

**CENTRAL LUZON CONFERENCE CORPORATION OF SEVENTH-DAY ADVENTIST CHURCH, INC., REPRESENTED BY ITS PRESIDENT, PASTOR ROBIN SABAN, OR ITS DIRECTOR, PASTOR ROMEO MANGILIMAN; PASTOR MA...**

*G.R. NO. 161976. August 12, 2005*

Ponente: AZCUNA, J.

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**AZCUNA, J.:**

Respondent Federico Cabanit was a sales representative of petitioner Central Luzon Conference Corporation of Seventh-Day Adventist Church, Inc. After six months, he became its regular employee, assigned to the accounting department. Promoted, he became branch manager from 1981 to 1990, and auditor from 1990 to 1996.

On June 11, 1997, respondent Cabanit was informed that he erred in recording US\$40 and was later suspended from July 1-31, 1997 but the suspension was rescinded and he was assigned as general auditor.

Subsequently, he was required to appear before petitioner corporation's office and its Executive Committee pursuant to two letters. He was placed under preventive suspension on October 16, 1997 and required to explain in 15 days why he should not be dismissed due to irregularities committed. He requested copies of pertinent documents to enable him to explain his side but petitioner corporation allegedly did not oblige. On November 18, 1997, petitioner corporation, through an EXECOM meeting, adopted a resolution terminating his employment effective October 16, 1997.

Federico Cabanit filed a complaint for illegal dismissal with the Arbitration Branch of the National Labor Relations Commission (NLRC).

The Labor Arbiter (LA) dismissed the complaint for lack of merit.

On appeal, the NLRC affirmed the decision of the LA.

On petition to the Court of Appeals (CA), the CA agreed that the dismissal was for a just cause but found that therein respondents failed in the second requirement of due process in that the employee was not given a chance to explain his side.

The CA ordered payment of backwages from the time of termination to the time the decision becomes final and remanded the case to the LA for computation of backwages.

Hence, this petition for review under Rule 45 of the Rules of Court, principally to question the award of backwages.

The issue is squarely covered by the recent Agabon[1] ruling of this Court:

The violation of the petitioners' right to statutory due process by the private respondent warrants the payment of indemnity in the form of nominal damages. The amount of such damages is addressed to the sound

discretion of the court, taking into account the relevant circumstances (*Savellano v. Northwest Airlines*, G.R. No. 151783, 8 July 2003, 405 SCRA 416). Considering the prevailing circumstances in the case at bar, we deem it proper to fix it at P30,000.00. We believe this form of damages would serve to deter employers from future violations of the statutory due process rights of employees. At the very least, it provides a vindication or recognition of this fundamental right granted to the latter under the Labor Code and its Implementing Rules.[2]

WHEREFORE, the petition is GRANTED, and the decision of the Court of Appeals is MODIFIED, by deleting the award of backwages and granting only P30,000 as nominal damages.

No costs.

**SO ORDERED.**

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Carpio, JJ., concur.

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[1] *Agabon v. National Labor Relations Commission*, G.R. No. 158693, November 17, 2004, 442 SCRA 573.

[2] *Id.* at 617.

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