

JULITO SGALES, PETITIONER, VS. RUSTAN'S COMMERCIAL CORPORATION, RESPONDENT.

G.R. No. 166554. November 27, 2008

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

Labor is property, and as such merits protection. The right to make it available is next in importance to the rights of life and liberty. It lies to a large extent at the foundation of most other forms of property, and of all solid individual and national prosperity.[1]

The exultation of labor by Mr. Justice Noah Haynes Swayne of the United States Supreme Court comes to the fore in this petition for review on certiorari. The employee questions the propriety of his dismissal after he was caught stealing 1.335 kilos of squid heads worth P50.00. He invokes his almost thirty-one (31) years of untarnished service and the several awards he received from the company to temper the penalty of dismissal meted on him.

The Facts

Petitioner Julito Sgales was employed by respondent Rustan's Commercial Corporation from October 1970 until July 26, 2001, when he was terminated. At the time of his dismissal, he was occupying the position of Chief Cook at the Yum Yum Tree Coffee Shop located at Rustan's Supermarket in Ayala Avenue, Makati City. He was paid a basic monthly salary of P9,880.00. He was also receiving service charge of not less than P3,000.00 a month and other benefits under the law and the existing collective bargaining agreement between respondent and his labor union.[2]

In the course of his employment, petitioner was a consistent recipient of numerous citations[3] for his performance. After receiving his latest award on March 27, 2001, petitioner conveyed to respondent his intention of retiring on October 31, 2001, after reaching thirty-one (31) years in service.[4] Petitioner, however, was not allowed to retire with his honor intact.

On June 18, 2001, Security Guard Waldo Magtangob, upon instructions from Senior Guard Bonifacio Aranas, apprehended petitioner in the act of taking out from Rustan's Supermarket a plastic bag. Upon examination, it was discovered that the plastic bag contained 1.335 kilos of squid heads worth P50.00. Petitioner was not able to show any receipt when confronted. Thus, he was brought to the Security Office of respondent corporation for proper endorsement to the Makati Headquarters of the Philippine National Police. Subsequently, petitioner was brought to the Makati Police Criminal Investigation Division where he was detained. Petitioner was later ordered released pending further investigation.[5]

Respondent alleged that prior to his detention, petitioner called up Agaton Samson, Rustan's Branch Manager, and apologized for the incident. Petitioner even begged Samson that he would just pay for the squid heads. Samson replied that it is not within his power to forgive him.[6]

On June 19, 2001, petitioner underwent inquest proceedings for qualified theft before Assistant Prosecutor Amado Y. Pineda. Although petitioner admitted that he was in possession of the plastic bag containing the squid heads, he denied stealing them because he actually paid for them. As proof, petitioner presented a receipt. The only fault he committed was his failure to immediately show the purchase receipt when he was accosted because he misplaced it when he changed his clothes. He also alleged that the squid heads were already "scraps" as these were not intended for cooking. Neither were the squid heads served to customers. He bought the squid heads so that they could be eaten instead of being thrown away. If he intended to steal from respondent, he could have stolen other valuable items instead of scrap.[7]

Assistant Prosecutor Pineda believed the version of petitioner and recommended the dismissal of the case for "lack of evidence." [8] The recommendation was approved upon review by City Prosecutor Feliciano Aspi.[9]

Notwithstanding the dismissal of the complaint, respondent, on June 25, 2001, required petitioner to explain in writing within forty-eight (48) hours why he should not be terminated in view of the June 18, 2001 incident. Respondent also placed petitioner under preventive suspension.[10]

On June 29, 2001, petitioner was informed that a formal investigation would be conducted by the Legal Department on July 6, 2001.[11]

Petitioner and his counsel attended the administrative investigation where he reiterated his defense before the inquest prosecutor. Also in attendance were Aranas and Magtangob, who testified on the circumstances surrounding the apprehension of petitioner; Samson, the branch manager to whom petitioner allegedly apologized for the incident; and Zenaida Castro, cashier, who testified that the squid heads were not paid.

Respondent did not find merit in the explanation of petitioner. Thus, petitioner was dismissed from service on July 26, 2001.[12] At that time, petitioner had been under preventive suspension for one (1) month.

Aggrieved, petitioner filed a complaint for illegal dismissal against respondent. He also prayed for unpaid salaries/wages, overtime pay, as well as moral and exemplary damages, attorney's fees, and service charges.[13] Labor Arbiter, NLRC, and CA Dispositions

On July 24, 2002, Labor Arbiter Felipe P. Pati dismissed[14] the complaint.

IN VIEW OF THE FOREGOING, the complaint for illegal dismissal should be DISMISSED for lack of merit.

SO ORDERED.[15]

According to the Labor Arbiter, the nature of the responsibility of petitioner "was not that of an ordinary employee." [16] It then went on to categorize petitioner as a supervisor in "a position of responsibility where trust and confidence is inherently infused." [17] As such, it behooved him "to be more knowledgeable if not the most knowledgeable in company policies on employee purchases of food scrap items in the kitchen." [18] Per the evidence presented by respondent, petitioner breached company policy which justified his dismissal.

Petitioner appealed to the National Labor Relations Commission (NLRC).[19] On April 10, 2003, the NLRC reversed[20] the Labor Arbiter in the following tenor:

WHEREFORE, the decision appealed from is hereby SET ASIDE and complainant's dismissal declared illegal. Further, respondent is hereby ordered to reinstate complainant to his former position without loss of seniority rights and other benefits and paid backwages computed from time of dismissal up to the finality of this decision which as of this date amounts to P269,854.16.

All other claims are denied for want of basis.

SO ORDERED.[21]

The NLRC held that the position of complainant is not supervisory covered by the trust and confidence rule.[22] On the contrary, petitioner is a mere rank-and-file employee.[23] The evidence is also wanting that petitioner committed the crime charged.[24] The NLRC did not believe that petitioner would trade off almost thirty-one (31) years of service for P50.00 worth of squid heads.[25]

The NLRC further ruled that petitioner was illegally dismissed as respondent failed to establish a just cause for dismissal.[26] However, the claim for damages was denied for lack of evidence.[27]

The motion for reconsideration[28] having been denied,[29] respondent brought the matter to the Court of Appeals (CA) via a petition for certiorari under Rule 65 of the 1997 Rules on Civil Procedure.[30] On July 12, 2004, the CA rendered the assailed decision,[31] with the following fallo:

WHEREFORE, the petition is GRANTED. The challenged resolutions of April 10, 2003 and July 31, 2003 of public respondent NLRC are REVERSED and SET ASIDE. The decision of the Labor Arbiter of July 24, 2002, dismissing private respondent's complaint is REINSTATED.

SO ORDERED.[32]

In reversing the NLRC, the CA opined that the position of petitioner was supervisory in nature.[33] The CA also held that the evidence presented by respondent clearly established loss of trust and confidence on petitioner.[34] Lastly, the CA, although taking note of the long years of service of petitioner and his numerous awards, refused to award separation pay in his favor. According to the CA, "the award of separation pay cannot be sustained under the social justice theory" because the instant case "involves theft of the employer's property." [35]

Petitioner filed a motion for reconsideration[36] which was denied.[37] Left with no other recourse, petitioner availed of the present remedy.[38] Issues

Petitioner in his Memorandum[39] imputes to the CA the following errors, to wit:

- THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT CONCLUDED THAT THE POSITION OF THE PETITIONER BEING AN ASSISTANT COOK AS A SUPERVISORY POSITION FOR BEING CONTRADICTORY TO THE EVIDENCE ON RECORD.
- THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT CONCLUDED THAT THE DOCTRINE OF TRUST AND CONFIDENCE APPLIES AGAINST THE PETITIONER TO JUSTIFY HIS DISMISSAL FROM EMPLOYMENT FOR BEING CONTRADICTORY TO THE EVIDENCE ON RECORD.[40] (Underscoring supplied)

For a full resolution of the issues in the instant case, the following questions should be answered: (1) Is the position of petitioner supervisory in nature which is covered by the trust and confidence rule? (2) Is the evidence on record sufficient to conclude that petitioner committed the crime charged? and (3) Assuming that the answer is in the affirmative, is the penalty of dismissal proper?

Our Ruling

I. The position of petitioner is supervisory in nature which is covered by the trust and confidence rule.

The nature of the job of an employee becomes relevant in termination of employment by the employer because the rules on termination of managerial and supervisory employees are different from those on the rank-and-file. Managerial employees are tasked to perform key and sensitive functions, and thus are bound by more exacting

work ethics.[41] As a consequence, managerial employees are covered by the trust and confidence rule.[42] The same holds true for supervisory employees occupying positions of responsibility.[43]

There is no doubt that the position of petitioner as chief cook is supervisory in nature. A chief cook directs and participates in the preparation and serving of meals; determines timing and sequence of operations required to meet serving times; and inspects galley and equipment for cleanliness and proper storage and preparation of food.[44] Naturally, a chief cook falls under the definition of a supervisor, i.e., one who, in the interest of the employer, effectively recommends managerial actions which would require the use of independent judgment and is not merely routinary or clerical.[45]

It has not escaped Our attention that petitioner changed his stance as far as his actual position is concerned. In his position paper, he alleged that at the time of his dismissal, he was "Chief Cook." [46] However, in his memorandum, he now claimed that he was an "Asst. Cook." [47] The ploy is clearly aimed at giving the impression that petitioner is merely a rank-and-file employee. The change in nomenclature does not, however, help petitioner, as he would still be covered by the trust and confidence rule. In *Concorde Hotel v. Court of Appeals*, [48] the Court categorically ruled:

Petitioner is correct insofar as it considered the nature of private respondent's position as assistant cook a position of trust and confidence. As assistant cook, private respondent is charged with the care of food preparation in the hotel's coffee shop. He is also responsible for the custody of food supplies and must see to it that there is sufficient stock in the hotel kitchen. He should not permit food or other materials to be taken out from the kitchen without the necessary order slip or authorization as these are properties of the hotel. Thus, the nature of private respondent's position as assistant cook places upon him the duty of care and custody of Concorde's property. [49] (Emphasis supplied)

Of course, the ruling assumes greater significance if petitioner is the chief cook. A chief cook naturally performs greater functions and has more responsibilities than an assistant cook. In eo quod plus sit simpler inest et minimus. The greater always includes the less. Ang malawak ay laging sumasakop sa maliit.

II. The evidence on record is sufficient to conclude that petitioner committed the crime charged.

Security of tenure is a paramount right of every employee that is held sacred by the Constitution. [50] The reason for this is that labor is deemed to be "property" [51] within the meaning of constitutional guarantees. [52] Indeed, as it is the policy of the State to guarantee the right of every worker to security of tenure as an act of social justice, [53] such right should not be denied on mere speculation of any similar or unclear nebulous basis. [54] Indeed, the right of every employee to security of tenure is all the more secured by the Labor Code by providing that "the employer shall not terminate the services of an employee except for a just cause or when authorized" by law. Otherwise, an employee who is illegally dismissed "shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement." [55]

Necessarily then, the employer bears the burden of proof to show the basis of the termination of the employee. [56]

In the case at bar, respondent has discharged its onus of proving that petitioner committed the crime charged. We quote with approval the observation of the CA in this regard:

On this matter, petitioner presents as evidence the verified statement of security guard Aranas. Aranas positively saw the private in the act of bringing out the purloined squid heads. Similarly, the statement of security guard Magtangob attested to the commission by private respondent of the offense charged. Further,

the verified statement of Samson, store manager of petitioner corporation who is in charge of all personnel, including employees of the Yum Yum Tree Coffee Shop of which private respondent was a former assistant cook, attested to the fact of private respondent seeking apology for the commission of the act. Likewise, the statement of Zenaida Castro (Castro), cashier of petitioner corporation's supermarket, Makati Branch, Ayala Center, Makati City, confirmed that indeed the 1.335 kilos of squid heads amounting to fifty pesos (P50.00) per kilo, had not been paid for.[57]

The contention of petitioner that respondent merely imputed the crime against him because he was set to retire is difficult, if not impossible, to believe. Worth noting is the fact that petitioner failed to impute any ill will or motive on the part of the witnesses against him. As aptly observed by the Labor Arbiter:

It seems unbelievable to believe that the apprehending officers up to the Manager, Mr. Samson, were all telling a lie as what complainant wants to portray when he alleged in his pleadings that he mentioned to the apprehending officers [that] he has a receipt for [the squid heads] and that he never apologized. This is understandable on his part because complainant wants no loophole in his version. And an easy way out is to fabricate his allegations.[58]

We stress that the quantum of proof required for the application of the loss of trust and confidence rule is not proof beyond reasonable doubt. It is sufficient that there must only be some basis for the loss of trust and confidence or that there is reasonable ground to believe, if not to entertain the moral conviction, that the employee concerned is responsible for the misconduct and that his participation in the misconduct rendered him absolutely unworthy of trust and confidence.[59]

It is also of no moment that the criminal complaint for qualified theft against petitioner was dismissed. It is well settled that the conviction of an employee in a criminal case is not indispensable to the exercise of the employer's disciplinary authority.[60]

III. The penalty of dismissal is too harsh under the circumstances.

The free will of management to conduct its own business affairs to achieve its purpose cannot be denied.[61] The only condition is that the exercise of management prerogatives should not be done in bad faith[62] or with abuse of discretion.[63] Truly, while the employer has the inherent right to discipline, including that of dismissing its employees, this prerogative is subject to the regulation by the State in the exercise of its police power.[64]

In this regard, it is a hornbook doctrine that infractions committed by an employee should merit only the corresponding penalty demanded by the circumstance. The penalty must be commensurate with the act, conduct or omission imputed to the employee and must be imposed in connection with the disciplinary authority of the employer.[65]

For example, in *Farrol v. Court of Appeals*,[66] the employee, who was a district manager of a bank, incurred a shortage of P50,985.37. He was dismissed although the funds were used to pay the retirement benefits of five employees of the bank. The employee was also able to return the amount, leaving a balance of only P6,995.37 of the shortage. The bank argued that under its rules, the penalty for the infraction of the employee is dismissal. The Court disagreed and held that the penalty of dismissal is too harsh. The Court took note that it is the first infraction of the employee and that he has rendered twenty-four (24) long years of service to the bank. In the words of Mm. Justice Consuelo Ynares-Santiago, "the dismissal imposed on petitioner is unduly harsh and grossly disproportionate to the infraction which led to the termination of his services. A lighter penalty would have been more just, if not humane."[67]

So too did the Court pronounce in *Felix v. National Labor Relations Commission*,[68] *Gutierrez v. Singer Sewing Machine Company*,[69] *Associated Labor Unions-TUCP v. National Labor Relations Commission*,[70] *Dela Cruz*

v. National Labor Relations Commission,[71] Philippine Long Distance Telephone Company v. Tolentino,[72] Hongkong and Shanghai Banking Corporation v. National Labor Relations Commission,[73] Permax, Inc. v. National Labor Relations Commission,[74] VH Manufacturing, Inc. v. National Labor Relations Commission,[75] A' Prime Security Services, Inc. v. National Labor Relations Commission,[76] and St. Michael's Institute v. Santos.[77]

In the case at bar, petitioner deserves compassion more than condemnation. At the end of the day, it is undisputed that: (1) petitioner has worked for respondent for almost thirty-one (31) years; (2) his tireless and faithful service is attested by the numerous awards[78] he has received from respondent; (3) the incident on June 18, 2001 was his first offense in his long years of service; (4) the value of the squid heads worth P50.00 is negligible; (5) respondent practically did not lose anything as the squid heads were considered scrap goods and usually thrown away in the wastebasket; (6) the ignominy and shame undergone by petitioner in being imprisoned, however momentary, is punishment in itself; and (7) petitioner was preventively suspended for one month, which is already a commensurate punishment for the infraction committed. Truly, petitioner has more than paid his due.

In any case, it would be useless to order the reinstatement of petitioner, considering that he would have been retired by now. Thus, in lieu of reinstatement, it is but proper to award petitioner separation pay computed at one-month salary for every year of service, a fraction of at least six (6) months considered as one whole year.[79] In the computation of separation pay, the period where backwages are awarded must be included.[80]

Word of caution.

We do not condone dishonesty. After all, honesty is the best policy. However, punishment should be commensurate with the offense committed. The supreme penalty of dismissal is the death penalty to the working man. Thus, care should be exercised by employers in imposing dismissal to erring employees. The penalty of dismissal should be availed of as a last resort.

Indeed, the immortal words of Mr. Justice (later Chief Justice) Enrique Fernando ring true then as they do now: "where a penalty less punitive would suffice, whatever missteps may be committed by labor ought not be visited with a consequence so severe. It is not only because of the law's concern for the workingman. There is, in addition, his family to consider. Unemployment brings untold hardships and sorrows on those dependent on the wage-earner." [81]

WHEREFORE, the appealed Decision of the Court of Appeals is REVERSED and SET ASIDE. The Decision of the National Labor Relations Commission is REINSTATED with the MODIFICATION that petitioner is granted separation pay and backwages in lieu of reinstatement.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Nachura, JJ., concur.

[1] Slaughter House Cases, 16 Wall. (83 US) 36, 127.

[2] Rollo, pp. 69-70.

[3] (1) Sikap Awards in recognition of his exemplary job performance for the years 1984, 1985, 1986, 1987, 1992, 1993 and 1994; (2) Sikap Awards Service Award in 1991 for having rendered twenty five (25) years of loyal service to the company; (3) Sikap Awards Service Award for having rendered twenty five (25) years of loyal service; (4) Several Certificates of Recognition for being named to the EVP-GM list, a roster of employees who have posted a perfect record of attendance and punctuality in reporting to work for several years; and (5) Sikap

Loyalty Award for having rendered thirty (30) years of loyal service, making him one of the elite employees of his company.

[4] Rollo, pp. 69-70.

[5] Id. at 302-303.

[6] Id. at 303-304.

[7] Id. at 45-46.

[8] Id. at 46.

[9] Id. at 50.

[10] Id. at 203.

[11] Id. at 204.

[12] Id. at 207.

[13] Id. at 69-75.

[14] Id. at 84-94. NLRC Case No. NCR-S-30-09-04047-01.

[15] Id. at 94.

[16] Id. at 91.

[17] Id.

[18] Id.

[19] Id. at 95-104.

[20] Id. at 116-123. NLRC CA 033170-02. Penned by Commissioner Tito F. Genilo, with Commissioner Lourdes C. Javier, concurring.

[21] Id. at 123.

[22] Id. at 121.

[23] Id. at 122.

[24] Id.

[25] Id.

[26] Id.

[27] Id. at 123.

[28] Id. at 124-129.

[29] Id. at 133-134.

[30] Id. at 138-156.

[31] Id. at 25-33. CA-G.R. SP No. 80131. Penned by Associate Justice Hakim S. Abdulwahid, with Associate Justices Cancio C. Garcia (a retired member of this Court) and Remedios Salazar-Fernando, concurring.

[32] Rollo, p. 32.

[33] Id. at 29.

[34] Id. at 30.

[35] Id. at 32.

[36] Id. at 35-41.

[37] Id. at 52-53.

[38] Id. at 8-20.

[39] Id. at 283-295.

[40] Id. at 287.

[41] *Gonzales v. National Relations Labor Commission*, G.R. No. 131653, March 26, 2001, 355 SCRA 195.

[42] *Caingat v. National Labor Relations Commission*, G.R. No. 154308, March 10, 2005, 453 SCRA 142; *Sulpicio Lines, Inc. v. Gulde*, G.R. No. 149930, February 22, 2002, 377 SCRA 525; *Sanchez v. National Labor Relations Commission*, G.R. No. 124348, August 19, 1999, 312 SCRA 727.

[43] *Cruz v. Coca-Cola Bottlers Phils., Inc.*, G.R. No. 165586, June 15, 2005, 460 SCRA 340; *Coca-Cola Bottlers, Phils., Inc. v. Kapisanan ng Malayang Manggagawa sa Coca-Cola-FFW*, G.R. No. 148205, February 28, 2005, 452 SCRA 480; *Tan v. National Labor Relations Commission*, G.R. No. 128290, November 24, 1998, 299 SCRA 169, 183; *Filipro, Inc. v. National Labor Relations Commission*, G.R. No. L-70546, October 16, 1986, 145 SCRA 123; *Lamsam Trading, Inc. v. Leogardo, Jr.*, G.R. No. L-73245, September 30, 1986, 144 SCRA 571.

[44] (visited October 20, 2008).

[45] *A.D. Gothong Manufacturing Corporation Employee's Union-ALU v. Confesor*, G.R. No. 113638, November 16, 1999, 318 SCRA 58.

[46] Rollo, p. 69.

[47] Id. at 285.

[48] G.R. No. 144089, August 9, 2001, 362 SCRA 583.

[49] *Concorde Hotel v. Court of Appeals*, id. at 591.

[50] CONSTITUTION (1987), Art. XIII, Sec. 3 on Social Justice and Human Rights.

[51] Id., Art. III, Sec. 1 of the Bill of Rights partly provides: "No person shall be deprived of life, liberty or property without due process of law x x x."

[52] *Philippine Movie Pictures Workers Association v. Premiere Productions, Inc.*, 92 Phil. 843 (1953).

[53] *Rance v. National Labor Relations Commission*, G.R. No. L-68147, June 30, 1988, 163 SCRA 279.

[54] *Asia World Recruitment, Inc. v. National Labor Relations Commission*, G.R. No. 113363, August 24, 1999, 313 SCRA 1; *Philippine-Singapore Transport Services, Inc. v. National Labor Relations Commission*, G.R. No. 95449, August 18, 1997, 277 SCRA 506; *Tolentino v. National Labor Relations Commission*, G.R. No. L-75380, July 31, 1987, 152 SCRA 717.

[55] Labor Code, Art. 279.

[56] *De Jesus v. National Labor Relations Commission*, G.R. No. 151158, August 17, 2007, 530 SCRA 489, 498; *Arboleda v. National Labor Relations Commission*, G.R. No. 119509, February 11, 1999, 303 SCRA 38; *Agoy v. National Labor Relations Commission*, G.R. No. 112096, January 30, 1996, 252 SCRA 588; *Gesulgon v. National Labor Relations Commission*, G.R. No. 90349, March 5, 1993, 219 SCRA 561.

[57] *Rollo*, p. 30.

[58] *Id.* at 92-93.

[59] *Central Pangasinan Electric Cooperative, Inc. v. Macaraeg*, G.R. No. 145800, January 22, 2003, 395 SCRA 720; *Gonzales v. National Labor Relations Commission*, *supra* note 41.

[60] *Starlite Plastic Industrial Corporation v. National Labor Relations Commission*, G.R. No. 78491, March 16, 1989, 171 SCRA 315, 324, citing *Sea Land Service, Inc. v. National Labor Relations Commission*, G.R. No. 68212, May 24, 1985, 136 SCRA 544.

[61] *Hongkong and Shanghai Banking Corporation Employee's Union v. National Labor Relations Commission*, G.R. No. 125038, November 6, 1997, 281 SCRA 509; *Almodiel v. National Labor Relations Commission*, G.R. No. 100641, June 14, 1993, 223 SCRA 341; *Yuco Chemical Industries, Inc. v. Ministry of Labor and Employment*, G.R. No. 75656, May 28, 1990, 185 SCRA 727; *San Miguel Brewery Sales Force Union (PTGWO) v. Ople*, G.R. No. 53515, February 8, 1989, 170 SCRA 25; *Abbott Laboratories (Phils.), Inc. v. National Labor Relations Commission*, G.R. No. L-76959, October 12, 1987, 154 SCRA 713.

[62] *Aparente, Sr. v. National Labor Relations Commission*, G.R. No. 117652, April 27, 2000, 331 SCRA 82; *Caltex Refinery Employees Association (CREA) v. National Labor Relations Commission (Third Division)*, 316 Phil. 335 (1995); *Maya Farms Employees Organization v. National Labor Relations Commission*, G.R. No. 106256, December 28, 1994, 239 SCRA 508; *Garcia v. Manila Times*, G.R. No. 99390, July 5, 1991, 224 SCRA 399; *Union Carbide Labor Union v. Union Carbide Philippines, Inc.*, G.R. No. 41314, November 13, 1992, 215 SCRA 554; *National Federation of Labor Unions v. National Labor Relations Commission*, G.R. No. 90739, October 3, 1991, 202 SCRA 346; *Philippine Telegraph and Telephone Corporation v. Laplana*, G.R. No. 76645, July 23, 1991, 199 SCRA 485; *Cruz v. Medina*, G.R. No. 73053, September 15, 1989, 177 SCRA 565; *San Miguel Brewery Sales Force Union (PTGWO) v. Ople*, *supra* note 61.

[63] *Pantranco North Express, Inc. v. National Labor Relations Commission*, G.R. No. 106516, September 21, 1999, 314 SCRA 740; *Palomares v. National Labor Relations Commission (5th Division)*, G.R. No. 120064, August 15, 1997, 277 SCRA 439, 449; *Union Carbide Labor Union v. Union Carbide Philippines*, *supra* note 62, at 558; *Employees Association of the Philippine American Life Insurance Company v. National Labor Relations Commission*, G.R. No. 82976, July 26, 1991, 199 SCRA 628.

[64] *Manila Trading and Supply Co. v. Zulueta*, 69 Phil. 485 (1940).

[65] *Caltex Refinery Employees Association (CREA) v. National Labor Relations Commission (Third Division)*, *supra* note 62, at 343; *Radio Communications of the Philippines, Inc. v. National Labor Relations Commission*, G.R. No. 102958, June 25, 1993, 223 SCRA 656.

[66] G.R. No. 133259, February 10, 2000, 325 SCRA 331.

[67] *Farrol v. Court of Appeals*, *id.* at 340.

[68] G.R. No. 148256, November 17, 2004, 442 SCRA 465; *Gutierrez v. Singer Sewing Machine Company*, G.R.

No. 140982, September 23, 2003, 411 SCRA 512; Associated Labor Unions-TUCP v. National Labor Relations Commission, G.R. No. 120450, February 10, 1999, 302 SCRA 708.

[69] Supra.

[70] Supra at 715-716.

[71] G.R. No. 119536, February 17, 1997, 268 SCRA 458, 471.

[72] G.R. No. 143171, September 21, 2004, 438 SCRA 555.

[73] Supra note 61.

[74] G.R. No. 125031, January 24, 2000, 323 SCRA 121.

[75] G.R. No. 130957, January 19, 2000, 322 SCRA 417.

[76] G.R. No. 107320, January 19, 2000, 322 SCRA 283.

[77] G.R. No. 145280, December 4, 2001, 371 SCRA 383.

[78] See note 3.

[79] Farrol v. Court of Appeals, supra note 66, at 340, citing Jardine Davies, Inc. v. National Labor Relations Commission, G.R. No. 76272, July 28, 1999, 311 SCRA 289, citing in turn, Mabeza v. National Labor Relations Commission, G.R. No. 118506, April 18, 1997, 271 SCRA 670; Reformist Union of R.B. Liner, Inc. v. National Labor Relations Commission, G.R. No. 120482, January 27, 1997, 266 SCRA 713; Bustamante v. National Labor Relations Commission, G.R. No. 111651, November 28, 1996, 265 SCRA 61; Presidential Decree 442, Art. 283, otherwise known as The Labor Code of the Philippines.

[80] Id., citing Jardine Davies, Inc. v. National Labor Relations Commission, supra, citing in turn, Guatson International Travel and Tours, Inc. v. National Labor Relations Commission, G.R. No. 100322, March 9, 1994, 230 SCRA 815, 824.

[81] Almira v. B.F. Goodrich Philippines, Inc., G.R. No. L-34974, July 25, 1974, 58 SCRA 120, 131.

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