Labor Relations Commission, Labor Arbiter Ermita Abrasaldo-Cuyuca and Lorie Torno, G.R. No. 147125, January 14, 2004.

[27] Cosep v. NLRC, 290 SCRA 704, 713 (1998).

[28] Zafra v. Court of Appeals, 389 SCRA 200 (2002).

[29] Manlimos v. National Labor Relations Commission, 242 SCRA 145 (1995).

[30] Article 281 of the Labor Code.

[31] Article 13. When the law speaks of years, months, days or nights, it shall be understood that years are of three hundred sixty-five days each; months, of thirty days; days, of twenty-four hours; and nights from sunset to sunrise.

If months are designated by their name, they shall be computed by the number of days which they respectively have.

In computing a period, the first day shall be excluded, and the last day included.

[32] Republic v. National Labor Relations Commission, 318 SCRA 459 (1999).

[33] Bolinao Security and Investigation Service, Inc. v. Arsenio M. Toston, G.R. No. 139135, January 29, 2004.

[34] Article 282 of the Labor Code.

[35] Bolinao Security and Investigation Service, Inc. v. Arsenio M. Toston, *supra*.

[36] Metro Transit Organization, Inc. v. NLRC, 263 SCRA 313 (1996).

[37] CA Rollo, pp. 102-103.

[38] *Id.* at 24.

[39] Tomas Claudio Memorial College, Inc. v. Court of Appeals and Pedro Natividad, G.R. No. 152568 February 16, 2004; Procter and Gamble Philippines v. Edgardo Bondesto, G.R. No. 139847, March 5, 2004.

[40] J.A.T. General Services and Jesusa Torubu v. National Labor Relations Commission and Jose F. Mascarinas, G.R. No. 148340, January 26, 2004.

[41] *Ibid.*

[42] Financial Statements were prepared by SyCip Gorres & Velayo Co.

[43] Rollo, p. 56.

[44] *Id.* at 83.

[45] *Id.* at 55.

[46] *Id.* at 82.

[47] *Id.* at 55.

[48] *Id.* at 82.

[49] *Id.* at 55.

[50] *Supra*.

[51] *Id.* at 82.

[52] Id. at 68-69.

[53] Id. at 70.

[54] *Columbian Rope Co. of the Philippines v. Tacloban Association of Laborers and Employees*, 6 SCRA 424 (1962).

[55] Article 283 of the Labor Code.

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