

SAN MIGUEL CORPORATION, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND WILLIAM L. FRIEND, JR., RESPONDENTS.

G.R. No. 153983. May 26, 2009

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

Before us is a petition for review on certiorari under Rule 45 of the 1997 Rules of Court assailing the Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 65528 dated March 15, 2002, and its Resolution[2] dated June 11, 2002.

Respondent William L. Friend, Jr. was a route salesman of petitioner San Miguel Corporation Bacoar Sales Office for ten (10) years with a monthly salary of P30,000.00.

On April 3, 1995, Rene de Jesus, respondent's supervisor, conducted an audit of his route on account of complaints of the following customers:

- Perla Tibayan, Salitan, Dasmariñas, Cavite;
- Estelita Galay-de Leon, Dara Subd., Salitran, Dasmariñas, Cavite;
- Clarita Javier/Helena Abay, Topacio, Imus, Cavite;
- Ester Saguilayan, Malagasan, Imus, Cavite;
- Generoso Bayot, Anober II, Imus, Cavite;
- Cynthia Zapanta, Anober II, Imus, Cavite.

These customers complained to the supervisor that respondent padded their accounts in the total amount of P20,540.00.

After the audit, the supervisor found reasonable ground to hold respondent liable for misappropriation of company funds through falsification of private documents. On April 19, 1995, respondent was summoned to petitioner's Canlubang Bottling Plant for investigation.

Petitioner found the following:[3]

(1) Case of Perla Tibayan

Mr. William Friend issued TCI No. 677539 on March 31, 1995, for the account of Perla Tibayan (Annex'1'). The TCI was for 148 empties and 32 bottles valued at P17,568.00. Perla Tibayan only confirmed that the outstanding account was 82 cases empties in the amount of P9,840.00 (Confirmation Slip of Perla Tibayan dated April 4, 1995 is hereby attached as Annex `1-A'). On April 10, 1995, Perla Tibayan executed an affidavit before notary public Bernard R. Paredes, denying her signature appearing in Invoice No. 677539 and that she

received partial only of the products stated in Invoice No. 677539 in the amount of P9,840.00 or 82 complete empties of PP-320. The affidavit also includes statement that the 40 complete empties PP-320 plus 32 empties bottles were for the account of William Friend and 24 complete empties PP320 were borrowed by Generoso Bayot (Annex `1-B').

(2) Case of Estelita Galay (de Leon)

TCI #677540 was issued by complainant on March 31, 1995, supposedly to cover 116 empties valued at P13,920.00 for the account of Ms. Estelita Galay (Annex `2'). When audited by DSS Rene de Jesus on April 4, 1995, the outlet, Ms. Estelita Galay only confirmed her outstanding account of P6,240.00 for 52 empties cases PP320 (Annex `A'). In support of her claim, she executed an affidavit on April 10, 1995, before Notary Public Bernard Paredes stating that PP52 complete empties was her account while PP40 complete empties were for William Friend and PP24 complete empties were borrowed by Generoso Bayot (Annex `B').

(3) Case of Clarita Javier/Helena Abay

Helena Abay, the caretaker of Clarita Javier, claimed that Mr. William Friend only delivered 25 cases full goods and her container loan was only for 19 cases empties with a total value of P6,530.00 (Confirmation Slip Annex `3') as against the 25 full goods and 29 cases empties reflected in the Temporary Credit Invoice #677531 issued by complainant, William Friend to Clarita Javier in the total amount of P7,730.00 on March 31, 1995 (annex `3-A'). On April 10, 1995, Helena Abay executed an affidavit before Notary Public Bernard R. Paredes, stating among others the fact, that I only receive partial of the products stated in Invoice No. 677531 in the amount of P6,530.00 the breakdown of which is 25 PP-320 content only and 19 cases PP empties (annex`3-B').

(4) Case of Cynthia Zapanta

Temporary Credit Invoice (TCI) #677542 was issued by Mr. William Friend on March 31, 1995, supposedly to cover 99 cases of full goods and 69 cases empties (Annex `4'). However, upon audit, customer confirmed that her outstanding account is only 79 cases full goods and 50 cases empties valued at P19,430.00 (Confirmation Slip, Annex `4-A).

On April 10, 1995, Cynthia B. Zapanta, executed an affidavit before Notary Public Bernard R. Paredes, stating among others:

- a) The signature appearing in Invoice No. 677542 is not my signature;
- b) That I only receive partial of the products stated in Invoice No. 677542 in the amount of P19,430.00 - breakdown, 70PP content only and 50 cases PP empties; and
- c) The discount appearing on TCI #677542 amounting to P140 was not given to me (Annex `4-B')."

(5) Case of Generoso Bayot

Outlet confirmed that his total outstanding account was in the amount of P29,406.50 which was covered by TCI #667668 issued on March 2, 1995 by complainant, Mr. William Friend for 103 cases full goods, valued at P17,510.00 and 103 empties valued at P12,360.00 or a total value of P29,406.50 (Annex `5'). Mr. William Friend issued on March 31, 1995 TCI #677541 in the name of Generoso Bayot for 245 empties valued at P29,400.00 (Annex `5-A'). In the audit, Mr. Generoso Bayot confirmed his temporary sales account in the amount of P29,400.00 but disclaimed ownership of the signature appearing in TCI #677541 (Annex `5-B'). Allegation of Mr. Bayot was again reiterated, when he executed an affidavit (Annex `5-C') before Notary Public Bernard R. Paredes on April 10, 1995, wherein he stated that, 'the signature appearing on Invoice No. 677541 is not my signature'. This particular transaction was a 'paper renewal' wherein complainant changed the original goods ordered by the outlet from 103 cases full goods and 103 cases empties to 245 empties for the same amount of P29,406.50.

(6) Case of Ester Sacquilayan

Temporary Credit Invoice No. 677537 was issued by complainant Mr. William Friend for 29 cases empties, valued at P3,480.00 for a total amount of P8,400.00 (Annex `6'). Upon audit, customer said that TCI #677537 was a paper renewal of her outstanding account of 15 cases full goods and 15 cases empties with a total value of P4,350.00 only (Confirmation Slip, Annex `6-A'). she also executed an affidavit wherein she confirmed that, 'I only received partial of the products stated in Invoice No. 677537 in the amount of P4,350.00 representing 15 cases PP full goods (Annex `6-B').

On October 3, 1995, respondent received a notice of termination[4] from petitioner which states as follows:

Mr. William L. Friend, Jr.
314 Molave St., Andres Village 2
Bacoor. Cavite

Mr. Friend, Jr.,

After a thorough evaluation of the results of the investigation, please be informed that your services with the company is being terminated effective at the close of business hours of October 5, 1995 for misappropriation of company funds through falsification of company documents. Company rules and regulations states that misappropriation of company funds is punishable by discharge for the offense.

Also, you are being given thirty (30) days in which to pay back the company the amount of P20,540.00 which you have misappropriated or corresponding criminal case as well as civil case will be filed against you.

(SGD) DOMINGO C. MISA, JR.
Manager Sales Operation
Southeastern Tagalog Beer Region.
(emphasis ours)

Hence, respondent filed a complaint for illegal suspension and illegal dismissal docketed as NLRC Case No. RAB-IV-10-7644-95-C. On November 11, 1997, after both parties submitted their respective position paper, the Labor Arbiter rendered a Decision[5] ordering petitioner to reinstate respondent, thus:

In a case of illegal dismissal, the burden of proving the legality or illegality of the dismissal, once the prior employment was admitted, rests upon the employer. In the case at bar since respondent admits having employed complainant and terminated his employment later, respondents has to prove with convincing evidence that there was valid cause to dismiss him and that he was afforded due process.

It is an established fact that complainant was afforded the opportunity to explain his side anent the charge against him thru question-and-answer form of formal investigation during which, he was even represented by a lawyer of his own choice. This is due process.

On the existence of valid, just or authorized cause, we have these to say:

There is no doubt that complainant committed the acts complained against him.

Admittedly by the complainant, what he committed were acts of paper renewal, resorted to by the salesman to make it appear that the account of a customer is moving. This is done by the salesman so that his customer's account will not "slide" for if it happens, the customer's credit line would be cut-off. In fine, it gives the customer more time to pay his/her account to SMC.

The acts of paper renewal described above, in legal parlance, constitute falsification of private documents.

Under company rule No. 15, falsification of company records or documents is punishable with dismissal

(discharge, if the offender or somebody benefits from the falsification.

In the case at bar, certainly the customers benefits from such falsification as it prolonged the time for them to pay their account to SMC.

Respondent failed to prove that complainant misappropriated company funds though. The padding was merely for the purpose of maintaining the line account of complainant's clients.

We find the penalty of dismissal too severe a penalty for the offense committed. Firstly, there is no showing that complainant's service record was replete with offenses. It appears that this is the first time he was charged of violation of company rule. Secondly, there is no convincing evidence that he materially benefited from the acts committed. Thirdly, SMC did not suffer from any damage or losses by reason thereof.

Suspension of two years and two months would be more appropriate a penalty and would serve complainant a lesson not to repeat the same acts in the future, which penalty is deemed served from October 5, 1995 to December 5, 1997.

WHEREFORE, respondent is hereby directed to reinstate the complainant effective December 6, 1997 to his former position.

SO ORDERED. (emphasis supplied)

Both parties appealed to the NLRC. In a Decision[6] dated February 23, 2001, the NLRC reversed the decision of the Labor Arbiter, to wit:

We find merit in the appeal.

Paper renewal is falsification of private document because the author makes it appear that the accounts of his customers were moving otherwise the customers' credit line would be severed. When the time frame within which the customers should settle their obligations is extended through "paper renewal" the rule of respondent collection of credit within one (1) week is circumvented to the prejudice of the company.

A high degree of confidence is reposed in salesman as they are entrusted with funds or properties of their employer (CCBPI vs. NLRC, 172 SCRA 751). By his own wrongdoing, it would be an act of oppression to compel his employer to welcome him anew to its fold.

The paper renewal is also beneficial to the salesman because the good credit standing of his customers is a boost to his performance level and continuous employment. This is the moving force for the salesman to resort to paper renewal. And we cannot countenance the salesman's self-interest to the prejudice of the company. We cannot lose sight that under Article 282 © of the Labor Code, an employer is allowed to terminate an employee for willful breach of trust reposed in him.

In short, we sustain respondent's prerogative to dismiss complainant.

However, we find complainant to have been illegally suspended. Complainant was placed under suspension on April 3, 1995 which should end thirty (30) days thereafter. Since he was not allowed to return to his position nor given an assignment after May 3, 1995 complainant is entitled to his wages from May 3 to October 3, 1995 when he was terminated.

WHEREFORE, premises considered, the appeal of San Miguel Corporation is hereby Granted. Accordingly, the Decision of the Labor Arbiter dated 11 November 1997 directing the reinstatement of William L. Friend is SET ASIDE. Respondent is however directed to pay complainant his wages from May 3 to October 3, 1995, the period for which he was illegally suspended.

SO ORDERED.

Respondent filed a motion for partial reconsideration but the NLRC denied the same for lack of merit.

Respondent elevated the case to the CA through a petition for certiorari. On March 15, 2002, the CA rendered the assailed Decision[7], granting the petition, reversing and setting aside the Decision of the NLRC and reinstating the Decision of the Labor Arbiter. The CA ratiocinated as follows:

The issue in this case is whether petitioner's act of "paper renewal" warrants his termination.

This Court agrees with the Labor Arbiter that petitioner did in fact violate company rules by his act of "paper renewal" but this should not warrant his dismissal.

The Labor Arbiter noted as follows:

"Under company rule No. 15, falsification of company records or documents is punishable with dismissal (discharge) if the offender or somebody benefits from the falsification."

In the case of *Sanchez vs. National Labor Relations Commission*, (G.R. No. 124348, 312 SCRA727) the Supreme Court said:

"In *Coca-Cola Bottlers Philippines, Inc. vs. NLRC*, we said that the life of a softdrinks company depends not so much on the bottling or production of the product since this is primarily done by automatic machines and personnel who are easily supervised, but upon mobile and far-ranging salesman who go from store to store all over the country or region. Salesmen are highly individualistic personnel who have to be trusted and left essentially on their own. A high degree of confidence is reposed in them when they are entrusted with funds or properties of their employer. Such is petitioner Dominador Sanchez who was then a salesman of respondent Pepsi-Cola Products Philippines, Inc. (PEPSI-COLA), until he was terminated after twenty-three (23) years of service for loss of trust and confidence for violation of company rules."

The effect of petitioner's "paper renewal" was determined by the Labor Arbiter when he stated the following:

"In the case at bar, certainly the customers benefited from such falsification as it prolonged the time for them to pay their account to SMC.

Respondent failed to prove that complainant misappropriated company funds though. The padding was merely for the purpose of maintaining the line account of complainant's clients."

For its part, the NLRC found as follows:

"Paper renewal is falsification of private document because the author makes it appear that the accounts of his customers were moving otherwise the customers' credit line would be severed. When the time frame within which the customers should settle their obligations is extended through 'paper renewal' the rule of respondent collection of credit within one (1) week is circumvented to the prejudice of the company.

xxx

The paper renewal is also beneficial to the salesman because the good credit standing of his customers is a boost to his performance level and continuous employment. This is the moving force for the salesman to resort to proper (sic) renewal. And we cannot countenance the salesman's self-interest to the prejudice of the company. We cannot lose sight that under Article 282 © of the Labor Code, an employer is allowed to terminate an employee for willful breach trust (sic) reposed in him."

It is therefore clear that petitioner did in fact violate company Rule No. 15 by falsifying company records and documents. However, there is a qualification. Such falsification must benefit the offender (herein petitioner) or somebody else.

According to the NLRC, the benefit to petitioner was "a boost to his performance level and continuing

employment"" while according to the Labor Arbiter, the benefit to the customers was "it prolonged the time for them to pay their account to SMC". Such are hardly the benefits obtained that would warrant the supreme penalty of dismissal for the first offense. This is unlike the aforecited Sanchez case wherein petitioner Sanchez was not only caught "padding", but he also converted 200 cases of empties to cash to defray the medical expenses of his ailing wife, an act of gross dishonesty, resulting in his termination which he richly deserved.

This Court thus agrees with the Labor Arbiter when she ruled as follows:

"We find the penalty of dismissal too severe a penalty for the offense committed. Firstly, there is no showing that complainant's service record was replete with offenses. It appears that this is the first time he was charged of violation of company rule. Secondly, there is no convincing evidence that he materially benefited from the acts committed. Thirdly, SMC did not suffer from any damage or losses by reason thereof."

This is not to say however that petitioner should be completely absolved from his acts of "paper renewal". Petitioner did not help matters when he failed to cite the specific company rule or its number which penalizes the offense of "paper renewal" which, according to him, warrants only the suspension for two (2) days, in contrast to private respondent's submission of the specific company rule allegedly violated by petitioner, No. 15. This Court therefore also agrees with the Labor Arbiter when she considered suspension of two (2) years and four (4) months as an appropriate penalty, as follows:

"Suspension of two years and two months would be more appropriate a penalty and would serve complainant a lesson not to repeat the same acts in the future, which penalty is deemed served from October 4, 1995 to December 5, 1997."

Should petitioner be caught again in the act of "paper renewal", he should no longer expect the sympathy of this Court, or of the Labor arbiter and the NLRC for that matter, for this is clear recidivism which is an absolute ground for his termination due to loss of trust and confidence in him by his employer, private respondent SMC, considering his position as a salesman.

In view of the foregoing, the NLRC committed grave abuse of discretion in reversing the decision of Labor Arbiter Nieves V. De Castro.

WHEREFORE, the instant petition is GRANTED. The decision of the National Relations Commission Third Division in NLRC NCR CA No. 014383-98 (NLRC RAB IV 10-7644-95-C) is REVERSED and SET ASIDE, and the decision of Labor Arbiter Nieves V. De Castro is hereby REINSTATED.

SO ORDERED.

Petitioner filed a motion for reconsideration but the CA denied the same in the assailed Resolution[8] dated June 11, 2002. Hence, the present petition raising the following issues:

I.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED SERIOUS ERROR IN SETTING ASIDE THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION DESPITE THE COURT'S FINDING THAT RESPONDENT INDEED FALSIFIED NUMEROUS COMPANY RECORDS.

II.

THE HONORABLE COURT OF APPEALS' DECISION IS NOT IN ACCORD WITH LAW AND THE APPLICABLE DECISIONS OF THE SUPREME COURT IN SIMILAR CASES.

Petitioner argues that even on the assumption that respondent did not benefit from the misdeeds, still, the mere act

of falsifying company records and documents is already sufficient to warrant respondent's termination from employment. Moreover, such an act is pure and simple dishonesty and reflects on the moral character of the employee and his fitness to continue in employment as a salesman. Citing the cases of *Filipro, Inc. v. NLRC*,^[9] *Bernardo v. NLRC*,^[10] *Mirano et al v. NLRC*,^[11] and; *Gonzales v. NLRC*,^[12] petitioner maintains that the right of management to terminate the services of employees found to have falsified company records or documents has been repeatedly upheld by this Court.

Lastly, petitioner submits that the position of respondent as a salesman is imbued with trust and confidence, hence, he may be validly dismissed from employment on the ground of loss of trust and confidence pursuant to Article 282 of the Labor Code.

Respondent admits having committed paper renewals, but he vehemently denies having materially benefited therefrom by misappropriating company funds amounting to P20,540.00.^[13] He directs the Court's attention to the pronouncement of the Labor Arbiter, concurred in by the CA, that no evidence exists to support petitioner's claim of misappropriation.^[14] Hence, since, he neither incurred any actual damages nor enjoyed any correlative benefit that can be considered as a material gain, his dismissal is illegal.

Respondent added that even assuming *arguendo* that he padded the customers' accounts, he could not have misappropriated a single centavo therefrom simply because said padded accounts were mere collectibles. Thus, it was impossible for him to misappropriate the same.

He further submits that it could not have been possible for him to misappropriate or steal company funds amounting to about P20,540.00. He claims that he will not destroy or tarnish his name for such an insignificant amount. Respondent was receiving a monthly salary of P30,000.00, affording him a comfortable life. If he wanted to steal from petitioner, he would have done so when he was entrusted with petitioner's money amounting to millions as bodegero or warehouseman during the absence of the latter. He also points out that in 1994, he was named Outstanding Salesman and was twice honored as a grand slam awardee in 1988 when he was given an Award of Excellence and in 1994 when he topped the year's quarterly sales.

We rule for the respondent.

In termination cases, the employer bears the burden of proving that the dismissal of the employee is for a just or an authorized cause.^[15] Failure to dispose of the burden would imply that the dismissal is not lawful, and that the employee is entitled to reinstatement, back wages and accruing benefits.^[16] Moreover, dismissed employees are not required to prove their innocence of the employer's accusations against them.^[17]

Petitioner cites Article 282^[18] of the Labor Code, specifically loss of trust and confidence as the ground for validly dismissing respondent. Under the law, loss of confidence must be based on "fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative." In this regard, the Court has ruled that ordinary breach does not suffice.^[19] A breach of trust is willful if it is done intentionally, knowingly and purposely, without any justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently.^[20]

Here, respondent was investigated on and dismissed for misappropriation of company funds through falsification of company documents, as shown in the termination letter.^[21]

Company Rule No. 16 of petitioner's Disciplinary Actions for Violations of Company Rules^[22] specifically provides that "Misappropriation of Company Funds/Withholding Funds Due to the Company" is punishable with discharge even for the first offense.

Records, nevertheless, neither showed nor convinced us that there was misappropriation of funds that benefited anybody which warranted the dismissal of respondent for the first offense. Respondent admittedly committed padding of accounts and/or paper renewal, which respondent claims to be a practice among salesmen and such claim was not disputed by petitioner.

Company Rule No. 15 of the same Disciplinary Actions for Violations of Company Rules[23] provides that Falsification of Company Records or Documents is classified into two (2) types, thus:

Violations

1[st] offense

2[nd] offense

3[rd] offense

A. If no one benefits or would have benefited from falsification

6 days suspension

15 days suspension

Discharge

B. If offender or somebody benefits from falsification or would have benefited, if falsification is not found on time

Discharge

The paper renewal committed by respondent may be considered as falsification, but we agree with the Labor Arbiter and the CA that such paper renewal did not amount to misappropriation that could justify outright dismissal for the first offense, as what petitioner did to respondent. Otherwise, the company rules would not have separated these two offenses under Rule Nos. 15 and 16. Besides, we agree with the CA that although petitioner did in fact violate company Rule No. 15 by falsifying company records and documents through paper renewal, such falsification has to be qualified, thus:

It is therefore clear that petitioner did in fact violate company Rule No. 15 by falsifying company records and documents. However, there is a qualification. Such falsification must benefit the offender (herein petitioner) or somebody else.

According to the NLRC, the benefit to petitioner was "a boost to his performance level and continuing employment" while according to the Labor Arbiter, the benefit to the customers was "it prolonged the time for them to pay their account to SMC." Such are hardly the benefits obtained that would warrant the supreme penalty of dismissal for the first offense.

Petitioner utterly failed to establish that respondent or somebody pecuniarily or materially benefited from the falsification through paper renewal committed by respondent that could have warranted his dismissal for the first offense. Neither was there clear and convincing evidence that petitioner suffered any material loss by the respondent's act of paper renewal. Regarding petitioner's sweeping charge of misappropriation of company funds against respondent, we quote with approval the disquisition of the Labor Arbiter as cited by the CA:

Respondent failed to prove that complainant misappropriated company funds though. The padding was merely for the purpose of maintaining the line account of complainant's clients.

We find the penalty of dismissal too severe a penalty for the offense committed. Firstly, there is no showing

that complainant's service record was replete with offenses. It appears that this is the first time he was charged of violation of company rule. Secondly, there is no convincing evidence that he materially benefited from the acts committed. Thirdly, SMC did not suffer from any damage or losses by reason thereof.

We find no reversible error committed by the CA in reinstating the decision of the Labor Arbiter which held that respondent should have been suspended rather than dismissed outright.

To recapitulate, the right of an employer to dismiss an employee on account of loss of trust and confidence must not be exercised whimsically. To countenance an arbitrary exercise of that prerogative is to negate the employee's constitutional right to security of tenure. In other words, the employer must clearly and convincingly prove by substantial evidence the facts and incidents upon which loss of confidence in the employee may be fairly made to rest; otherwise, the latter's dismissal will be rendered illegal.[24]

WHEREFORE, the petition is DENIED. The assailed Decision of the Court of Appeals dated March 15, 2002 and its assailed Resolution dated June 11, 2002, both in CA-G.R. SP No. 65528, are AFFIRMED.

Costs against petitioner.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Corona, and Bersamin, JJ., concur.

[1] Penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by Associate Justices Romeo J. Callejo, Sr. (retired Associate Justice of this Court) and Perlita J. Tria-Tirona (retired); rollo, pp. 49-60.

[2] Id. at 61.

[3] Noted in the Decision of the Labor Arbiter, pp. 3-6; rollo, pp. 294-297; as well as in the NLRC Resolution, pp. 5-7; rollo, pp. 345-347.

[4] Position Paper- Annex "A," Records, p. 99.

[5] Rollo, pp. 306-308.

[6] Id. at 349-351.

[7] Id. at 55-58.

[8] Id. at 61.

[9] G.R. No. 20946, October 16, 1986, 145 SCRA 123.

[10] G.R. No. 105819, March 15, 1996, 255 SCRA 108.

[11] G.R. No. 121112, March 19, 1997, 270 SCRA 96.

[12] G.R. No. 131653, March 26, 2001, 355 SCRA 195.

[13] Private respondent's Memorandum, rollo, pp. 601-621.

[14] Labor Arbiter's Decision at 16.

[15] Philippine Long Distance and Telephone Company v. NLRC, G.R. No. 111933, July 23, 1997, 276 SCRA 1, 7.

[16] Me-Shurn Corporation v. Me-Shurn Worker's Union, G.R. No. 156292, January 11, 2005, 448 SCRA 41.

[17] Garcia v. NLRC, G.R. No. 113774, April 15, 1998, 289 SCRA 36, 46.

[18] Article 282 of the Labor Code, an employee's services can be terminated for the following just causes:

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

(e) Other causes analogous to the foregoing.

[19] Philippine National Construction Corporation v. Matias, G.R. No. 156283, May 6, 2005, 458 SCRA 148, 159.

[20] Supra note 12, p. 207.

[21] Position Paper- Annex "A," Records at 99.

[22] Id. at 225.

[23] Id. at 220-229.

[24] Philippine National Construction Corporation v. Matias, supra, citing Jardine Davies, Inc. v. NLRC, 311 SCRA 289.

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