

CEBU METAL CORPORATION, PETITIONER, VS. GREGORIO ROBERT SALILING, ELIAS BOLIDO, MANUEL ALQUIZA, AND BENJIE AMPARADO, RESPONDENTS.

G.R. NO. 154463. September 05, 2006

Ponente: CHICO-NAZARIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-154463/>

CHICO-NAZARIO, J.:

The Case

This is a petition for review on certiorari under Rule 45 of the Rules of Court seeking the reversal of the Decision[1] dated 18 February 2002, and the Resolution[2] dated 27 June 2002, rendered by the Court of Appeals in CA-G.R. SP No. 66480, which annulled and set aside the decision[3] dated 9 October 2000, and resolution[4] dated 2 July 2001, of the National Labor Relations Commission (NLRC) in NLRC Case No.V-000840-99. In its decision, the NLRC reversed and set aside the decision[5] dated 27 May 1999 of Labor Arbiter Jesus N. Rodriguez, Jr. in favor of complainant employees, herein respondents Gregorio Saliling, Elias Bolido, Manuel Alquiza and Benjie Amparado, RAB Case No. 06-01-10019-97.

The Facts

Parties herein are somewhat at variance with respect to the basic facts of the case at bar.

The facts of the case as recounted[6] by petitioner Cebu Metal Corporation are as follows:

Respondent (Cebu Metal Corporation) is a corporation engage (sic) in buying and selling of scrap iron x x x. In the Bacolod Branch, it has three regular (3) employees holding such positions as Officer-in- Charge, a scaler and a yardman, x x x whose salaries are paid directly by its main office in Cebu while others are undertaking pakiao work in the unloading of scrap iron for stockpiling.

Among those workers who presented for work in the unloading of scrap iron in the area are the unemployed persons or triscad drivers standing by in the vicinity some of whom are the herein complainants x x x Gregorio Robert Saliling, Elias Bolido, Manuel Alquiza, Benjie Amparado and non- complainants Arnel Allera, Eliseo Torralba or any other persons who wanted to augment their income aside from their regular jobs. Robert Gregorio Saliling started working in 1996, Elias Bolido on (sic) October 1995 while Manuel Alquiza and Benjie Amparado, on (sic) February 1996.

As compensation for their services, these workers including the herein complainants are paid at the rate of P15.00 per ton for which each person can unload at least two (2) to three (3) tons per hour or can earn at least P240.00 to P360.00 in eight (8) hours if work is only available which payment necessarily includes cost of living allowance (COLA) and 13th-month pay.

x x x x

Petitioner company further elaborated[7] on the nature of its business and the circumstances surrounding the

employment of respondent complainants, to wit:

The Bacolod buying station is mainly a stockyard where scrap metal delivered by its suppliers are stockpiled.

The supply of scrap metal is not steady as it depends upon many factors, such as availability of supplies, price, competition and demand among others. There are therefore (sic) instances when in a single week, one or two trucks of scrap metal are delivered while there are weeks when not a single truck of scrap metal are delivered although there may also be weeks when quite a number of trucks are delivered to the stockyard x x x. The arrivals of these trucks and the deliveries of scrap metal are not regular and the schedules of deliveries x x x to the stockyard x x x are not known before hand by the respondent (petitioner company).

x x x [t]he trucks used in the delivery of scrap metal are owned and/or rented by the different suppliers of scrap metal. These trucks have their own driver and truck boys employed by these different suppliers. Sometimes, these trucks do not have any truck boys, and in these instances, the respondent hires the services of people for the purpose of unloading the scrap metal from these trucks.

It is for this reason that the unloaders hired by the respondent to unload the scrap metal from these trucks are basically seasonal workers. They are hired only whenever there are trucks of suppliers of scrap metal that deliver scrap metal to the yard of the respondent and these trucks happen not to have any accompanying truck boys. Whoever are available and whoever are willing to help unload x x x on a particular occasion are hired to unload x x x.

Usually, there is a leader for a particular group who is tasked to unload the scrap metal from a particular truck. It is this leader who distributes the individual take of each member of the particular group unloading the scrap metal from a particular truck.

In contrast, respondent complainants, Gregorio Saliling, Elias Bolido, Manuel Alquiza and Benjie Amparado, in their position paper[8] submitted to the Labor Arbiter, narrate:

- That complainants Gregorio Saliling was employed by defendant Corporation x x x in 1988, complainant Elias Bolido was hired in 1992 and complainant Benjie Amparado was hired by respondent in 1994; x x x.
- The aforesaid complainants, from the time they were employed by respondent, they received their salary on (sic) the following rate:

GREGORIO ROBERT SALILING- ----- P5.00/hour in 1988

5.00/hour in 1989

6.00/hour in 1990

7.00/hour in 1991

7.00/hour in 1992

7.00/hour in 1993

7.00/hour in 1994

7.50/hour in 1995

8.75/hour in 1996

ELIAS BOLIDO ----- P100.00/day in 1992

7.00/hour in 1993

7.00/hour in 1994

7.50/hour in 1995

8.75/hour in 1996

BENJIE AMPARADO ----- P7.00/hour in 1994

7.50/hour in 1995

8.75/hour in 1996

- That the aforesaid complainants never received any other benefits from the respondent, except the amount indicated above; (sic) They received the sum of P10.93 per hour in case of overtime work, but they never received additional benefits in case, (sic) they worked on Saturdays, Sundays, and Holidays;

Complainants likewise never received 13th month pay, holiday pay, incentive leave pay, bonuses and other labor benefits;

- Complainants were required to work from 8:00 A.M. to 12:00 noon and from 1:00 P.M. to 5:00 P.M. or for eight hours a day; seven days a week and thirty days a month;

- When these complainants demanded from respondent for the increase of their salary, respondent through Marlon got irritated and instructed complainants to stop working, thus, complainants, effective December 1996 were precluded from entering respondent loading and unloading compound x x x.

On 10 January 1997, respondent complainants filed a Complaint[9] before the Regional Arbitration Branch No VI, Bacolod City for underpayment of wages and non- payment of the following benefits: 1) 13th month pay; 2) holiday pay; and 3) service incentive leave pay.

On 6 March 1998, respondent complainants manifested[10] that they were including in their complaint against petitioner company, the claim for illegal dismissal. Such belated filing was alleged to have been due to the fact that they were only dismissed after the filing of their complaint.

On 27 May 1999, the Labor Arbiter rendered a decision[11] the dispositive of which reads:

CONFORMABLY TO THE FOREGOING, respondent Cebu Metal Corporation, through its manager, MARLON RADEN, is hereby ordered to REINSTATE complainants to their former positions with backwages limited to one (1) year and 13th month pay, ERA and COLA as follows:

NAME OF COMPLAINANTS:

A) Backwages -----

P42,238.30

B) 13th Month Pay -----

7,912.34

C) ERA -----

1,139.83

D) COLA

12,961.91

TOTAL

P64,252.38

2. Elias Bolido

A) Backwages -----

P42,238.30

B) 13th Month Pay -----

7,912.34

C) ERA

1,139.83

D) COLA

12,961.91

TOTAL

P64,252.38

3. Manuel Alquiza

A) Backwages -----

P42,238.30

B) 13th Month Pay -----

7,912.34

C) ERA

1,139.83

D) COLA

12,961.91

TOTAL

P64,252.38

4. Benjie Amparado

A) Backwages -----

P42,238.30

B) 13th Month Pay -----

7,912.34

C) ERA

1,139.83

D) COLA

12,961.91

TOTAL

P64,252.38**GRAND TOTAL -----****P257,009.52**

In case reinstatement is no longer feasible, complainants are to be given separation pay equivalent to fifteen (15) days to be given for every year of service.

Attorney's fees of five percent (5%) of the total judgment award of the amount of Twelve Thousand Eight Hundred fifty Pesos and Forty-Eight Centavos (P12,850.48) is also awarded.

In ordering the reinstatement of respondent complainants, the Labor Arbiter found them to have been illegally dismissed from their employment with petitioner company. The decision explained that:

Regarding the second issue which is illegal dismissal, we find the same meritorious. Under Article 280 of the Labor Code, complainants are regular employees since they are "engaged to perform activities which are necessary and desirable in the usual business or trade of the employer", (sic) x x x. Complainants job of loading, unloading and stockpiling scrap iron is necessary and part of the business of respondent. Since complainants were dismissed without cause and due process of law, they are entitled to reinstatement with backwages limited to one (1) year.

Aggrieved, petitioner company appealed the foregoing decision to the NLRC.

In a Decision[12] promulgated on 9 October 2000, the Fourth Division of the NLRC reversed and set aside the

ruling of the Labor Arbiter. Instead, the Commission held that respondent complainants were not regular employees of petitioner company, thus, they could not have been illegally dismissed. The order of reversal was based on the Commission's finding that the petty cash vouchers[13] submitted by petitioner company confirmed the fact that unloaders were paid on "pakiao" or task basis at P15.00 per metric ton. The Commission further rationalized that with the irregular nature of the work involved, the stoppage and resumption of which depended solely on the availability or supply of scrap metal, it necessarily follows that after the job of unloading was completed and "unloaders" were paid the contract price, the latter's working relationship with petitioner company legally ended. They were then free to offer their services to others.

As an aside, the Commission observed that it was erroneous for the Labor Arbiter to rule on the question of whether or not respondent complainants were illegally dismissed since the complaint filed on 10 January 1997 failed to include such matter. To be sure, the complaint merely imputed the following causes of action: 1) underpayment of wages; and 2) non-payment of a) 13th month pay; b) holiday pay; and c) service incentive leave pay. Nowhere was the matter of illegal dismissal written on the same. The issue was formally brought up only on 6 March 1998, via a Manifestation, long after the filing of the parties' respective position papers.

In view of the above, the Commission declared that respondent complainants invalidly raised the issue of illegal dismissal in the position paper they filed before the Labor Arbiter.

Dissatisfied by the above, it was the turn of respondent complainants to challenge the same but this time before the Court of Appeals.

In a Decision dated 18 February 2002, the Court of Appeals annulled and set aside the assailed decision of the NLRC. Said Decision was grounded exclusively on the argument that the Commission committed grave abuse of discretion in reversing and setting aside the Decision of the Labor Arbiter since petitioner company did not make an issue out of the Labor Arbiter's action in ruling on a cause of action, i.e., illegal dismissal, not specifically stated in the complaint. Stated differently, the NLRC gravely abused its discretion in ruling on an issue that was allegedly not raised on appeal before it.

The Court of Appeals decision ended in this wise:

WHEREFORE, foregoing premises considered, the PETITION HAVING MERIT is hereby GIVEN DUE COURSE. RESULTANTLY, the challenged decision of Public Respondent National Labor Relations Commission is hereby ANNULLED AND SET ASIDE AND THE JUDGMENT OF THE LABOR ARBITER IN RAB-CASE No. 06-01-10019-97 REINSTATED. No costs.

SO ORDERED.

The Issues

Its Motion for Reconsideration having been denied[14], petitioner company now comes to this Court imputing the following errors on the Court of Appeals:

I.

THE COURT OF APPEALS ERRED IN HOLDING THAT THE NATIONAL LABOR RELATIONS COMMISSION FOURTH DIVISION, CEBU CITY HAD NO AUTHORITY TO DISMISS PRIVATE RESPONDENT'S CLAIMS FOR ILLEGAL DISMISSAL AND OTHER MONEY CLAIMS;

II.

THE COURT OF APPEALS ERRED IN HOLDING THAT THE NATIONAL LABOR RELATIONS COMMISSION FOURTH DIVISION, CEBU CITY HAD NO AUTHORITY TO REVERSE THE LABOR

ARBITER'S DECISION; and

III.

THE COURT OF APPEALS ERRED IN GRANTING THE PETITION FOR CERTIORARI IN CA G.R. SP. NO. 66480 AND IN ANNULING (sic) THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION.

In essence, the issue for resolution in the case at bar is whether or not the Court of Appeals committed reversible error in ruling that the NLRC had no authority to adjudicate on an issue not properly raised in petitioner company's Memorandum on Appeal.

Petitioner company posits that contrary to the argument of the appellate court, the main or primary reason for the reversal of the Labor Arbiter's decision was the finding that respondent complainants could not be regarded, based on the facts of the case and the evidence presented, as regular employees of petitioner company.

Conversely, respondent complainants allege that an appellate court has no power to resolve an unassigned error that does not affect the court's jurisdiction or is an error that is neither plain nor clerical. Likewise, they contend that "there is nothing to show that petitioner company made an issue of the Labor Arbiter's action in ruling on a cause of action not specifically stated in the complaint."

The Court's Ruling

We find merit in the petition.

It was plain error for the Court of Appeals to annul and set aside the decision of the NLRC on the lone reason that the latter "dismissed Petitioner's appeal on the basis of an issue not raised by Private Respondent in its appeal x x x." [15] A painstaking review of the decision of the NLRC will readily reveal that the Commission's finding that respondent complainants were not regular employees was the *raison d'être* for the subsequent turnaround of the state of affairs.

What the NLRC made use of to reverse the Labor Arbiter's decision was precisely the conclusion of the latter that respondent complainants were regular employees of petitioner company. According to the Commission, such conclusion was predicated merely on the consideration that respondent complainants were performing activities necessary and desirable to the business or trade of their employer. Based on the facts of the case and the evidence presented by the parties to the case at bar, however, the NLRC arrived at a divergent conclusion, which we fully agree in. We quote with approval its disquisition:

It is interesting to note that the Labor Arbiter had given credence and probative value to the Petty Cash Vouchers submitted by the respondents. Thus he said:

"The petty cash vouchers (Annexes "1" to "1-A-62", respondents position paper) show that complainants are not paid on hourly or daily basis as they would like this office to believe but on "pakiao" or task basis at P15.00 per metric ton. There is no basis then for complainants to claim that they are underpaid since there is no minimum wage in this type of work. Complainants' earnings depend upon their own diligence and speed in unloading and stockpiling scrap iron. More importantly, it depends upon the availability of scrap iron to be unloaded and stockpiled."

The above findings validate respondent's position as to the nature of complainants' work. Their services are needed only when scrap metals are delivered which occurs only one or twice a week or sometimes no delivery at all in a given week. The irregular nature of work, stoppage of work and then work again depending on the supply of scrap metal has not been denied by complainants. On the contrary they even admitted the same in their Reply to respondent's Appeal. x x x. Indeed, it would be unjust to require respondent to maintain

complainants in the payroll even if there is no more work to be done. To do so would make complainants privileged retainers who collect payment from their employer for work not done. This is extremely unfair and amount to cuddling of labor at the expense of management.[16]

It should be remembered that The Philippine Constitution, while inexorably committed towards the protection of the working class from exploitation and unfair treatment, nevertheless mandates the policy of social justice so as to strike a balance between an avowed predilection for labor, on the one hand, and the maintenance of the legal rights of capital, the proverbial hen that lays the golden egg, on the other. Indeed, we should not be unmindful of the legal norm that justice is in every case for the deserving, to be dispensed with in the light of established facts, the applicable law, and existing jurisprudence.[17]

Under the circumstances abovestated:

x x x there can be no illegal dismissal to speak of. Besides, complainants cannot claim regularity in the hiring every time a truck comes loaded with scrap metal. This is confirmed in the Petty cash Vouchers which are in the names of different leaders who apportion the amount earned among his members.[18]

And, quite telling is the fact that not every truck delivery of scrap metal requires the services of respondent complainants when a particular truck is accompanied by its own "unloader." And whenever required, respondent complainants were not always the ones contracted to undertake the unloading of the trucks since the work was offered to whomever were available at a given time.

Finally, the judgment of the Commission that the Labor Arbiter acted incorrectly in ruling on a cause of action, i.e., illegal dismissal, not specifically stated in the complaint, did not constitute grave abuse of discretion on its part.

It is well settled that an act of a court or tribunal may only be considered to have been done in grave abuse of discretion when the same was performed in a capricious or whimsical exercise of judgment which is equivalent to lack of jurisdiction.[19] The abuse of discretion must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform a duty enjoined or to a ct at all in contemplation of law, as where the power is exercised in an arbitrary power and despotic manner by reason of passion or personal hostility.[20]

In the case at bar, from the preceding definition, it is quite apparent that no grave abuse of discretion can be attributed to the NLRC. Its decision simply expressed an observation, to wit:

Moreover, We note that in the complaint filed last January 10, 1997, the issue of illegal dismissal was not raised as a cause of action although it was later discussed in their position paper filed on January 12, 1998. x x x. [Emphasis supplied.]

The use of the word "moreover" clearly expresses NLRC's position in treating the matter of the non- inclusion of the issue of illegal dismissal in the complaint merely as an add-on, adjunct or a supplement to its finding that respondent complainants' were not regular employees of petitioner company.

At any rate, the Court is clothed with authority to review matters, even if they are not assigned as errors in their appeal, if it finds that their consideration is necessary in arriving at a just decision of the case.[21]

WHEREFORE, in view of the foregoing, the instant petition is GRANTED. The Decision dated 18 February 2002, and the Resolution dated 27 June 2002, both rendered by the Court of Appeals in CA-G.R. SP No. 66480, are hereby REVERSED and SET ASIDE. Accordingly, the Decision of the NLRC dated 9 October 2000 is REINSTATED. Costs against respondent complainants.

SO ORDERED.

Panganiban, C.J., (Chairman), Ynares-Santiago, Austria-Martinez, and Callejo, JJ., concur.

[1] Penned by Court of Appeals Associate Justice Jose L. Sabio, Jr. and concurred in by Associate Justices Oswaldo D. Agcaoili and Sergio L. Pestaño; Annex "A" of the Petition; rollo, pp. 19-28.

[2] Annex "D" of the Petition; id. at 45.

[3] Penned by Comm. Bernabe S. Batuhan and concurred in by Commissioners Irene E. Ceniza and Edgardo M. Enerlan; Annex "B" of the Petition; id. at 29-35.

[4] CA rollo, pp. 27-28.

[5] Id. at 52-58.

[6] As stated in petitioner company's Position Paper submitted before the Labor Arbiter; id. at 45-51.

[7] As stated in petitioner company's Memorandum on Appeal submitted before the NLRC; id. at 60-69.

[8] Id. at 36-41.

[9] Id. at 52-59.

[10] Id. at 44.

[11] See note 5.

[12] See note 3.

[13] Annexes "1" to "1-A-62" of Cebu Metal Corporation's Position Paper submitted before the Labor Arbiter; CA rollo, pp.70-99.

[14] See note 2.

[15] Court of Appeals Decision, p. 8; rollo, p. 26.

[16] NLRC Decision, pp. 4-5; id. at 29-35.

[17] Philippine National Oil Company-Energy Development Corporation (PNOC-EDC) v. Abella, G.R. No. 153904, 17 January 2005, 448 SCRA 549, 574.

[18] See note 17.

[19] Miranda v. Abaya, G.R. No. 136351, 28 July 1999, 311 SCRA 617, 631.

[20] Litton Mills, Inc. v. Galleon Trader, Inc. G.R. No. L-40867, 26 July 1988, 163 SCRA 489, 494.

[21] Vda. de Javellana v. Court of Appeals, G.R. No. L-60129, 29 July 1983, 123 SCRA 799, 805.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.