

MONICCA B. EGOY, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, THE BUSINESS STAR CORPORATION, AND GABRIEL MAÑALAC, RESPONDENTS.*G.R. No. 152325. August 28, 2008*

Ponente: BRION, J.

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The petitioner Monicca B. Egoy (petitioner) comes to this Court via the present petition[1] to assail the decision of the Court of Appeals (CA) promulgated on March 30, 2001.[2] The CA decision affirmed the decision[3] of the National Labor Relations Commission (NLRC) promulgated on September 30, 1998, and its resolution[4] issued on February 21, 2002 denying the petitioner's motion for reconsideration. The NLRC ruling in turn reversed the decision[5] dated April 8, 1997 of the Labor Arbiter awarding the petitioner separation pay (in lieu of reinstatement), backwages, and attorney's fees.

THE ANTECEDENT FACTS

The petitioner worked for the respondent Business Star Corporation (respondent) who owns and operates a daily business newspaper. On May 4, 1994, the paper was running a story on the bidding of the National Steel Corporation (NSC) and the respondent's managing editor, Lazaro Medina Jr., instructed the petitioner to cover the bidding and to report on the results for the next day's issue of the respondent's paper. The petitioner failed to send the required report, either by phone or fax, and the managing editor had to close the front page of the paper at past 7:00 p.m. of May 4, 1994 without any story on the NSC bidding.

On May 10, 1994, the respondent's news editor, Marie Carol Lucas, through a memorandum,[6] directed the petitioner to explain: (1) her failure to submit a news story on the results of the NSC bidding; and (2) her absence without official leave (AWOL) from May 5 to May 9.

The petitioner submitted the required explanation (dated May 11, 1994) on May 15, 1994.[7] She disagreed with the "false accusation" that she abandoned her post and stated that she was at the Metro Club in Makati to cover the NSC bidding at 1:00 p.m. of May 4, 1994; she called up the office before 3:00 p.m. to advise the desk to wait for the results of the bidding, and every hour thereafter to keep her office informed of the developments; she made her last call at 6:30 p.m.; she went to the office at past 7:00 p.m., tired and hungry, to have her story edited by Mr. Medina, but Mr. Medina was no longer in the office when she arrived at 8:00 p.m.; thus, she did not abandon her job; it was Mr. Medina who abandoned her story as the paper closed as early as 7:30 p.m.

On her three-day absence, the petitioner explained that she "actually planned to file a sick leave, meaning I will not report for office the next day and ask my brother to call up the desk," but the news leaked out that she would be spending the weekend with her family in Hongkong, so she was forced to junk her previous plan.

In a memorandum dated June 15, 1994, the respondent, through Vice President for Administration Miguel G. Belmonte, terminated the petitioner's services for being on AWOL from May 5 to 9, 1994 and for breach of trust by reason of her intention "to mislead the office into believing you were sick when in fact you were to be

vacationing in Hongkong." [8] The petitioner responded to her dismissal by filing a complaint for illegal dismissal with prayer for reinstatement, backwages and attorney's fees. [9]

At the arbitration proceedings, the petitioner submitted the explanation she made relating to her failure to submit a news story on the NSC bidding, the accusation that she had been AWOL, and her abandonment of post.

The respondent, for its part, cited the petitioner's AWOL on May 5 to 9 to justify its action. It also faulted the petitioner for its newspaper's failure to report on the results of the NSC May 4, 1994 bidding. It claimed that nothing was heard of from petitioner on that day regarding the NSC bidding - no call to the editorial desk, no advise to the office on her whereabouts -compelling the managing editor to close the front page at past 7:00 p.m. Company investigation revealed that the petitioner went to the office on May 4, 1994 at past 8:00 p.m., not to submit her news item on the NSC bidding, but to get her loan from the accounting department for her trip to Hongkong on the following day. She did not report for work on May 5, 1994 and the following days as she went on a vacation trip to Hongkong.

The respondent also charged the petitioner with defiance of a lawful order and grave disrespect and discourtesy to her superior, Carol Lucas, who had asked her to explain in writing within 24 hours her failure to submit a news story on the NSC bidding. [10] While the petitioner did submit a report, it came only after 4 days and was submitted to Mr. Gabriel Mañalac, the respondent's publisher and editor-in-chief, instead of to Carol Lucas. The respondent also called attention to the petitioner's "faulty news stories" that resulted in disclaimers from affected parties. A second incident of AWOL was also charged, this time for June 12, 13 and 15, 1994. Based on what the company viewed as a series of unprofessional conduct and on account of the NSC bidding incident, Mañalac asked the petitioner to resign. Her retort was a refusal.

In a decision dated August, 1997, the Labor Arbiter found that the petitioner was illegally dismissed, but ruled out reinstatement because of the parties' strained relationship. [11] He awarded the petitioner separation pay, backwages and attorney's fees. The Labor Arbiter held that the respondent erred in dismissing the petitioner on the grounds indicated in the termination/dismissal memo. [12] The Arbiter relied on the petitioner's submission that she could not have been AWOL from May 5 to 9, 1994 since May 7 to 9, 1994 were non-working days (May 7 was a Saturday and May 8 a Sunday, while May 9 was a holiday - barangay election day). The Labor Arbiter particularly noted her argument asking how she could have intended to falsify any information or mislead respondent on the reason for her absence when she did not file a leave of absence for May 5 and 6.

The respondent appealed [13] to the NLRC whose decision, [14] promulgated on September 30, 1998, reversed the Labor Arbiter's ruling. The NLRC ruled that the Labor Arbiter erred when he limited "his evaluation of the reasonableness of complainant's dismissal to a consideration only of the grounds stated in the notice of dismissal." It pointed out that the show-cause letter to the petitioner clearly asked her to explain why no disciplinary action should be taken against her for her failure to submit a news story on the NSC bidding. [15] In both her written explanation to the company and in the pleadings before the Labor Arbiter, she explained her failure to submit the news story and her absence. To the NLRC, "the complainant's failure to submit the news story in question, compounded by her AWOL (absence without official leave) in the succeeding days and underhanded attempt to shift the blame to Medina x x x constitute a valid ground for loss of confidence, which justified her dismissal." [16]

The petitioner sought relief from the Court of Appeals through a petition for certiorari. In the decision promulgated on March 30, 2001 - now the subject of the present petition for review - the CA dismissed the petition with the following finding: [17]

Petitioner was rightfully dismissed because of her unprofessional conduct and breach of trust. She failed to

meet a deadline. She went to Hongkong without as much informing the central desk about it. She failed to submit her explanation within the time specified. She was on AWOL. And she showed acts of insubordination and disrespect to her superiors. Taken together, the concurrence of events have snowballed into her employer's loss of confidence in her which is a ground for dismissal. Verily, petitioner's dismissal was fully justified. Certiorari does not lie."

The petitioner moved for the reconsideration of the decision, but the CA denied her motion in a resolution promulgated on February 21, 2002.[18]

THE PETITION

The petition cites the following errors:[19]

- The Court of Appeals gravely erred in deciding that petitioner was not illegally dismissed based on grounds not stated in the notice of termination.
- On the assumption that the Court of Appeals can go beyond the grounds stated in the notice of termination, the Court's appreciation and conclusion that the petitioner was not illegally dismissed is based on a misapprehension of facts.
- The Court of Appeals gravely erred in giving weight to the factual findings of the NLRC when it is the Labor Arbiter who conducted the trial and had the opportunity to personally examine the evidence and the witnesses.

The petitioner then went on to state the reasons why the assailed decision should be reversed and set aside. She filed a Reply[20] (to the respondent's Comment) and a Memorandum.[21]

The petitioner posits that the present case highlights a basic and novel question of law - whether a court, in analyzing and deciding an illegal dismissal case, is limited to the ground or grounds stated in the notice of termination. She contends that the court should so limit itself. The petitioner further submits that the respondent failed to comply with the conditions laid down under Book V, Rule XXIII, Section 2, Pars. (a), (b) and (c) of the Labor Code's Implementing Rules and Regulations because only a written notice of termination of employment effective immediately was given to her. She adds that even if the observance of due process is not the issue in this case, the respondent's notice is nevertheless vital in determining the ground or grounds relied upon in terminating her employment. In this regard, she calls attention to the "plain wording" of the notice served on her which plainly cites her failure to report for duty on May 5-9, 1994 without official leave as the reason for her dismissal, not the breach of trust that the respondent cites.[22] She contends that even the Labor Arbiter concluded that "no amount of hair-splitting about complainant's assigned news story on the NSC bidding will change the fact that she was dismissed from her job effective June 15, 1994 on the ground/s indicated in the notice of termination x x x." [23]

The petitioner faults both the NLRC and the Court of Appeals for accepting the non-submission of the news story and the alleged "underhanded" attempt of the petitioner to shift the blame to Medina as additional grounds for the termination of her employment; she notes that the Court of Appeals went farther by citing her failure to meet the deadline as basis for the respondents' loss of confidence; her trip to Hongkong without notifying the central desk; her failure to submit explanation within the specified time; her AWOL; her acts of insubordination and her disrespect to her superiors; and even the respondent's unwarranted claims that she was responsible for news stories that were not entirely accurate and that resulted in disclaimers.

Even assuming that the CA can validly go beyond the grounds stated in the notice of termination, the petitioner further maintains that the court misappreciated the undisputed facts of the case, leading to its erroneous conclusions. She likewise belies the other factual findings of the CA - largely the same factual issues passed upon at the Labor Arbiter and NLRC levels. Finally, the petitioner assails the undue weight given by the CA to the

factual findings of the NLRC. She contends that considering the conflicting evidence presented during the hearings, the Labor Arbiter was in a better position than the NLRC and the Court of Appeals to determine which evidence should be considered in resolving the case; in the absence of any showing of abuse, the Labor Arbiter's appreciation of the evidence should be respected.

THE CASE FOR RESPONDENT BUSINESS STAR

The respondent, in a Memorandum[24] dated January 27, 2003, submits that the CA committed no error: (1) in ruling that petitioner was not illegally dismissed; (2) in the appreciation of the facts of the case; and (3) in giving weight to the factual findings of the NLRC. It maintains that it terminated the employment of petitioner for her unprofessionalism, willful violation of company rules and regulations, grave disrespect and discourtesy to her immediate superiors equivalent to a breach of trust which constitutes a just cause for dismissal under Article 282 of the Labor Code.

As the petitioner did, the respondent largely dwelt on the appreciation of the facts of the case, starting from the petitioner's failure to submit her report on the NSC bidding, her subsequent AWOL and insubordination.

The respondent questions the petitioner's objection based on the two-notice rule under Book V, Rule XIV, Sec. 2 of the Implementing Rules and Regulations of the Labor Code,[25] arguing that the petition cannot raise this issue for the first time on appeal; in any case, it posits that the petitioner was fully given her day in court and her right to due process was never suppressed nor denied.

On the factual findings of the CA, the respondent submits that the appellate court correctly appreciated the facts of the case for they were based on the pleadings, documents and evidence submitted to the Labor Arbiter and the NLRC. It further contends that neither did the CA commit an error when it gave weight to the finding of the NLRC over those of the Labor Arbiter.

THE COURT'S RULING

The petitioner presents to this Court what she defines as a basic and novel question of law which, to her, constitutes the main issue in this case - whether a court, in analyzing and deciding a dismissal case, is limited to the ground or grounds stated in the notice of termination given to the employee.[26] She contends that the Court of Appeals should have limited itself to the ground or grounds stated in the notice; the CA's error in this regard is an abuse of discretion correctible by certiorari. In the context of the present petition, the direct question that the petitioner poses is: Does the NLRC's and the CA's consideration of the NSC bidding and other related incidents not specifically mentioned in the notice of termination taint their decisions with illegality for their use of irrelevant considerations?

Separately from the above issue, the petitioner submits that the appellate court erred in its appreciation of the facts of the case and in giving weight to the findings of the NLRC. This question - essentially one of fact - is outside the purview of a Rule 45 petition.[27] Nevertheless, we shall look at the factual issues but only to the extent of considering the submission that the CA went beyond the termination notice in upholding the petitioner's dismissal.

We see no merit in the petition as our discussions below will show.

Our examination of the developments in the parties' relationship shows that it began to sour when the petitioner failed to file her report on the NSC bidding on May 4, 1994. As a result, the respondent changed its managing editor and at the same time asked the petitioner to explain why she failed to submit her report. The order to explain also asked her about her unauthorized absence on the days subsequent to the NSC bidding. The petitioner did submit her explanation, though her compliance came late. There were questions raised, too, on the manner she

submitted her explanation. Ultimately, the respondent decided to terminate the petitioner's employment, citing her absence without leave and characterizing this as a breach of trust.

Before the Labor Arbiter, the NSC bidding incident was a live issue that the petitioner fully discussed in her Position Paper together with her absence from May 5 to 9, 1994 and its surrounding circumstances. For its part, the respondent likewise fully discussed its version of what happened in the NSC bidding incident, the circumstances of the petitioner's absence, and the other developments that subsequently arose.

Despite the parties' full discussion of what had transpired between them, the Labor Arbiter read the notice of termination in its narrowest sense and thus said: "Be that as it may, no amount of hairsplitting about complainant's assigned news story on the bidding will change the fact that she was dismissed from her job effective June 5, 1994 on the ground/s indicated on the Notice of Termination, as cited above." Ruling on the cited absences, the Labor Arbiter reasoned out:

As correctly pointed out by complainant, she was not on AWOL from May 5-9, 1994 inasmuch as May 7-9, 1994 were non-working days, May 7 and 8 being Saturday and Sunday and May 9, being a Holiday, Barangay election. It follows that she is wrongly accused of a prolonged absence. Also, complainant correctly argued that since she did not file a leave of absence for May 5 to 8, 1994 how then could she have intended to falsify any information or mislead the respondent corporation as to the reason for her being absent.

In contrast with the Labor Arbiter, the NLRC fully considered the parties' submissions about their relationship and, in effect, took a wide view of what the Notice of Termination covered, particularly the respondent's statement about the petitioner's "breach of trust." The NLRC fully reflected this view when it said:

The Labor Arbiter should not have limited its evaluation of the reasonableness of the complainant's dismissal to a consideration only of the grounds stated in the notice of dismissal, that is, breach of trust consisting of being absent without leave and intending the respondent into believing that she was sick when in fact she was vacationing in Hongkong. The show-cause letter that the complainant received earlier discloses that she was also asked to explain why no disciplinary action should be taken against her for her failure to submit a news story on the NSC bidding. Moreover, in her written explanation and in the pleadings she submitted to the labor arbiter, the complainant sought to justify both her failure to submit her news story and her absences. There is therefore no valid reason why a determination of the reasonableness of her dismissal should be limited only to the grounds stated in the notice of dismissal.

In seeking relief from the CA against the NLRC, the petitioner interestingly led off with a narration of the developments in her relationship with the respondent starting from the NSC bidding incident.[28] This recital led to her Grounds of the Petition which she defined to be:

5.00.1 Public respondent NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it ruled that private respondents have sufficient basis in dismissing petitioner from the service;

5.00.2. Public respondent NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it ruled that the inconsistency in petitioner's statements made her claim for illegal dismissal doubtful.[29]

It was on the basis of these defined issues and their full supporting discussion in the petition that the appellate court ruled on the petitioner's case. The CA significantly stated in considering the submitted issues:

In her memorandum, petitioner states that "the principal issue to be resolved is whether or not petitioner's failure to submit a news story on the NSC bidding is justified or not." She avers that the non-submission of her story before the imposed deadline was not her fault but Medina's. She unabashedly remarks that she should be

commended "for defying all odds simply to have her story published on the next day's edition of the Business Star."

With this lead as take off point, the CA went on to discuss the NSC bidding incident, concluding that "there is no showing that petitioner had indeed submitted the news story on the NSC bidding." The decision further stated -repeating what it had earlier stated and, to some degree, echoing the expansive reading the NLRC gave of "breach of trust" as ground for dismissal - that:

As earlier observed, petitioner confined her arguments primarily on the matter of the absence or lateness of her news story on the NSC bidding. But it should be underscored that her dismissal was not due to a single event but due to a series or confluence of circumstances which vividly demonstrated her failure to cope with the demands of her job as a reporter. As well explained by respondents, hers was not confined to an isolated act of non-observance of certain norms in her field of work. It was the totality of events like her unprofessionalism for not submitting a news story that was a front page item, going to travel without previous notice to her employer, bypassing her immediate bosses and insubordination, and going AWOL which created problems on news gathering over her beat.

Under these circumstances, we cannot fault the appellate court for its ruling. Courts only respond to the facts presented and the issues framed by the parties and consider these in light of our procedural and substantive laws. It is a matter of record that the petitioner never raised in her petition for certiorari before the CA any objection relating to the consideration of incidents other than her absence on AWOL, intent to falsify and breach of trust. She did not object to the discussion of these other incidents and, on the contrary, met them squarely. It is likewise a matter of record, as already adverted to above, that the appellate court directly ruled on the NSC bidding issue because it was an issue that the petitioner raised. If it cited incidents beyond the grounds stated in the Notice of Termination, it appears to us that these were incidents related to the breach of trust mentioned in the notice of termination; they have been cited, not as grounds for termination per se, but as related circumstances that support the termination of the petitioner's employment for breach of trust.

We note in this regard that at the earliest instance,[30] the respondent had given the petitioner the fullest opportunity to explain as our rules on due process require.[31] The incidents mentioned by the NLRC and the CA were not unknown to the petitioner as she seeks to imply in her discussion of the purpose of a notice of termination.[32] Thus, while the petitioner correctly stated that -"The said notice is the written proof of what was in the mind of the private respondents when they terminated the petitioner. It is a document free of afterthoughts to justify the illegal termination of petitioner" - her conclusions in applying this general principle, however, are far from correct in the circumstances of the present case. The petitioner had never been in the dark on what were in the employer's mind as these matters had been known to her and had been the subject of internal communications between her and the respondent employer. Furthermore, these matters - particularly the NSC bidding incident - were considered at every stage in the adjudication of the present dispute. Thus, at this point - most especially after the petitioner's submission before the appellate court of the very issues she now says should not have been considered - she cannot now turn around and fault the court for acting on her submitted issues. She is now barred from taking this contrary position under the principle of estoppel.[33] In layman's terms, this simply means that she has violated a basic rule of fairness by urging the appellate court to rule on an issue and then assailing the court for acting on that issue when the court's action did not go her way.

To be sure, even under the strict terms of the grounds cited in the Notice of Termination - i.e., abandonment of post with the intention of falsifying information when applying for leave of absence, prolonged absence without official leave[34] and breach of trust - we hold that the termination of the petitioner's employment is justified because her actions meant more than being away from work without prior leave. Her absence, under the surrounding circumstances of the case, gave the employer grounds to cite her for breach of trust. Inherent in this

consideration are the nature of her job, how she incurred her absence, the significance of her absence, and the injury she caused to the company - matters that were all touched upon in the assailed CA decision.

In our own consideration of the merits of the cited grounds for termination, we find no error sufficiently weighty and substantive to call for the reversal of the appellate court's decision. By her own acts, tested against common sense standards that should apply to a professional like the petitioner, she provided the respondent employer sufficient reasons to terminate her employment.

First, the petitioner exhibited a negative work attitude with respect to her trip to Hongkong. When asked to explain her absence without official leave from May 5 to 9, 1994, she categorically stated that she actually planned to file a sick leave for it but changed her mind when her trip to Hongkong leaked out. The damaging implication of this statement might not have occurred to petitioner but it cast a bad light on her character as a person and as a staff member of an organization like the respondent Business Star. It showed her as a person who would not hesitate to bend the truth to achieve her objective. The petitioner tried to extricate herself from what she had said with the argument that she could not have misled the company because she did not in fact file a leave of absence. Apparently, she again did not realize the implication of this argument; whether or not she filed a leave of absence was beside the point and immaterial; what was material, and a fact she cannot now erase, was her admission of her intent to falsify. For a reporter whose duty is to write the news - a task where adherence to the truth is of paramount importance - this insight into her work ethic is indeed disturbing.

Second, she left without notice to and without leave of her employer nor of any one in a responsible position who could make the necessary adjustments in her work assignments, especially the coverage of a running story like the NSC bidding. Under the circumstances surrounding the incident, the petitioner did really abandon an assignment. This omission cannot be mitigated by any claim that the absence was not prolonged and was only for only two days as she argued before the Labor Arbiter^[35] and as she annotated in her copy of the memorandum of Ms. Lucas dated May 11, 1994.^[36]

Third, the petitioner's absence without official leave and her role in the NSC bidding fiasco betray another unfavorable aspect of her character. This was her tendency to bypass authority and to disrespect her superior as shown by her failure to inform Mr. Medina of her trip to Hongkong.^[37] Her omission can very well be a basis for breach of trust drawn from the fact of her absence.

Thus, based on these considerations, the petitioner's AWOL and her intent to falsify her excuse for her Hongkong trip - i.e., the grounds stated in the respondent company's notice of termination - constitute ample reasons for the respondent company to lose its trust on the petitioner as an employee tasked with the responsibility of reporting on significant developing events.

WHEREFORE, premises considered, we DENY the petition for lack of merit. Costs against the petitioner.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

[1] Petition for Review on Certiorari, under Rule 45 of the Revised Rules of Court.

[2] Penned by Associate Justice Oswaldo D. Agcaoili (retired) and concurred in by Associate Justice Cancio C. Garcia (retired member of this Court) and Associate Justice Elvi John S. Asuncion; rollo, pp. 32-39.

[3] *Id.*, pp. 93-105.

[4] *Id.*, p. 41.

[5] Id., pp. 47-58.

[6] Id., p. 42.

[7] Id., p. 43.

[8] Id., p. 46.

[9] NLRC Case No. 06-04802-94.

[10] Supra, at note 6, p. 2.

[11] Rollo, at pp. 47-58.

[12] Supra, at note 8, p. 3.

[13] Rollo, pp. 59-77.

[14] Id., pp. 93-105.

[15] Id., p. 601.

[16] Id., p. 103.

[17] Supra note 2, p. 1.

[18] Rollo, p. 41.

[19] Supra, at note 1, p. 1.

[20] Rollo, at pp. 145-159.

[21] Id., at pp. 187-212.

[22] Supra, at note 8, page 3.

[23] Supra, at note 11, p. 4.

[24] Rollo, at pp. 167-184.

[25] Should be Book VI, Rule I, Section 1, The Labor Code of the Philippines and its Amended Implementing Rules and Regulations.

[26] Petition, rollo, p. 15.

[27] RULES OF COURT, Rule 45, Sec. 1.

A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition shall raise only questions of law which must be distinctly set forth.

[28] Rollo, pp. 108 to 111.

[29] Ibid., pp. 111-112.

[30] Supra, at note 6, p. 2.

[31] Supra, at note ---7, p. 2.

[32] Petition, at pp. 8-9; rollo, at pp. 16-17.

[33] Article 1431 of the Civil Code provides that "through estoppel, an admission or representation is rendered conclusive upon the person seeking it, and cannot be denied or disproved as against the person relying thereon." See: Quiambao v. Court of Appeals, G.R. No. 128305, March 28, 2005, 454 SCRA 17.

[34] Supra, at note 8, p. 3.

[35] Labor Arbiter's Decision, rollo, at pp. 47-58, 56.

[36] Supra, at note 7, p. 2.

[37] Shown also by her act of by-passing Ms. Lucas who had asked her to explain her absence and her failure to file her NSC bidding report - a matter also ventilated in the submissions at the tribunals below but which we leave out because it is not directly cited in the notice of termination.

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