COCA-COLA BOTTLERS PHILS., INC., NATALE DI COSMO, RENE HORILLENO, AND BENITO A. DE LEON, PETITIONERS, VS. GOMERSENDO P. DANIEL, RESPONDENT.

G.R. NO. 156893. June 21, 2005

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Illegally dismissed employees are entitled to both 1) reinstatement without loss of seniority rights and other privileges; and 2) full back wages, inclusive of allowances and other benefits or their monetary equivalent, from the time compensation was withheld up to the time of their actual reinstatement. The payment of separation pay has been considered an acceptable alternative to reinstatement when the latter is no longer desirable or viable because of the parties' strained relations as a consequence of the litigation. However, substantial evidence is required to show that the relationship was indeed strained as a necessary consequence of the judicial controversy.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, assailing the April 30, 2002 Decision[2] and the January 10, 2003 Resolution[3] of the Court of Appeals (CA) in CA-GR SP No. 58497. The assailed Decision disposed as follows:

> "WHEREFORE, the petition is GRANTED. The assailed resolutions of the National Labor Relations Commission are REVERSED and SET ASIDE insofar as [respondent] was merely awarded separation pay and a new judgment is rendered (i) reinstating [respondent] to his former position without loss of seniority rights and other privileges and (ii) awarding him full backwages, inclusive of allowances and other benefits or their monetary equivalent, computed from the time his compensation was withheld from him up to the time of his actual reinstatement."[4]

The questioned Resolution denied petitioners' Motion for Reconsideration.

The Facts

The CA narrated the facts as follows:

> "Hired on November 16, 1983 by Coca-Cola Bottlers Philippines, Inc. (or 'Coca-Cola') as company guard, Gomersendo Daniel (or '[respondent]') was assigned at its Calamba plant.
>
> "On February 12, 1996, at about 1:15 p.m., a delivery van x x x arrived at the plant's Gate 2. As standard procedure, [respondent], who was then on duty, flagged down the van and inspected its load, i.e., an empty carton box and three (3) empty post-mix softdrink tanks. Before allowing the van's entry to the plant, [respondent] noted in the logbook its cargo, driver's name and [the] time of arrival.
>
> "On or about 2:15 p.m. of the same day, Benito de Leon, x x x Coca-Cola Calamba plant security and safety officer, arrived at Gate 2. While de Leon was giving instructions to [respondent], the van stopped for inspection. After inspection of the van by the agency guard, Ronilo Diel, he allowed the same to leave the

plant.

"For allegedly allowing the van to leave the plant without proper inspection and documentation, [respondent] was charged with negligence or inefficiency in the performance of duties. After investigation, de Leon recommended to Rene Horrilleno x x x, Coca-Cola Calamba plant manager, the termination of [respondent's] employment.

"In a memorandum dated May 16, 1996, Horrilleno rejected de Leon's recommendation stating, among others, that: (i) the penalty of termination is not proportionate to the offense committed; (ii) the recommendation letter was not duly signed; (iii) past misdemeanors have no cumulative effect under Coca-Cola's rules and procedures; and (iv) [respondent] was a recipient of a scholarship grant given only to employees with high performance ratings.

"Subsequently, de Leon recommended a 30-day suspension of [respondent]. However, Horrilleno rejected de Leon's recommendation in a memorandum dated June 24, 1996, stressing 'fair play, impartiality, and judiciousness when our subordinates are faced with disciplinary issues.' Instead, Horilleno instructed de Leon to place [respondent] on regular duty as the latter had been on grounded status since March 19, 1996. [Respondent's] case was then referred to Coca-Cola's general counsel for review.

"On August 22, 1996, after due investigation, Coca-Cola found [respondent] to have been negligent in the February 12, 1996 incident and meted on him a 30-day suspension from August 23, 1996 to September 21, 1996.

"On October 1, 1996, [respondent] filed with the National Labor Relations Commission (or 'NLRC'), Arbitration Branch, a complaint against Coca-Cola and its president, Natale Di Cosmo x x x, for illegal suspension.

"On October 8, 1996, de Leon issued a memorandum to [respondent] requiring the latter to explain, within twenty-four hours, why no administrative action should be taken against him, this time for allowing a hauling truck x x x owned by Ricaza Trucking to leave the plant on September 27, 1996 without a tarpaulin cover. The truck, loaded with 840 cases of full goods, was driven by Danilo Losentales x x x.

"In a letter dated October 11, 1996, [respondent] explained that upon arrival of the truck at Gate 2 and in accordance with Coca-Cola policy, he immediately inspected its load, after which he instructed the truck helper to return the tarpaulin cover in order to prevent exposure of the products to sunlight and other elements.

"On October 28, 1996, de Leon conducted an investigation of the September 27, 1996 incident. During the investigation, de Leon presented the memorandum of Federico Borja x x x, Coca-Cola Calamba plant physical distribution superintendent, and the statements of Losentales and the security guard, Cris Nisola x x x, who rode on the truck on its way to Sta. Rosa Laguna. Borja claimed having seen the truck on September 27, 1996, at around 3:30 p.m., on the South Super Hi-way without a tarpaulin cover. Losentales, for his part, claimed in his statement that when he drove out of the plant after [respondent's] inspection, he did not notice that the tarpaulin cover over the goods had not been returned. On the other hand, Nisola stated that he noticed that the goods had no tarpaulin cover when the truck was already in Cabuyao Laguna.

"In his defense, [respondent] denied that the truck left the plant without a tarpaulin cover.

"On February 17, 1997, de Leon issued a notice terminating [respondent's] employment effective February 18, 1997. Thus, on February 26, 1997, [respondent] amended his complaint by way of including illegal dismissal as one of his causes of action and impleading de Leon and Horrilleno as co-respondents [therein].

"On September 15, 1998, Labor Arbiter Pedro Ramos rendered a decision dismissing the complaint for lack of merit.

"[Respondent] appealed to the NLRC which, on November 25, 1999, rendered a resolution, the dispositive

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> portion of which reads:
> 'WHEREFORE, premises considered, the Decision appealed from is hereby MODIFIED to the effect that respondents-appellees Coca-Cola Bottlers Phils., Inc. et al. is hereby ordered to grant complainant-appellant Gomersendo P. Daniel separation pay equivalent to one-half (1/2) salary for every year of service a fraction of at least six (6) months shall be considered one whole year in total amount of P94,744.00.
>
> 'As regards all the other issues, the Decision is SUSTAINED [i]n toto.
>
> 'SO ORDERED.'

"[Respondent] filed a motion for reconsideration but the same was denied on January 31, 2000. Undaunted, he filed the instant petition for certiorari, ascribing grave abuse of discretion on the part of the NLRC in merely awarding separation pay despite a finding of illegal dismissal. He points out that under Art. 279 of the Labor Code, an illegally dismissed employee is entitled to, among others, reinstatement and backwages.

"On the other hand, Coca-Cola maintains that [respondent] is not entitled to reinstatement and backwages because it did not commit illegal dismissal. To support its theory, Coca-Cola submitted documents to refute the NLRC's findings that it (Coca-Cola) failed to establish [respondent's] previous similar infractions.

"In reply, [respondent] stressed that while the NLRC correctly ruled that he was illegally dismissed, it erred in holding that his reinstatement is no longer feasible due to 'strained relations.' He proceeded to chide Coca-Cola for its sly attempt to appeal through the backdoor when it presented documents before this Court to refute the NLRC's findings."[5]

Ruling of the Court of Appeals

The CA affirmed the NLRC's finding that respondent's alleged previous infractions had not been proven by substantial evidence. It added that the belated introduction of the documents into the record could not be allowed for two reasons: first, questions of fact could not be entertained in a Rule 65 petition for certiorari; and second, Coca-Cola, which had not filed a petition to question the NLRC Resolution, was consequently bound by the said Resolution.

The appellate court ruled, however, that the NLRC had erred in awarding respondent separation pay in lieu of reinstatement. Unsupported by the evidence was the Commission's conclusion that strained relations already existed between the parties. Besides, Coca-Cola would not be greatly prejudiced by the reinstatement of respondent, as his infractions were "merely minor" and were not committed in bad faith or with malice. In addition, the CA granted him full back wages and accrued benefits.

Hence, this Petition.[6]

Issues

In their Memorandum, petitioners raise the following issues for the Court's consideration:

> "I.
>
> The Honorable Court of Appeals decided a question of substance declaring illegal respondent's dismissal contrary to law and settled rulings of the Supreme Court considering that:
>
> - Respondent was dismissed from the service for just, valid and lawful grounds.
>
> - Respondent deliberately and willfully disobeyed company rules and regulations in connection with his work as company guard.

- The violations committed by respondent constitute serious misconduct in the performance of his duties, thus further justifying his dismissal from the service.

- Respondent willfully breached the trust and confidence reposed in him by the company necessitating the termination of his services.

"II.

Respondent was duly informed of the charges against him and was afforded the opportunity to explain his side in accordance with the requirements of due process of law under the Labor Code.

"III.

The Labor Arbiter and the National Labor Relations Commission correctly ruled that Daniel was validly suspended for the infraction he committed.

"IV.

The Labor Arbiter correctly ruled that Daniel was validly dismissed and is therefore not entitled to the award of reinstatement with backwages and damages.

"V.

The respondent has no valid cause of action against individual petitioners.

"VI.

The Court of Appeals acted without jurisdiction in rendering the questioned resolutions.

"VII.

With all due respect, the findings of fact by the Court of Appeals are contrary to those of the Honorable Labor Arbiter and the National Labor Relations Commission and are mere unsubstantiated conclusions reached without citation of specific evidence and/or premised on the purported absence of evidence contradicted by the evidence on record."[7]

Briefly, these are the issues: (1) whether a valid cause existed to justify the dismissal of respondent; (2) whether he is entitled to reinstatement and back wages; and (3) whether individual petitioners, who are officials of petitioner company, may be held liable.

The Court's Ruling

The Petition has no merit.

Preliminary Matters

Before we discuss the substantive issues raised by petitioners, some procedural matters need to be addressed. First, only questions of law, not of fact, may be raised in Rule 45 petitions.[8] Second, the issue for this Court's review is the CA Decision affirming, for lack of sufficient contrary evidence, the NLRC's holding that respondent was illegally dismissed. It may be recalled that the appellate court arrived at this conclusion after denying petitioners' belated introduction of new evidence.

It behooves this Court, therefore, to determine preliminarily the nature of the issues raised by petitioners. They are actually raising two intimately related matters: one, pertaining to the delayed introduction of additional evidence; and the other, the sufficiency of evidence.

The question of whether the CA properly denied the introduction of additional documents is easily a question of

law and, hence, a proper issue for this Court's consideration.

But, the second question relating to the sufficiency of evidence is a question of fact.[9] As a general rule, such questions are not subject to a review by this Court. The factual findings of the CA are accorded not only respect but even finality, as long as these are supported by substantial evidence.[10] The evidence on record may be scrutinized by this Court only under recognized exceptions, such as when the CA findings are devoid of support or are in conflict with those of labor officials, or when the assailed judgment is based on a misapprehension of facts.[11]

With these considerations in mind, we shall now proceed to resolve the substantive issues in the Petition. Except for the reliefs awarded, the questions relating to Daniel's dismissal will be dealt with jointly.

First Issue:Illegal Dismissal

Introduction of NewEvidence Properly Denied

At the outset, petitioners must be reminded that, having been filed before the CA under Rule 65, the Petition should be grounded on issues of jurisdiction or grave abuse of discretion.[12] Settled is the rule that a petition for certiorari does not normally include an inquiry into the correctness of the NLRC's evaluation of the evidence, from which the labor tribunal bases its findings and conclusions.[13] Thus, the appellate court was limited to determining whether the tribunal had gravely abused its discretion in ruling that the evidence was insufficient to prove a just or authorized cause for dismissal.

By "grave abuse of discretion" is meant such capricious and whimsical exercise of judgment that is equivalent to an excess or a lack of jurisdiction; an abuse so patent and so gross as to amount to an invasion of a positive duty or a virtual refusal to perform a duty enjoined by law; or an arbitrary or despotic exercise of power as a result of passion or hostility.[14]

Consistent with the above principles, the CA correctly disregarded the new evidence sought to be introduced by petitioners during the certiorari proceedings. That evidence consisted of documents supposedly proving the past misdemeanors of respondent. Certainly, the appreciation of such documents would have been more expansive than the review of existing evidence. With more reason, therefore, that the CA could not have admitted them, much less given them evidentiary value.

Fairness and due process dictate that evidence and issues not presented below cannot be taken up for the first time on appeal.[15] Indeed, how can the NLRC be held to have abused its discretion over evidence not presented before the Commission?

Petitioners had every opportunity to present before the labor officials evidence of respondent's alleged previous infractions. They could have introduced such evidence at the NLRC also, when the labor arbiter's Decision was appealed by respondent. It bears stressing that under Section 3 of Rule V of the NLRC New Rules of Procedure,[16] parties are required to submit all supporting documents, together with their position papers or memorandums. Yet, petitioners simply chose to make a bare assertion without any credible substantiation.

Petitioners Boundby NLRC Decision

More important, petitioners did not seek a review of the NLRC Decision, which had resolved that there was no valid cause for respondent's dismissal. Well-settled is the rule that parties who have not appealed cannot obtain from the appellate court any affirmative reliefs other than those granted, if any, in the decision of the lower tribunal.[17] The appellees can advance only such arguments as may be necessary to defeat the appellants' claims or to uphold the appealed decision. They cannot ask for a modification of the judgment in their favor in order to

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obtain other positive reliefs.[18] Thus, as the CA correctly pointed out, petitioners were bound by the NLRC findings and conclusions that were adverse to them.

Furthermore, while previous violations may justify an employee's dismissal from work in connection with a subsequent similar offense,[19] the employer bears the burden of proving this fact with substantial evidence.[20] Even a finding that an employee violated company rules and regulations is subject to inquiry to determine whether the penalty imposed was commensurate to the gravity of the offense.[21] At times, due consideration should be given to the employee's length of service and number of violations committed during employment.[22] Whatever infractions may have been committed by the employee should not be punished so severely by dismissal, when a less punitive penalty would suffice. [23]

No Valid Causefor Dismissal

In the present case, petitioners contend that Daniel is guilty of deliberate and willful disobedience of company rules and regulations, or serious misconduct, or willful breach of trust and confidence. His alleged repeated infractions supposedly fell within the ambit of Section 12(a) of Rule 005-85 of the Company Code of Discipline, which reads:

> "Section 12(a). Other acts of negligence or inefficiency in the performance of duties or in the care, custody and/or use of Company property, funds and/or equipment; or blatant disregard of or deviation from established control and other policies and procedures including but not limited to the care, custody and/or use of Company property, funds or equipment, similar or analogous acts or omissions, whether committed within a calendar year or not; analogous cases:
>
> Each act or omission constitutes one offense:
>
> First offense 6 day suspension
> Second offense 15 day suspension
> Third offense 30 day suspension
> Fourth offense DISCHARGE"

No doubt, the above rule falls under the employer's prerogative to prescribe fair, just and reasonable rules and regulations governing the employees' conduct.[24] In relation to the September 27, 1996 incident, the evidence[25] clearly showed that Daniel had indeed breached company rules in allowing the hauler truck, which was loaded with cases of soft drinks, to leave the plant without a tarpaulin cover. Such negligence placed petitioner company's goods at risk.

Both the labor arbiter and the NLRC also found that Daniel had violated company rules in allowing a delivery van to leave the plant on February 12, 1996, without proper inspection and documentation. Again, his inaction could have prejudiced petitioner company. Thus, both the labor arbiter and the NLRC ruled that respondent's 30-day suspension from August 23 to September 21, 1996, was justified.[26] There is no reason to depart from these factual findings and ruling.

The same certainty, however, does not obtain as to the alleged six prior infractions. Both the NLRC and the CA observed that those previous violations had been alleged sans any proof. That was the state of evidence at the time the case was brought to the CA. Indeed, to give favorable weight to petitioners' bare, self-serving assertion laying a basis for the termination of Daniel's employment would have placed him in a disadvantageous situation. He would have then been at the mercy of his employer, who could have emasculated his right to security of tenure.[27]

What has indubitably been proven are merely respondent's two acts of negligence, neither of which caused

petitioner company any substantial damage or loss. Pursuant to its own Code of Discipline earlier quoted, a penalty of dismissal is not warranted.

Also worth stressing are the following facts: Daniel has served the company for 13 years; he was previously granted a scholarship given only to employees with high performance ratings; his infractions were minor; and there has been no showing that he acted in bad faith or with malice. Under the circumstances, there is every justification for tilting the scales of justice in favor of the employee.[28]

Requirements of ProceduralDue Process Complied With

The other question is whether procedural due process was observed in dismissing respondent. We note that the requirements of notice and hearing[29] were complied with, insofar as the September 1996 incident that had precipitated his dismissal from the company was concerned. Evidence shows that he was properly notified of the charge against him through an October 17, 1996 Notice of Investigation,[30] which he duly received. He was thereby given the chance to defend himself during the investigation. Also, he was notified of his termination through the Letter of Termination dated February 17, 1997. When parties have been given an opportunity to be heard and to present their case, there is no denial of due process.[31]

Second Issue:Reinstatement and Back Wages

Article 279 of the Labor Code, as amended, mandates that illegally dismissed employees are entitled to both 1) reinstatement without loss of seniority rights and other privileges; and 2) full back wages, inclusive of allowances and other benefits or their monetary equivalent, from the time their compensation was withheld from them up to the time of their actual reinstatement. Both reliefs are rights granted by substantive law to alleviate the economic hardships suffered by an illegally dismissed employee. The grant of one does not preclude the other.[32]

Precisely because of the finding that he was illegally dismissed, Daniel argues that he is entitled not only to reinstatement but also to full back wages, not merely separation pay. This view was sustained by the CA upon its own assessment that the allegedly strained relationship had not been adequately established. Having been decided squarely by the CA, this question of fact is entitled to this Court's respect,[33] more so because the relationship between respondent and petitioners is not personal in character. Suffice it also to say that the evidence on record does not amply support a finding that the relationship between the parties was strained by the litigation.

The CA's disquisition on the inapplicability of the principle of strained relations is worth quoting, as follows:

> "There is no showing that the relationship between [respondent] and Coca-Cola is so strained and ruptured as to preclude a harmonious working relationship should the former be reinstated. If at all, the atmosphere of antipathy and antagonism in the work environment, which the doctrine of strained relations aims to prevent, exists only between [respondent] and de Leon. As the records show, it was de Leon's relentless efforts which led to the eventual termination of [respondent's] employment. Recall that it was de Leon who recommended [respondent's] termination for the February 12, 1996 incident but his recommendation was rejected by Horilleno. His subsequent recommendation for a 30-day suspension of [respondent] likewise proved unacceptable to Horilleno.
>
> "De Leon has ceased to be connected with Coca-Cola, having joined a rival company, Pepsi-Cola Philippines. Consequently, no antagonism will arise upon [respondent's] reinstatement. Besides, there is no showing that Coca-Cola itself would be greatly prejudiced by [respondent's] reinstatement.
>
> "From these facts, we hold that the doctrine of strained relations finds no application in the case at bench. As the NLRC observed, not only were [respondent's] infractions 'merely minor', he did not act in bad faith or with malice when he committed the same; neither did Coca-Cola sustain material damage or injury as a result thereof."[34]

Under the doctrine of strained relations, the payment of separation pay has been considered an acceptable alternative to reinstatement when the latter option is no longer desirable or viable. On the one hand, such payment liberates the employee from what could be a highly oppressive work environment. On the other, the payment releases the employer from the grossly unpalatable obligation of maintaining in its employ a worker it could no longer trust.

Nevertheless, the principle of strained relations should not be used so indiscriminately as to bar the reinstatement of illegally dismissed workers, especially when they themselves have not indicated any aversion to returning to work, as in this case. It is only normal to expect a certain degree of antipathy and hostility to arise from a litigation between parties, but not in every instance does such an atmosphere of antagonism exist as to adversely affect the efficiency and productivity of the employee concerned.[35]

Third Issue:Impleading Company Officials

With regard to the propriety of impleading company officials --Natale Di Cosmo, president and chief executive officer; Rene Horilleno, assistant vice-president and general manager; and Benito A. de Leon, plant security officer -- it appears that the only reason they were impleaded was the fact that they were officers and/or agents of petitioner company. It is enough to stress that they cannot be held solidarily liable with the corporation for the termination of Daniel's employment, absent any showing -- as in this case -- that the dismissal was attended with malice or bad faith.[36]

WHEREFORE, the Petition is DENIED and the assailed Decision AFFIRMED. Costs against petitioners.

SO ORDERED.

Sandoval-Gutierrez, Corona, Carpio-Morales, and Garcia, JJ., concur.

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[1] Rollo, pp. 14-56.

[2] Id., pp. 313-321. Penned by Justice Edgardo P. Cruz (then acting chairman, Sixteenth Division), with the concurrence of Justices Mariano C. del Castillo and Regalado E. Maambong (members).

[3] Id., pp. 369-371.

[4] CA Decision, p. 8; rollo, p. 320.

[5] Id., pp. 1-5 & 313-317.

[6] The Petition was deemed submitted for decision on January 5, 2004, upon the Court's receipt of petitioners' voluminous Memorandum, signed by Attys. Bernardino F. Consulta and Teodoro Ma. M. Martija II. Respondent's Memorandum, signed by Atty. Ma. Lourdes A. Barbado, was received on December 4, 2003.

[7] Petitioners' Memorandum, pp. 11-13; rollo, pp. 533-535. Original in upper case.

[8] Under Section 1 of Rule 45 of Rules of Court, such petitions "shall raise only questions of law which must be distinctly set forth." See also Pacific Airways Corp. v. Tonda, 392 SCRA 625, 629, November 26, 2002; Spouses Uy v. CA, 411 Phil. 788, 789, June 21, 2001; Baguio v. Republic, 361 Phil. 374, 380, January 21, 1999.

[9] Land Bank of the Philippines v. CA, 416 Phil. 774, 781, September 4, 2001.

[10] Hantex Trading Co., Inc. v. CA, 438 Phil. 737, 743, September 27, 2002; Siacor v. Gigantana, 430 Phil. 78, 86, April 5, 2002; Batingal v. CA, 351 SCRA 60, 66-67, February 1, 2001.

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[11] Gonzales v. NLRC, 355 SCRA 195, 204, March 26, 2001; Magellan Capital Management Corp. v. Zosa, 355 SCRA 157, 168, March 26, 2001; Suan v. NLRC, 411 Phil. 493, 499, June 19, 2001.

[12] Globe Telecom, Inc. v. Florendo-Flores, 438 Phil. 756, 764, September 27, 2002; Sea Power Shipping Enterprises, Inc. v. CA, 412 Phil. 603, 613, June 28, 2001; Pepsi-Cola Products Philippines, Inc. v. NLRC, 374 Phil. 196, 207, September 30, 1999.

[13] Pepsi-Cola Products Philippines, Inc. v. NLRC, supra; Zarate Jr. v. Olegario, 331 Phil. 278, 287, October 7, 1996.

[14] Vda. de Daffon v. CA, 387 SCRA 427, 435, August 20, 2002; Duero v. CA, 424 Phil. 12, 20, January 4, 2002; De Baron v. CA, 420 Phil. 474, 482, October 26, 2001.

[15] Lim v. Queensland Tokyo Commodities, 424 Phil. 35, 47, January 4, 2002; Sañado v. CA, 356 SCRA 546, 560, April 17, 2001; Reburiano v. CA, 361 Phil. 294, 304, January 21, 1999.

[16] §3 of Rule V provides:

“Section 3. Submission of Position Papers/Memorandum. – Should the parties fail to agree upon an amicable settlement, either in whole or in part, during the conferences, the Labor Arbiter shall issue an order stating therein the matters taken up and agreed upon during the conferences and directing the parties to simultaneously file their respective verified position papers.

“Those verified position papers shall cover only those claims and causes of action raised in the complaint excluding those that may have been amicably settled, and shall be accompanied by all supporting documents including the affidavits of their respective witnesses which shall take the place of the latter’s direct testimony. The parties shall thereafter not be allowed to allege facts, or present evidence to prove facts, not referred to and any cause or causes of action not included in the complaint or position papers, affidavits and other documents. x x x.”

[17] Filflex Industrial & Manufacturing Corp. v. NLRC, 286 SCRA 245, February 12, 1998; Spouses Lagandaon v. Court of Appeals, 290 SCRA 330, May 21, 1998.

[18] Ibid.

[19] De Guzman v. NLRC, 371 Phil. 192, 204, August 11, 1999 (citing Filipro, Inc. v. Ople, 182 SCRA 1, 4, February 7, 1990); Philippine Rabbit Bus Lines, Inc. v. NLRC, 344 Phil. 522, 529 & 531, September 15, 1997.

[20] Substantial evidence, which is the quantum of proof required in labor cases, is “that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.” (§5 of Rule 133 of the Rules of Court) See Mendoza v. NLRC, 369 Phil. 1113, 1125, July 20, 1999. Bolinao Security and Investigation Service, Inc. v. Toston, 421 SCRA 406, 413, January 29, 2004; Tan v. Lagrama, 387 SCRA 393, 404, August 15, 2002; Mendoza v. NLRC, supra, p. 1123; Cañete v. NLRC, 365 Phil. 785, 796, April 21, 1999; Quebec Sr. v. NLRC, 361 Phil. 555, 562, January 22, 1999; Pascua v. NLRC, 351 Phil. 48, 62, March 13, 1998.

[21] St. Michael’s Institute v. Santos, 422 Phil. 723, 733, December 4, 2001; Associated Labor Unions-TUCP v. NLRC, 362 Phil. 322, 329, February 10, 1999; Pioneer Texturizing Corp. v. NLRC, 345 Phil. 1057, 1066, October 16, 1997.

[22] De Guzman v. NLRC, supra.

[23] St. Michael’s Institute v. Santos, supra.

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[24] St. Michael's Institute v. Santos, supra; Brew Master International, Inc. v. NLRC, 337 Phil. 728, 737, April 17, 1997.

[25] Among others, the evidence consisted of Exhibit "B," Memorandum of Federico Borja dated September 28, 1996, for investigation of the September 27, 1996 incident; Exhibit "C," Affidavit of driver Danilo Losentales; Exhibit "D," Affidavit of security guard Nisola; and Annex "7," Investigation Report dated October 28, 1996.

[26] Labor Arbiter's Decision, pp. 12-14; rollo, pp. 132-134 (cited in the Resolution of the NLRC, pp. 15-16; rollo, pp. 185-186).

[27] CMP Federal Security Agency, Inc. v. NLRC, 362 Phil. 439, 449, February 11, 1999.

[28] The policy under Sections 3 and 4 of the Labor Code is to afford protection to labor and to resolve doubts in its favor. See also Asuncion v. NLRC, 414 Phil. 329, 341-342, July 31, 2001.

[29] For the validity of the employee's dismissal, it is required that employees sought to be dismissed must be served two written notices before termination of their services: 1) a notice apprising them of the particular act/s or omission for which they are being sought to be dismissed; and 2) a subsequent notice informing them of the decision to dismiss them. (See Rodriquez Jr. v. NLRC, 393 SCRA 511, 517, December 5, 2002; Anflo Management & Investment Corp. v. Bolanio, 390 SCRA 473, 478, October 4, 2002.)

[30] Annex "8" of petitioner's Position Paper; rollo, p. 65.

[31] JD Legaspi Construction v. NLRC, 390 SCRA 233, 238, October 2, 2002; Gonzales v. NLRC, supra.

[32] Rasonable v. NLRC, 324 Phil. 191, 199, February 20, 1996.

[33] Vinoya v. NLRC, 393 Phil. 441, 445, August 25, 2000 (citing Quijano v. Mercury Drug Corp., 354 Phil. 112, 125, July 18, 1998).

[34] CA Decision, pp. 7-8; rollo, pp. 319-320.

[35] See Kiamco v. NLRC, 368 Phil. 736, 754, June 29, 1999; Vallacar Transit, Inc. v. NLRC, 316 Phil. 556, 561, July 17, 1995; Globe-Mackay Cable and Radio Corp. v. NLRC, 206 SCRA 701, 711, March 3, 1992; Maranaw Hotels and Resorts Corp. v. CA, 215 SCRA 501, 507, November 6, 1992.

[36] AHS/Phil., Inc. v. CA, 327 Phil. 129, 142, June 14, 1996; Santos v. NLRC, 325 Phil. 145, March 13, 1996; Pabalan v. NLRC, 184 SCRA 495, 505, April 23, 1990; Bogo-Medellin Sugarcane Planters Asso., Inc. v. National Labor Relations Commission, 357 Phil. 110, September 25, 1998.

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