

METRO EYE SECURITY, INC., PETITIONER, VS. JULIE V. SALSONA, RESPONDENT.

G.R. No. 167637. September 28, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Submitted for decision is a Petition for Certiorari under Rule 45 of the Rules of Court assailing the Resolution[1] dated 15 December 2004 in CA-G.R. SP No. 87537 of the Court of Appeals dismissing the petition of Metro Eye Security, Inc. for having been filed beyond the reglementary period and the Resolution[2] dated 21 March 2005 of the same court denying petitioner's motion for reconsideration.

Respondent Julie Salsona was hired as a Security Officer beginning 4 October 1999 by the petitioner, a domestic corporation engaged as a security agency for AMA Group of Companies. On 11 July 2000, Salsona received a memorandum from petitioner requiring him to answer a complaint against him for allegedly working for a competitor as intelligence/investigation officer.[3] Salsona promptly responded the next day, 12 July 2000, to the memorandum.[4]

On 13 July 2000, petitioner sent another memorandum to Salsona requiring him to respond to a complaint for tampering with payroll documents and the pilferage of construction materials.[5] Salsona also responded to the second memorandum. On 10 August 2000, petitioner, through its Human Resources Supervisor Filomeno Fabunan, Jr., issued a third memorandum to Salsona finding him guilty of tampering with payroll documents and dismissing him based on loss of confidence.[6] From this, Salsona filed a complaint[7] for illegal dismissal against petitioner with the National Labor Relations Commission (NLRC).

On 31 March 2003, the Labor Arbiter rendered a Decision on Salsona's case, the dispositive portion of which provides:

WHEREFORE, premises all considered, judgment is hereby rendered finding the dismissal illegal and ordering respondents to pay complainant back wages in the amount of P107,280.00 (P5,364.00 x 20 mos. = P107,280.00); separation pay in the amount of P5,364.00; service incentive pay in the amount of P1,117.50 (223.50 x 5 days = P1,117.00); 13th month pay in the amount of P3,472.00 (1/8 of P3,472.00) and 10% of the total monetary award by way of attorney's fees.[8]

From the foregoing Decision of the Labor Arbiter, petitioner filed an Appeal with the NLRC. In a Decision dated 30 April 2004, the NLRC concurred in the finding of the Labor Arbiter that the dismissal of Salsona was illegal. It held that the petitioner's accusation that Salsona tampered with his payroll documents was without basis. It likewise concluded that the charges against Salsona of tampering with payroll documents and pilferage of construction materials are without basis.[9]

Thus, the NLRC ruled:

WHEREFORE, premises considered, the appealed Decision is hereby **AFFIRMED** with **MODIFICATION**

only insofar as the dropping of individual respondents Amable Aguiluz and Ernesto Rioveros from the Decision.[10]

Petitioner filed a motion for reconsideration which the NLRC denied in a Resolution dated 24 August 2004.[11]

Petitioner elevated its case to the Court of Appeals via a Petition for Certiorari under Rule 65 of the Rules of Court.[12] In a Resolution dated 15 December 2004, the Court of Appeals dismissed the petition for having been filed beyond the reglementary period.

Petitioner filed a Motion for Reconsideration of the dismissal of its Petition. The Motion was denied for lack of merit by the Court of Appeals in a Resolution dated 21 March 2005.

In denying petitioner's Motion for Reconsideration, the Court of Appeals explained that the original copy of the assailed Resolution dated 24 August 2004 issued by the NLRC indicates that counsel for the petitioner received a copy of the same on 13 September 2004,[13] not on 15 September 2004 as alleged by petitioner in its Motion for Reconsideration. The Court of Appeals further made the observation that the photocopy[14] of the same NLRC Resolution dated 24 August 2004 attached to petitioner's Motion for Reconsideration with the appellate court appears to have been doctored to indicate the date of receipt as "Sep 15 2004" to suit petitioner's posturing.[15]

Hence, the present Petition wherein the following issues are raised for resolution:

- WHETHER OR NOT THERE ARE SUFFICIENT GROUNDS FOR THE DISMISSAL OF THE PETITION BY THE HONORABLE COURT OF APPEALS;
- WHETHER OR NOT TECHNICAL RULES OF PROCEDURE (sic) BE GIVEN MORE SIGNIFICANCE OVER THE CLEARLY MERITORIOUS ARGUMENTS OF THE PETITION.[16]

According to the petitioner, the actual date of its receipt of the 24 August 2004 NLRC Resolution is 15 September 2004 and not 13 September 2004 as erroneously stamped on its copy by the secretary of petitioner's counsel. It has 60 days to file the Petition for Certiorari under Rule 65 of the Revised Rules of Court, with the Court of Appeals. He therefore had until 14 November 2004 to file the Petition for Certiorari with the Court of Appeals. Petitioner counted the date of filing of its petition based on its actual date of receipt of the assailed Resolution, 15 September 2004. Petitioner then filed its Petition for Certiorari with the Court of Appeals on 16 November 2004, which was still within the reglementary period for filing. To further prove its claim, petitioner presented a Certification from the Quezon City Central Post Office[17] that it received the 24 August 2004 resolution on 15 September 2004.

As borne out by the records, the registry return card shows that indeed the counsel for the petitioner received the NLRC Resolution dated 24 August 2004 on 15 September 2004.[18] This being so, the 60-day period to file the Petition for Certiorari ends on 14 November 2004 which is a Sunday. Petitioner should then have filed the petition on the succeeding business day, which is 15 November 2004, a Monday. However, 15 November 2004 was declared a special non-working day throughout the Country in observance of the Feast of Ramadhan.[19] Thus, the filing of the petition with the Court of Appeals on 16 November 2004, Tuesday, was still within the reglementary period. On this point, no procedural faux pas may be attributed to the petitioner. The supposed delayed filing of the petition as found by the Court of Appeals is belied by the registry return card which shows that counsel for the petitioner indeed received the NLRC Resolution dated 24 August 2004 on 15 September 2004. The registry return card commands great weight because it is considered as the official record of the court.[20]

That the petitioner's counsel received the NLRC Resolution dated 24 August 2004 on 15 September 2004 is fortified by the certification issued by the Quezon City Post Office to this effect. This certification carries the

presumption of regularity in its issuance.[21]

With this pronouncement, the proper recourse would have been to remand this case to the Court of Appeals and to give due course to the Petition for Certiorari under Rule 65 of the Revised Rules of Court filed by the petitioner. Be that as it may, since all the records of this case are before us, there is no need to remand the case to the Court of Appeals. On many occasions, the Court, in the public interest and for the expeditious administration of justice, has resolved actions on the merits, instead of remanding them for further proceedings, as where the ends of justice would not be sub-served by the remand of the case.[22]

Hence, we now proceed to resolve the issue of whether or not Salsona was validly dismissed.

In resolving the controversy, the Court is guided by the basic principle that in termination cases, the employer bears the burden of proving that the employee was dismissed for a just or authorized cause.[23]

A rule well articulated in our jurisprudence is that in labor cases, the employer has the burden of proving that the employee was not dismissed or if dismissed, that the dismissal was not illegal, and failure to discharge the same would mean that the dismissal is not justified and therefore illegal.[24]

In *Great Southern Maritime Services Corporation v. Acuña*,[25] the Court ruled:

Time and again we have ruled that in illegal dismissal cases like the present one, the onus of proving that the employee was not dismissed or if dismissed, that the dismissal was not illegal, rests on the employer and failure to discharge the same would mean that the dismissal is not justified and therefore illegal. Thus, petitioners must not only rely on the weakness of respondents' evidence but must stand on the merits of their own defense. A party alleging a critical fact must support his allegation with substantial evidence for any decision based on unsubstantiated allegation cannot stand as it will offend due process. x x x. (Emphasis supplied.)

Under the Labor Code, as amended, the requirements for the lawful dismissal of an employee by his employer are two-fold: the substantive and the procedural. Not only must the dismissal be for a valid or authorized cause as provided by law, but the rudimentary requirements of due process, basic to which are that an opportunity to be heard and to defend oneself must be observed before an employee may be dismissed.[26]

Petitioner cites loss of trust and confidence as a basis for the dismissal of Salsona. In maintaining that Salsona was lawfully dismissed, petitioner presented the following:

a)

First Notice of Investigation (13 July 2000)

b)

Handwritten explanation of [Salsona]

c)

Daily Attendance Report

d)

Investigation Report dated July 16, 2000 finding [Salsona] guilty of gross dishonesty

e)

Notice of Termination dated August 10, 2000 [27]

Petitioner insists that there was substantial evidence to engender a well-founded belief that there was gross dishonesty on the part of Salsona. The investigation conducted by the panel is sufficient evidence to prove that he was guilty of gross dishonesty in tampering payroll documents. Atty. Yvonne Gaddi Festejo, who was then a member of the panel who investigated Salsona, executed an Affidavit to the effect that she looked into the “guard’s logbook” and did not find Salsona’s name therein. In the same Affidavit, Atty. Festejo likewise indicated that during the hearing, she interviewed some of the guards and found out that Salsona was not seen on 26 April 2000 in the premises of AMALAND. This, petitioner insists, constitutes substantial evidence of Salsona’s gross dishonesty.

We now proceed to determine whether the dismissal of Salsona surpasses the requirement of substantial due process.

Briefly stated, petitioner bases its charge of gross dishonesty and loss of trust and confidence against Salsona on the following:

(1)

that Salsona intentionally inserted his name on the Daily Attendance Report[28] to make it appear that he was present at his place of assignment at Amaland on 26 April 2000; and

(2)

Salsona is guilty of pilferage of construction materials stored at his place of assignment.

It is true that loss of trust and confidence can constitute a just and valid cause for an employee’s dismissal. Article 282 of the Labor Code provides the basis for the right of an employer to dismiss an employee based on loss of trust and confidence.

Art. 282. Termination by employer. – An employer may terminate an employment for any of the following causes:

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.

Proof beyond reasonable doubt is not needed to justify the loss. It is sufficient that there be some basis for the same, or that the employer has reasonable ground to believe that the employee is responsible for the misconduct and that the latter’s participation therein renders him unworthy of the trust and confidence demanded of his position.

Nonetheless, the right of an employer to dismiss employees on the ground of loss of trust and confidence must not be exercised arbitrarily and without just cause. Unsupported by sufficient proof, loss of confidence is without basis and may not be successfully invoked as a ground for dismissal. Loss of confidence as a ground for dismissal has never been intended to afford an occasion for the employer’s abuse of prerogative, as the loss can easily be subject to abuse because of its subjective nature,[29] as in the case at bar, and must be founded on clearly established facts sufficient to warrant the employee’s separation from work.[30]

Thus, we have held[31] that the language of Article 282(c) of the Labor Code states that the loss of trust and confidence must be based on willful breach of the trust reposed in the employee by his employer. Ordinary breach will not suffice; it must be willful. Such 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.

Elsewise stated, it must be based on substantial evidence and not on the employer's whims or caprices or suspicions; otherwise, the employee would eternally remain at the mercy of the employer.[32] A condemnation of dishonesty and disloyalty cannot arise from suspicion spawned by speculative inferences.[33]

Mere uncorroborated assertions and accusations by the employer will not be sufficient;[34] otherwise, the constitutional guarantee of security of tenure of the employee will be jeopardized.[35]

In the present case, the petitioner did not base Salsona's dismissal on clearly established facts sufficient to warrant separation from work.

On the charge that Salsona inserted his name in the Daily Attendance Report when in truth he was not present at his place of assignment on that date, the Court agrees in the finding of the Labor Arbiter that the Head Guard assigned to the AMALand Detachment checked and signed Salsona's daily time records (DTRs). As correctly maintained by Salsona, the signature of the Head Guard on his DTR is adequate proof that the entries therein are in order and that he indeed rendered work on that date.

In order to rebut the veracity of the entries in the DTR, petitioner contends that the guard's logbook did not contain the name of Salsona on 26 April 2000. It must be emphasized however that the said key piece of evidence was not presented by the petitioner and was not included in the records of this case. Petitioner's argument therefore is clearly uncorroborated and amounts to nothing more than a bare allegation.

On this score, the charge of gross dishonesty against Salsona consisting in the deliberate insertion of his name in the DTR rests on feeble grounds.

We, likewise, find the charge of pilferage of construction materials to be unfounded. It must be emphasized that the Investigation Report[36] dated 26 July 2000 submitted by petitioner stated that "the investigating committee has initiated an inventory of all materials to determine if there was a pilferage or not." The records of this case, however, are bereft of any indication as regards the outcome of said investigation. It is not shown whether the inventory indeed took place or if the result thereof was disclosed. The significance of the outcome of said inventory cannot be over-stressed as it would establish definitively the basis for Salsona's dismissal on the ground of pilferage of construction materials. This further strengthens the conclusion that the charge of pilferage is not substantiated.

We next proceed to determine whether the dismissal of Salsona complied with the requirements of procedural due process.

The procedure for terminating an employee is found in Book VI, Rule I, Section 2(d) of the Omnibus Rules Implementing the Labor Code:

Sec. 2. Security of Tenure. –

x x x x

(d) In all cases of termination of employment, the following standards of due process shall be substantially observed:

For termination of employment based on just causes as defined in Article 282 of the Code: (i) A written notice served on the employee specifying the ground or grounds for termination, and giving said employee reasonable opportunity within which to explain his side.

(ii) A hearing or conference during which the employee concerned, with the assistance of counsel if he so desires is given opportunity to respond to the charge, present his evidence, or rebut the evidence presented against him.

(iii) 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.

Dismissals based on just causes contemplate acts or omissions attributable to the employee. Procedurally, if the dismissal is based on a just cause under Article 282, the employer must give the employee two written notices and a hearing or an opportunity to be heard if requested by the employee before terminating the employment.[37]

The first notice is intended to inform the employee of the employer's intent to dismiss and the particular acts or omissions for which the dismissal is sought. The second notice is intended to inform the employee of the employer's decision to dismiss. This decision, however, must come only after the employee has been given a reasonable period, from receipt of the first notice, within which to answer the charge; and ample opportunity to be heard with the assistance of counsel, if the employee so desires.

The twin requirements of (a) two notices and (b) hearing are necessary to protect the employee's security of tenure, which is enshrined in the Constitution, the Labor Code and related laws.[38]

Noticeably, after going over the records of this case, this Court observes that Salsona received a letter dated 11 July 2000 informing him of a complaint for allegedly working for a competitor as intelligence/investigation officer and required him to submit a written statement and explanation. He immediately complied with the said Memorandum and submitted his explanation the next day. Salsona again received another letter from the petitioner on 13 July 2000 informing him that a Complaint for "alleged gross dishonesty manifested by his act of tampering payroll documents and involvement in the pilferage of construction materials" was filed against him. The second Memorandum required respondent to report to the petitioner's Office of the Senior Manager for Human Resources the next day or on 14 July 2000. Less than a month later, Salsona received a notice of termination. While it is true that Salsona was afforded the opportunity to submit his written explanation on the first charge of deliberately inserting his name in the DTR submitted to the petitioner, it is likewise equally true that he did not expressly acknowledge that he committed any offense. In fact, he denied the charges against him.

Plain from this is that the termination of Salsona was wielded with undue haste resulting in a deprivation of due process, not allowing for a determination of just cause.[39]

The two-fold requirements of two notices and a hearing decrees that the second notice, which informs the employee of the employer's decision to dismiss him must come after the employee is given a reasonable period from receipt of the first notice within which to answer the charge and ample opportunity to be heard and defend himself with the assistance of his representative if he so desires.[40] This was not so in this case. Petitioner conspicuously failed to show that Salsona was given such reasonable period to answer the charges and to defend himself, as not very long after his submission of his explanation, he was already given a notice of termination. "Ample opportunity" is meant every kind of assistance that management must accord to the employee to enable him to prepare adequately for his defense.[41]

Though it may seem that the interregnum between the date of the notice charging Salsona with tampering with the DTR and pilferage and the date of the Notice of his termination ostensibly provided him enough time to defend himself, still, there was no hearing conducted and hence no opportunity for Salsona to defend himself.

All told, Salsona's dismissal did not comply with the substantive and procedural aspects of due process thus tainting the dismissal with invalidity. We, then, find no reason to depart from the conclusion of the Labor Arbiter and the NLRC that Salsona was illegally dismissed.

The rule that factual findings of labor officials who are deemed to have acquired expertise in matters within their respective jurisdiction are generally accorded not only respect but even finality and bind the court when supported

by substantial evidence finds relevance at this time.[42]

WHEREFORE, premises considered, the instant Petition is partially GRANTED in the sense that the Resolution of the Court of Appeals dated 15 December 2004 dismissing the petition for having been filed out of time and the resolution of the same court dated 21 March 2005, denying petitioner's Motion for Reconsideration in CA-G.R. SP No. 87537, are SET ASIDE. While we set aside these Resolutions, in consideration of public interest and the speedy administration of justice and the peculiar circumstances of this case, the Court, however, resolves to proceed to decide this case on the merits instead of remanding the same to the Court of Appeals for further proceedings. We find that the Decision of the NLRC dated 30 April 2004 and its Resolution dated 24 August 2004 affirming the Decision of the Labor Arbiter dated 31 March 2003 are in consonance with applicable law and jurisprudence and thus AFFIRM the same. Costs against petitioner.

SO ORDERED.

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

[1] Penned by Associate Justice Santiago Javier Ranada with Associate Justices Marina L. Buzon and Mario L. Guariña III, concurring; rollo, p. 31.

[2] Id. at 34-35.

[3]

TO

:

MR. JULIE SALSONA

SUBJECT

:

FIRST NOTICE OF INVESTIGATION

DATE

:

11 JULY 2000

Please be informed that a complaint for ALLEGEDLY WORKING FOR A COMPETITOR AS INTELLIGENCE/INVESTIGATION OFFICER while employed at Metroeye Security has been filed against you.

You are advised to report to the office of the undersigned on July 13, 2000 at exactly 1:30 p.m. to submit your written statement and explanation in answer to the complaint. You are given the right to present your evidences in the said meeting.

Your failure to report and submit your statement on the said date will be considered as a waiver of your aforesaid rights. In such instance, this office will rule on the basis of the information provided to us by the complainant.

Meanwhile, you are hereby placed under Preventive Suspension effective immediately.

For your strict compliance. (CA rollo, p. 54.)

[4] 12 July 2000

F O R

:

MS. ROSEMARIE C. DELA PENA

Senior Manager for Human Resources

SUBJ

:

WRITTEN EXPLANATION

Dear Madam,

This has reference to your written memorandum dated July 11, 2000 wherein the undersigned requested by your office to submit a written explanation on the allege complaint against me on RE: ALLEGEDLY WORKING FOR A COMPETITOR AS INTELLIGENCE/INVESTIGATOR OFFICER while employed at Metroeye Security Agency Inc. I would like to clarify this issue on the following reason to wit:

- THAT, last May 29, 2000 I have already submitted my certification letter coming from Alas Security Services, Inc. stated that I am not connected/employee thereat aforementioned company. (see attached document as an Exhibit "A").
- THAT, I am innocent to this complaint, the truth of the matter since Oct. 04, 1999 I was assigned in one detachment, and from the start I never been recall that I've leave my assigned task during my tour of duty.
- THAT, I vehemently deny that I am an intelligence/investigation officer of other Agency the truth of the matter I am rendered Twelve Hours (12) duty daily in my assigned task. Secondly, I will do my obligation as God servant (Church Minister) and it held Tuesday, Friday night and Sunday morning.

I will send my explanation to your office to shed light the issued against me and I pray that this issue be close. Thank you very much and more power.

Very truly yours

(SGD.) JULIE V. SALSONA (CA rollo, p. 55)

[5]

TO

:

MR. JULIE SALSONA

SUBJECT

:

FIRST NOTICE OF INVESTIGATION

DATE

:

13 JULY 2000

Please be informed that a complaint for ALLEGED GROSS DISHONESTY manifested by your act of tampering payroll documents and involvement in the pilferage of construction materials at AMALAND has been filed against you. See attached complaint.

You are advised to report to the undersigned on July 14, 2000 at exactly 1:30 p.m. to submit your written statement and explanation in answer to the complaint. You are given the right to present your evidences in the

said meeting.

Your failure to report and submit your statement on the said date will be considered as a waiver of your aforesaid rights. In such instance, this office will rule on the basis of the information provided to us by the complainant.

Meanwhile, you are hereby placed under Preventive Suspension effective immediately.

For your strict compliance.

(SGD.) ROSEMARIE C. DELA PEÑA (CA rollo, p. 56.)

[6] TO

:

MR. JULIE SALSONA

SUBJECT

:

NOTICE OF TERMINATION

DATE

:

August 10, 2000

Dear Mr. Salsona,

Please be advised that after a thorough deliberation of the case filed against you and upon serious consideration of the evidence presented, the committee has found you guilty of gross dishonesty by way of tampering payroll documents. This has led to the loss of trust and confidence in you as Security Officer. In view of this, your services as Security Officer is hereby Terminated effective immediately. You are hereby instructed to report to the undersigned for further instructions.

You are required to accomplish necessary clearances and turn over of documents and responsibilities to the appropriate officers. You are barred in entering company premises unless with clearance from the HRD. (CA rollo, p. 57.)

[7] Docketed as NLRC NCR Case No. 00-08-04226-00; Rollo, p. 92.

[8] Id. at 90-91.

[9] Id. at 74.

[10] The NLRC held that respondent Aguiluz was neither an officer nor a member of the Board of Directors of petitioner, hence there is no point in impleading him in the case. As to respondent Rioveros, the NLRC held that he has a personality separate and distinct from petitioner. (Id. at 79.)

[11] CA rollo, p. 31.

[12]

Rule 65

CERTIORARI, PROHIBITION AND
MANDAMUS

SECTION 1. Petition for certiorari. – When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

[13] Annex “A” of the present petition; CA rollo, p. 30.

[14] Id. at 163.

[15] Rollo, p. 35.

[16] Id. at 263.

[17] This is to certify that per records of this office Registered Letter No. 0233 addressed to Atty. Andrei Bon C. Tagum #59 Panay Avenue, Quezon City and which was posted at Manila CPO on Sept. 7, 2004 was delivered by Postman-in-charge Joel Tanedo and duly received by Analyn Camacho on Sept. 15, 2004. (Id. at 22.)

[18] CA rollo, p. 163.

[19] Id. at 166.

[20] *De la Cruz v. Ramiscal*, G.R. No. 137882, 4 February 2005, 450 SCRA 449, 456.

[21] *Junio v. Garilao*, G.R. No.147146, 29 July 2005, 465 SCRA 173, 187; *Rualo v. Pitargue*, G.R. No. 140284, 21 January 2005, 449 SCRA 121, 141; *Cajayon v. Batuyong*, G.R. No. 149118, 16 February 2006, 482 SCRA 461, 474; *Gatmaitan v. Gonzales*, G.R. No.149226, 26 June 2006, 492 SCRA 591, 604.

[22] *Real v. Belo*, G.R. No.146224, 17 January 2007.

[23] *Philippine National Construction Corporation v. Matias*, G.R. No.156283, 6 May 2005, 458 SCRA 148, 163.

[24] *Pascua v. National Labor Relations Commission*, 351 Phil. 48, 62 (1998).

[25] G.R. No. 140189, 28 February 2005, 452 SCRA 422, 437.

[26] *Manly Express, Inc. v. Payong, Jr.*, G.R. No. 167462, 25 October 2005, 474 SCRA 323, 330.

[27] Rollo, p. 134.

[28] Id. at 116.

[29] *Hernandez v. National Labor Relations Commission*, G.R. No. 84302, 10 August 1989, 176 SCRA 269, 274.

[30] *Labor v. National Labor Relations Commission*, G.R. No. 110388, 14 September 1995, 248 SCRA 183, 199-200.

[31] *Tiu v. National Labor Relations Commission*, G.R. No. 83433, 12 November 1992, 215 SCRA 540, 547.

[32] *P.J. Lhuillier, Inc. v. National Labor Relations Commission*, G.R. No. 158758, 29 April 2005, 457 SCRA 784, 798-799.

[33] *Fujitsu Computer Products Corporation of the Phils. v. Court of Appeals*, G.R. No. 158232, 31 March 2005, 454 SCRA 737, 766.

[34] *Etcuban, Jr. v. Sulpicio Lines, Inc.*, G.R. No. 148410, 17 January 2005, 448 SCRA 516, 529.

[35] Northwest Tourism Corporation v. Former Special 3rd Division of the Court of Appeals, G.R. No. 150591, 27 June 2005, 461 SCRA 298, 308-309.

[36] Rollo, p. 117.

[37] Durban Apartments Corporation v. Catacutan, G.R. No. 167136, 14 December 2005, 477 SCRA 801, 810-811.

[38] Glaxo Wellcome Philippines, Inc. v. Nagkakaisang Empleyado ng Wellcome-DFA (NEW-DFA), G.R. No. 149349, 11 March 2005, 453 SCRA 256, 268.

[39] Brew Master International Inc. v. National Federation of Labor Unions, 337 Phil. 728, 737 (1997).

[40] Caingat v. National Labor Relations Commission, G.R. No. 154308, 10 March 2005, 453 SCRA 142, 153-154.

[41] Ruffy v. National Labor Relations Commission, G.R. No. 84193, 15 February 1990, 182 SCRA 365, 369-370.

[42] G and M Phils., Inc. v. Cruz, G.R. No. 140495, 15 April 2005, 456 SCRA 215, 220.

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