

E PACIFIC GLOBAL CONTACT CENTER, INC. AND/OR JOSE VICTOR SISON, PETITIONERS, VS. MA. LOURDES CABANSAY, RESPONDENT.

G.R. No. 167345. November 23, 2007

Ponente: NACHURA, J.

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NACHURA, J.:

Established in our labor law jurisprudence is the principle that while compassion and human consideration should guide the disposition of cases involving termination of employment, since it affects one's means of livelihood, it should not be overlooked that the benefits accorded to labor do not include compelling an employer to retain the services of an employee who has been shown to be a gross liability to the employer.[1]

Before the Court is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the January 10, 2005 Decision[2] of the Court of Appeals (CA) in CA-G.R. SP No. 83248, and the March 7, 2005 Resolution[3] denying the motion for reconsideration thereof.

The facts are undisputed. Respondent Ma. Lourdes Cabansay (Cabansay) was hired as Senior Training Manager of ePacific Global Contact Center, Inc. with a monthly salary of P38,000.00 on April 18, 2001[4] and became a regular employee on August 1, 2001. In March 2002, respondent was tasked to prepare a new training process for the company's Telesales Trainees.[5]

After reviewing the training module prepared by respondent, Mr. Rosendo S. Ballesteros (Ballesteros), the company's Senior Vice President-Business Development Group, found that the same did not contain any changes and that they were not ready to present it.[6] He thus instructed respondent through an electronic mail (e-mail) to postpone the presentation and the implementation of the new training process.[7] Ballesteros further emphasized that the Department needed more time to teach the trainees on how to get leads, focus on developing their telemarketing skills and acquire proper motivation.[8]

In response to Ballesteros's e-mail instructions, Cabansay wrote, also via e-mail, as follows:

From: Miami Cabansay
Sent: Friday, April 05, 2002 7:58 AM
To: Ro Ballesteros; Lorna Garcia – ePacific
Cc: 'Butch Nievera' Subject:
RE: dlp.new training process presentation.04042002
Importance: High
Sensitivity: Confidential

Ro, the presentation is going to be discussed in detail. As we discussed yesterday i (sic) SPECIFICALLY told you that I WILL DISCUSS the new training process and explain it to them in detail. Didn't you see the last past (sic) of the 5-day classroom training, (sic) the last day includes PROSPECTING, that's where the CCA trainees will be taught how to get leads both local and abroad.

The criteria for the evaluation? It's already done by Richie, we're going to distribute the hard copies and

discuss it in DETAIL in this afternoon's briefing.

This is a very simple presentation and I WILL NOT POSTPONE it today, it's very easy to comprehend and as per YOUR INSTRUCTION we will be implementing it next week, so when should we present this to the TLs?

Let's not make SIMPLE THINGS COMPLICATED.

I will go on with the presentation this afternoon.[9]

Adversely reacting to respondent's attitude, Ballesteros sent Cabansay a memo on April 6, 2002, informing the latter that he found her message to be a clear act of insubordination, causing him to lose his trust and confidence in her as Manager of the Training Department.[10] He then asked respondent to explain in writing why she should not be terminated as a consequence of her acts.[11]

Meanwhile, no presentation of the training module was made on April 5, 2002 because the Senior Manager for Telesales, Ms. Lorna Garcia, on instruction of Ballesteros, informed all the participants that the same was postponed because Management was not yet ready to present the module.[12]

Clarifying that this was merely a case of miscommunication and that she had no intention to disregard the order to postpone the implementation of the new training process, Cabansay submitted two memoranda dated April 8 and 11, 2002.[13]

However, on April 11, 2002, the same day she submitted her second explanation, Cabansay received a memorandum from the HR Department/Office of the President notifying her that she had been terminated from the service effective immediately for having committed an act of insubordination resulting in the management's loss of trust and confidence in her.[14]

Respondent, thus, filed a case for illegal dismissal docketed as NLRC-NCR-04-02441-02 with the Labor Arbitration Branch of the National Labor Relations Commission (NLRC). In her position paper,[15] she sought, among others, payment of full backwages, separation pay, actual, moral and exemplary damages, cash equivalent of vacation and sick leave, 13th month pay, and attorney's fees.[16]

On September 2, 2002, Labor Arbiter (LA) Madjayran H. Ajan rendered his Decision[17] dismissing the complaint. The Labor Arbiter ruled that reading Cabansay's e-mail message between the lines would clearly show that she willfully disobeyed the order of Ballesteros.[18] The company, thus, was justified in dismissing her on the ground of insubordination resulting in loss of trust and confidence. As to her claim for 13th month pay, as well as for the cash equivalent of her sick and vacation leave, the LA ruled that she impliedly agreed, when she did not object, to the company's submission that the pro-rated equivalent of her 13th month pay was already paid to her and that she did not meet the company's conditions for conversion to cash of her leave credits.[19] The dispositive portion of the LA's Decision reads:

WHEREFORE, premises all considered, judgment is hereby rendered DISMISSING the complaint for lack of merit. Finding the termination of the complainant valid and legal. (sic)

All other claims are Dismissed for lack of merit.

SO ORDERED.[20]

On appeal, the NLRC, in its August 29, 2003 Resolution in NLRC NCR CA No. 033624-02,[21] affirmed the decision of the LA. The Commission ruled that Ballesteros's order to postpone the implementation of the training module was reasonable, lawful, made known to Cabansay and pertained to the duties which she had been engaged to discharge.[22] However, her reply—"xxx I WILL NOT POSTPONE it today xxx Let's not make SIMPLE

THINGS COMPLICATED”—was a willful defiance of the lawful order of her superior.[23] Since her position as Senior Training Manager carries with it the highest degree of responsibility in upholding the interest of her employer and in setting a standard of discipline among officers and employees, the company had a valid cause to dismiss Cabansay when she deliberately disobeyed the order of Ballesteros resulting in the latter’s loss of trust and confidence in her.[24] The NLRC further ruled that the company sufficiently afforded her due process prior to her dismissal.[25] Consequently, she should not be reinstated to her job or be paid separation pay, backwages, moral and exemplary damages and attorney’s fees.[26] The NLRC disposed of the case as follows:

WHEREFORE, premises considered, Complainant’s appeal is DISMISSED for lack of merit. The Labor Arbiter’s assailed Decision in the above-entitled case is hereby AFFIRMED en toto.

SO ORDERED.[27]

When her motion for reconsideration was denied by the NLRC,[28] Cabansay filed a petition for certiorari under Rule 65 before the CA docketed as CA-G.R. SP No. 83248.[29]

On January 10, 2005, the appellate court rendered its Decision[30] granting the petition. The CA ruled that Cabansay’s termination could be justified neither by insubordination nor loss of trust and confidence. A perusal of the e-mail instructions sent by Ballesteros to her would show that, although the alleged order to postpone the presentation of the training module was reasonable and lawful, it was not clearly made known to her. The phrase “I don’t think [we are ready to present this to all TL]” could not be deemed an order as it merely suggested an opinion.[31] Moreover, the e-mail reply of Cabansay cannot be considered an act of willful defiance or insubordination. The language used was not harsh and no rude remarks or demeaning statements were made. She was only explaining her view on the matter, which could not be considered unlawful considering that she was also a managerial employee clothed with discretionary powers. Clearly, her acts did not constitute the “wrongful and perverse attitude” that otherwise would sanction dismissal. And even if she were guilty of insubordination, such minor infraction should not merit the ultimate and supreme penalty of dismissal.[32] The fallo of the CA Decision reads:

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the petition at bench must be, as it hereby is, GRANTED. The challenged resolutions of the NLRC dated August 29, 2003 and January 19, 2004 are hereby NULLIFIED and SET ASIDE. Petitioner is declared to have been illegally dismissed by private respondent company. Private respondent is hereby ordered to pay petitioner full backwages, separation pay and attorney’s fees. To this end, this case is REMANDED to the Labor Arbiter for the computation of the separation pay, backwages and other monetary awards to petitioner. Without special pronouncement as to costs.

SO ORDERED.[33]

Petitioner ePacific duly filed a motion for reconsideration[34] but this was denied by the appellate court in the March 7, 2005 Resolution.[35]

The said denial prompted petitioners to come to us raising the following grounds:

x x x (T)hat there is a prima facie evidence of grave abuse of discretion on the part of the Hon. Court of Appeals in finding that the complainant was illegally dismissed on the bases of the evidence presented.

That the Hon. Court of Appeals erred in applying the pertinent laws in the instant case.

The Hon. Court of Appeals had decided a question of substance in the instant case, not theretofore determined by the Hon. Supreme Court and that the Court of Appeals had decided in a way not in accord with law or with applicable decisions of the Supreme Court.

The Hon. Court of Appeals has so far departed from the accepted usual course of judicial proceedings.[36]

The main issue to be resolved in this case is whether or not respondent Cabansay was illegally dismissed.

We have consistently ruled in a plethora of cases that, in petitions for review on certiorari under Rule 45 of the Rules of Court, only questions of law may be raised,[37] except if the factual findings of the appellate court are mistaken, absurd, speculative, conjectural, conflicting, tainted with grave abuse of discretion, or contrary to the findings culled by the court of origin.[38] As the findings and conclusions of the LA and the NLRC, in this case, starkly conflict with those of the CA, we are constrained to delve into the records and examine the questioned findings.

After a careful review of the records and considering the arguments of the parties, the Court finds the petition impressed with merit.

Both the Labor Arbiter and the NLRC were unanimous in their findings that respondent was validly dismissed. In arriving at this conclusion, the LA and the NLRC examined the e-mail correspondence of Ballesteros and the respondent. They found that Ballesteros made a lawful order to postpone the implementation of the new training process, yet respondent incorrigibly refused to heed his instructions and sent an e-mail to him stating that she would go on with its presentation. Such an act of insubordination resulted in the management's loss of trust and confidence in her. This is a finding which the Court does not wish to disturb.

Oft-repeated is the rule that appellate courts accord the factual finding of the labor tribunal not only respect but also finality when supported by substantial evidence,[39] unless there is showing that the labor tribunal arbitrarily disregarded evidence before them or misapprehended evidence of such nature as to compel a contrary conclusion if properly appreciated.[40] Substantial evidence has been defined to be such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, and its absence is shown not by stressing that there is contrary evidence on record, direct or circumstantial, for the appellate court cannot substitute its own judgment or criterion for that of the labor tribunal in determining wherein lies the weight of evidence or what evidence is entitled to belief.[41]

In the instant case, we find that the labor tribunal did not arbitrarily disregard or misapprehend the evidence. Its finding that respondent was validly dismissed is likewise warranted by substantial evidence. Thus, we agree with petitioner's stance that the findings of the LA, as affirmed by the NLRC, should not have been set aside by the appellate court. Deference to the expertise acquired by the labor tribunal and the limited scope granted in the exercise of certiorari jurisdiction restrain any probe into the correctness of the LA's and the NLRC's evaluation of evidence.[42]

The petitioners anchor their termination of respondent's services on Article 282, paragraphs (a) and (c), of the Labor Code, as amended, which provides:

ARTICLE 282. TERMINATION BY EMPLOYER

An employer may terminate an employment for any of the following causes:

(a)

Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;

x x x x

(c)

Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;

Willful disobedience or insubordination necessitates the concurrence of at least two requisites: (1) the employee's assailed conduct must have been willful, that is, characterized by a wrongful and perverse attitude; and (2) the order violated must have been reasonable, lawful, made known to the employee and must pertain to the duties which he had been engaged to discharge.[43] On the other hand, loss of trust and confidence, to be a valid ground for dismissal, must be based on a willful breach of trust and founded on clearly established facts. A breach is willful if it is done intentionally, knowingly and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. It must rest on substantial grounds and not on the employer's arbitrariness, whims, caprices or suspicion; otherwise, the employee would eternally remain at the mercy of the employer. Loss of confidence must not also be indiscriminately used as a shield by the employer against a claim that the dismissal of an employee was arbitrary. And, in order to constitute a just cause for dismissal, the act complained of must be work-related and show that the employee concerned is unfit to continue working for the employer.[44]

In the case at bar, the reasonableness and lawfulness of Ballesteros's order is not in question, so is its relation to the duties of respondent. What is disputed herein is rather its clarity. Respondent Cabansay contends that the directive was not clearly made known to her: Ballesteros's order was to postpone the implementation but not the presentation of the new training process/module to the team leaders.

Respondent's contention is untenable. It should be noted that what is involved in the directive is the new training process, which logically cannot be implemented without being presented or communicated to the team leaders of the company. Thus, when Ballesteros ordered the cessation of its implementation, there can be no other inference than that he wanted to postpone the presentation of the training process which was then already scheduled. Evident further in Ballesteros's e-mail is that he did not find any changes in the new module; hence, he wanted the implementation thereof to be deferred and instructed respondent to consult with the other managers to gather more input.

Be that as it may, respondent cannot belie the fact that she well-understood the directive for her to postpone the presentation of the module, as she herself acknowledged in her e-mail reply to SVP Ballesteros that she would "discuss the new training process and explain it to them in detail" in the afternoon on that day, thus, she would not postpone the scheduled presentation. There is no doubt, therefore, that the order of Ballesteros was clearly made known to respondent.

As to the willfulness of her conduct, the same is manifest in her e-mail reply, which, as it is written, is characterized by abject aggressiveness and antagonism: the e-mail has a begrudging tone and is replete with capitalized words eliciting her resolve to indeed contravene the SVP's directive. Thus, she categorically said, "This is a very simple presentation and I WILL NOT POSTPONE it today, it's very easy to comprehend and as per YOUR INSTRUCTION we will be implementing it next week, so when should we present this to the TLs? Let's not make SIMPLE THINGS COMPLICATED. I will go on with the presentation this afternoon."

While respondent Cabansay was a managerial employee, a Senior Training Manager entrusted with the delicate matter of molding the minds and characters of call center agents and team leaders, and clothed with discretion to determine what was in the best interest of the company, her managerial discretion was not without limits. Its parameters were contained the moment her discretion was exercised and then opposed by the immediate superior officer/employer for being against the policies and welfare of the company. Hence, any action in pursuit of the

discretion thus opposed ceased to be discretionary and could be considered as willful disobedience.[45]

Indeed, by refusing to postpone the presentation and implementation of the new training process, respondent intentionally, knowingly and purposely, without justifiable excuse, breached the trust and confidence reposed in her by her employer. To present and discuss a training module, which is deemed by management as still inadequate in its content, will certainly not only waste the time, effort and energy of the participants in the discussion but will also entail losses on the part of the company.

It is of no moment that the presentation did not push through, and that no actual damage was done by respondent to the company. The mere fact that respondent refused to obey the reasonable and lawful order to defer the presentation and implementation of the module already gave a just cause for petitioners to dismiss her. Verily, had it not been for the timely intervention of the Telesales Senior Manager, under the instructions of the SVP, harm could have been done to company resources.

Let it be stressed that insofar as the application of the doctrine of trust and confidence is concerned, jurisprudence has distinguished the treatment of managerial employees or employees occupying positions of trust and confidence from that of rank-and-file personnel. With respect to the latter, loss of trust and confidence as a ground for dismissal requires proof of involvement in the alleged events in question, but as regards managerial employees, the mere existence of a basis for believing that such employee has breached the trust of his employer would suffice for his or her dismissal.[46] For this purpose, there is no need to present proof beyond reasonable doubt. It is sufficient that there is some basis for the loss of trust or that the employer has reasonable ground to believe that the employee is responsible for the misconduct which renders him unworthy of the trust and confidence demanded by his position.[47] Respondent's conduct, in this case, is sufficient basis for the company to lose its trust and confidence in her. Under the circumstances, the company cannot be expected to retain its trust and confidence in and continue to employ a manager whose attitude is perceived to be inimical to its interests. Unlike other just causes for dismissal, trust in an employee, once lost, is difficult, if not impossible to regain.[48]

As to the respondent's argument that petitioners failed to comply with the requirements of statutory due process, we do not agree. Before the services of an employee can be validly terminated, the employer must furnish him with two written notices: (a) a written notice served on the employee specifying the ground or grounds for termination, and giving to said employee reasonable opportunity within which to explain his side; and, (b) a written notice of termination served on the employee indicating that upon due consideration of all the circumstances, grounds have been established to justify his termination.[49]

In this case, the facts are clear that petitioners, through Ballesteros, informed respondent in the April 6, 2002 memo that the company found her message to be a clear act of insubordination leading to the company's loss of trust and confidence in her as a manager of the training department. In the same memo, petitioners asked her to explain her side in writing. After the respondent submitted her two memoranda-explanations successively on April 8 and 11, 2002, petitioners served her the notice of her termination. Verily, petitioners complied with the requirement of statutory due process in the dismissal of respondent. The fact that the letter of termination or the second notice was received by respondent on April 11, 2002, on the same day she submitted her second explanation, does not put to naught petitioners' observance of the requirement of due process. It has to be noted that from April 8, 2002, when respondent had her chance to explain her side, petitioners were contemplating for several days and presumably were considering her reasons before they finally dismissed her. In any case, the essence of due process is that a party be afforded a reasonable opportunity to be heard and to submit any evidence he may have in support of his defense.[50]

IN VIEW OF ALL THE FOREGOING, the petition is GRANTED. The January 10, 2005 Decision and the March

7, 2005 Resolution of the Court of Appeals in CA-G.R. SP No. 83248 are REVERSED AND SET ASIDE. The Decision of the Labor Arbiter, as affirmed by the NLRC, dismissing the respondent's complaint for illegal dismissal is REINSTATED.

SO ORDERED.

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

[1] *Jamer v. National Labor Relations Commission*, 344 Phil. 181, 201 (1997), citing *Worldwide Papermills, Inc. v. National Labor Relations Commission*, 244 SCRA 125, 133 (1995).

[2] Penned by Associate Justice Renato C. Dacudao, with Associate Justices Edgardo F. Sundiam and Japar B. Dimaampao, concurring; CA rollo, pp. 107-120.

[3] *Id.* at 136.

[4] *Id.* at 193.

[5] CA rollo, p. 4.

[6] Rollo, p. 48.

[7] *Id.* at 48 and 153.

[8] The full text of SVP Ballesteros's e-mail is as follows:

From: Ro Ballesteros
Sent: Thursday, April 04, 2002 9:49 PM
To: Miami Cabansay; Lorna Garcia – ePacific
Cc: Harben "Bing" Del Rosario; "Butch Nievera"
Subject: FW: dlp.new training process presentation.04042002
Importance: High
Sensitivity: Confidential
miami,

i did not see any changes. based on our discussion, we should give more time in (sic) teaching cca trainees on how to get leads, focus on developing their telemarketing skill (sic) and (sic) proper motivation. where are the guide (sic) for evaluation criteria for both the TLs and traino? this should be discuss (sic) with TL's prior to implementation. you and lorna should agree on this also. (sic) as i mentioned to you again today.

i don't think we are ready to present this to all TL. you lorna should have more time to discuss the room training module with you (sic). let us put (sic) more time and thinking before implementing this. let us move the implementation date. i want to see more details. since we have bing gallano joining the training dept. i suggest you get some inputs from her also.

lorna - i told you to coordinate closely with training dept. let us put (sic) some more time in the training course module. we need to have specific guide during the duration of the 10-day ojt period. pls. review the attachment - i dont (sic) see any revision/changes.

Ro (Id.)

[9] CA rollo, p. 36.

[10] Rollo, p. 49.

[11] Id.

[12] CA rollo, p. 62.

[13] Id. at 56-57. Respondent Cabansay's explanations read as follows:

MEMO FOR: Rosendo Ballesteros Date: April 8, 2002

MEMO FROM: Maria Lourdes Alciso-Cabansay (sgd.)

SUBJECT: Response to memo re: INSUBORDINATION

This is in response to the memorandum you issued to me on April 6, 2002, regarding Insubordination.

My email (sic) to you on our new training process dated April 5, 2002, is not an act of Insubordination.

In the first place, the presentation to our DLP Team leaders did not push through, as you wanted to happen.

With due respect to you, my response in my email was such because in my best judgment, it would serve the company more.

I fully understood your instructions but it was not my intention to disobey your order. In fact, you did not specifically instruct me not to present to the Team Leaders, rather you merely said "I don't think we are ready to present this to all TL." What I recall is your order for me not to implement the new training process, which I followed.

It seems that this is just a result of miscommunication between us.

From the foregoing, therefore, I hope you will understand my explanation on this matter.

Rest assured that no similar incident would happen in the future.

Cc: JAS; CBB

MEMO FOR: Rosendo Ballesteros Date: April 11, 2002

MEMO FROM: Maria Lourdes Alciso-Cabansay

SUBJECT: Additional Evidence

This is to further explain why my services with the company should not be terminated.

On April 5, 2002, after I sent my email correspondence to you, I have decided not to continue with the New Training Process presentation to our Team Leaders because there were some suggestions that the Telesales Managers (specifically Lorna Garcia) wanted to include in the Training module.

Lorna and I agreed not to continue with the presentation and coordinate with each other to further improve the training course.

This was not communicated to you because you were on graveyard shift the previous day and when you came in the morning of that day, I was not able to get a chance to update you on the matter.

Furthermore, my reason for wanting to continue with the presentation was to involve our Team Leaders in the enhancement of our New Training Process. Their inputs are vital and this might help speed up our implementation date.

Clearly, it was not my intention to willfully disregard your order. As I previously mentioned in my first response to you, my email (sic) correspondence was such because all I was thinking of was for the best of the company.

I have been with ePacific for a year and in this short span of time I can truly say that I have contributed a lot.

I practically established and helped my department grow to what it is now. I started with conducting all the training needs of our call center agents. I also did pre (sic) and post-training activities such as training needs (sic) analysis, evaluation, grading system, and other clerical work. I did all these week per week for three months.

But despite all these, I still managed to perform other tasks and follow my superiors' orders. Sir Butch and Sir Boyet can attest to this. As an example, sometime September last year, Sir Butch and Sir Boyet assigned me to manage the operations group (Outbound) after our previous Call Center Manager resigned. And in December of the same year, they transferred me back to the Training Department because they trust me with my capabilities in handling this group. To quote Sir Butch's words, my involvement with the Training Department is very crucial because it is the touch base of the people we hire that bring in the revenue to our company.

am also proud to say that I have helped my staff develop their skills thus becoming very good trainers. I have also trained most of our very good performers in our outbound group. In fact, most of them hold supervisory positions already.

Aside from all these, I also believe that I have very good working relationships with all my staff, colleagues and other staff from other departments. To prove this, a lot of them come to me for advice on different work-related issues and some personal concerns as well. Most of the time, they follow my advice and everything works out well. This is proof that they are confident and they trust me.

I hope that with this additional information, I would be able to clarify my side.

Cc: JAS, CBB

[14] Rollo, p. 47.

[15] Id. at 56-68.

[16] Id. at 67.

[17] Id. at 95-105.

[18] Id. at 102.

[19] Id. at 104-105.

[20] Id. at 105.

[21] Penned by Commissioner Victoriano R. Calaycay, with Commissioners Raul T. Aquino and Angelita A. Gacutan concurring; CA rollo, pp. 20-32.

[22] Id. at 30.

[23] Id. at 30-31.

[24] Id. at 31.

[25] Id.

[26] Id.

[27] Id. at 32.

[28] Id. at 33-34.

- [29] Id. at 2-19.
- [30] Supra note 2.
- [31] CA rollo, pp. 115-116.
- [32] Id. at 116.
- [33] Id. at 120.
- [34] Id. at 123-126.
- [35] Supra note 3.
- [36] CA rollo, pp. 8-9.
- [37] *Telefunken Semiconductors Employees Union v. Court of Appeals*, 401 Phil. 776, 791 (2000).
- [38] *Gau Sheng Phils., Inc. v. Joaquin*, G.R. No. 144665, September 8, 2004, 437 SCRA 608, 616.
- [39] *Sonza v. ABS-CBN Broadcasting Corporation*, G.R. No. 138051, June 10, 2004, 431 SCRA 583, 594.
- [40] *Mendoza, Jr. v. San Miguel Foods, Inc.*, G.R. No. 158684, May 16, 2005, 458 SCRA 664, 682-683; *Mac Adams Metal Engineering Workers Union-Independent v. Mac Adams Metal Engineering*, 460 Phil. 583, 591 (2003); *University of the Immaculate Concepcion v. U.I.C. Teaching and Non-Teaching Personnel and Employees Union*, 414 Phil. 522, 534 (2001).
- [41] *Domasig v. National Labor Relations Commission*, 330 Phil. 518, 524 (1996).
- [42] *Aquino v. Court of Appeals*, G.R. No. 149404, September 15, 2006.
- [43] *Genuino Ice Company, Inc. v. Magpantay*, G.R. No. 147790, June 27, 2006, 493 SCRA 195, 209.
- [44] *Fujitsu Computer Products Corporation of the Philippines v. Court of Appeals*, G.R. No. 158232, March 31, 2005, 454 SCRA 737, 760.
- [45] *Magos v. National Labor Relations Commission*, 360 Phil. 670, 677 (1998).
- [46] *Cruz, Jr. v. Court of Appeals*, G.R. No. 148544, July 12, 2006, 494 SCRA 643, 654.
- [47] *Alcazaren v. Univet Agricultural Products, Inc.*, G.R. No. 149628, November 22, 2005, 475 SCRA 636, 653.
- [48] *Etcuban, Jr. v. Sulpicio Lines, Inc.*, G.R. No. 148410, January 17, 2005, 448 SCRA 516, 533.
- [49] *Pastor Austria v. National Labor Relations Commission*, 371 Phil. 340, 356-357 (1999).
- [50] *Magos v. National Labor Relations Commission*, supra note 45, at 678.

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