

ARSENIO S. QUIAMBAO, PETITIONER, VS. MANILA ELECTRIC COMPANY, RESPONDENT.

G.R. No. 171023. December 18, 2009

Ponente: DEL CASTILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-171023/>

DEL CASTILLO, J.:

The liberality of the law can never be extended to the unworthy and undeserving. In several instances, the policy of social justice has compelled this Court to accord financial assistance in the form of separation pay to a legally terminated employee. This liberality, however, is not without limitations. Thus, when the manner and circumstances by which the employee committed the act constituting the ground for his dismissal show his perversity or depravity, no sympathy or mercy of the law can be invoked.

This petition for review on certiorari[1] assails the Decision[2] dated October 28, 2005 and Resolution[3] dated January 12, 2006 of the Court of Appeals (CA) in CA-G.R. SP No. 85332, which reversed the February 4, 2004 Decision[4] of the National Labor Relations Commission (NLRC) awarding petitioner Arsenio S. Quiambao separation pay in the amount of P126,875.00.

Factual Antecedents

On July 16, 1986, petitioner was employed as branch teller by respondent Manila Electric Company. He was assigned at respondent's Mandaluyong office and was responsible for the handling and processing of payments made by respondent's customers.

It appears from his employment records, however, that petitioner has repeatedly violated the Company Code of Employee Discipline and has exhibited poor performance in the latter part of his employment. Thus:

EMPLOYEE'S PROFILE

A. INFRACTIONS -

Nature

DATE

ACTION TAKEN

FROM TO

1. Excessive absences

11/11/99 11/24/99

10-day suspension

2. Excessive absences

10/19/99 10/25/99

5-day suspension

3. Excessive absences

07/27/99 07/29/99

3-day suspension

4. Assaulting others with bodily harm over work matters

02/17/99 02/17/99

Reprimand

5. Excessive tardiness

02/08/99 02/08/99

Reprimand

6. Excessive tardiness

10/06/97 10/06/97

Reprimand

7. Simple Absence

03/11/97 03/11/97

Reprimand

8. Excessive tardiness

06/14/96 06/14/96

Reprimand

9. Excessive tardiness

09/03/92 09/03/92

Reprimand

B. PERFORMANCE RATING

His merit ratings from 1995 to 1999 are as follows:

YEAR

RATING

1999

Poor

1998

Needs Improvement

1997

Needs Improvement

1996

Satisfactory

1995

Satisfactory[5]

On March 10, 2000, a Notice of Investigation[6] was served upon petitioner for his unauthorized and unexcused absences on November 10, 25, 26, 29, 1999; December 1, 2, 14, 15, 16, 17, 20, 21, 22, 2000; and from February 17, 2000 up to the date of such notification letter. Petitioner was likewise required to appear at the investigation and to present his evidence in support of his defense. However, despite receipt of such notice, petitioner did not participate in the investigation. Consequently, in a Memorandum[7] dated March 21, 2000, the legal department recommended petitioner's dismissal from employment due to excessive, unauthorized, and unexcused absences, which constitute (i) abandonment of work under the provisions of the Company Code of Employee Discipline (ii) and gross and habitual neglect of duty under Article 282 of the Labor Code of the Philippines. Through a Notice of Dismissal[8] dated March 28, 2000, petitioner's employment was terminated effective March 29, 2000.

Proceedings before the Labor Arbiter

On July 3, 2001, petitioner filed a complaint before the Arbitration Branch of the NLRC against respondent assailing the legality of his dismissal. While petitioner did not dispute his absences, he nonetheless averred that the same were incurred with the corresponding approved application for leave of absence. He also claimed that he was denied due process.

On November 29, 2002, the Labor Arbiter rendered a Decision[9] dismissing petitioner's complaint for lack of merit. The Labor Arbiter ruled that no evidence was presented to prove that the absences of petitioner were authorized; that petitioner was deprived of due process; and that petitioner's habitual absenteeism without leave did not violate the company's rules and regulations which justified his termination on the ground of gross and habitual neglect of duties under Article 282(b) of the Labor Code.

Proceedings before the NLRC

Petitioner appealed to the NLRC which affirmed the legality of his dismissal due to habitual absenteeism. Nonetheless, the NLRC awarded separation pay in favor of petitioner citing the case of *Philippine Geothermal, Inc. v. National Labor Relations Commission*. [10] The dispositive portion of the NLRC Decision reads:

WHEREFORE, the decision appealed from is hereby MODIFIED to the extent that the respondent is hereby ordered to pay the complainant separation pay amounting to P126,875.00 ($P18,125.00 \times 14 \text{ yrs./2} = P126,875.00$).

SO ORDERED.[11]

Respondent filed a Motion for Reconsideration[12] impugning the grant of separation pay, which motion was denied by the NLRC in a

Resolution[13] dated May 20, 2004.

Proceedings before the Court of Appeals

Aggrieved, respondent filed with the CA a petition for certiorari. On October 28, 2005, the CA nullified the NLRC's Decision and reinstated the Labor Arbiter's Decision dismissing the complaint. It ruled that the award of separation pay is neither justified nor warranted under the circumstances. Thus:

We find, then, that the award of separation pay was capricious, whimsical, and unwarranted, both for the award being without factual and legal basis and for ignoring that the valid cause of dismissal was serious misconduct on the part of the employee.

Respondent Quiambao was dismissed for excessive unauthorized absences. His dismissal was, in fact, upheld by both the Labor Arbiter and the NLRC. We should agree with their determination.

But we should hold here further that Quiambao committed a serious misconduct that merited no consideration or compassion. He was guilty not of mere absenteeism only, for such absences, unexcused and habitual, reflected worse than inefficiency, but a gross and habitual neglect of duty bordering on dishonesty. He had no compelling reason to be absent from work, substantially prejudicing his employer, which was a public utility whose distribution of electricity to its customers within its franchise area was a service that was very vital and of utmost necessity to the lives of all its customers. The responsibility required of the petitioner's employees was, in fact, publicly imposed by the petitioner in its Company Code On Employee Discipline, aforequoted, whereby it gave primacy to the maintenance of discipline 'as a matter of fundamental importance'.^[14]

Petitioner moved for a reconsideration, but to no avail.

Issue

Hence, this petition for review on certiorari raising the sole issue of whether or not a validly dismissed employee may be entitled to separation pay.

Petitioner's Arguments

Petitioner contends that the CA grievously erred in concluding that he is guilty of serious misconduct and in deleting the award of separation pay. He argues that the NLRC, whose findings are entitled to great respect and finality, regarded his unauthorized absences as gross and habitual neglect of duty only. Citing *Philippine Geothermal, Inc. v. National Labor Relations Commission*,^[15] where an employee who was terminated on similar ground of gross and habitual neglect of duties because of continued and unexplained absences, and who was nonetheless granted separation pay, petitioner claims that the same accommodation should likewise be extended to him. He insists that his absences do not amount to serious misconduct considering that his infractions did not reflect on his moral character. It did not create imminent or substantial injury to the company's operation and the consuming public, and were not committed for self-interest or unlawful purpose but on account of domestic and marital problems. Taking into account all these and his 14 years of service in the company, petitioner invokes the principles of social justice and equity in justifying his entitlement to separation pay.

Our Ruling

The petition lacks merit.

The Labor Arbiter, the NLRC and the Court of Appeals found petitioner guilty of gross and habitual neglect of duty.

The Labor Arbiter and the NLRC are one in holding that petitioner's unauthorized absences and repeated infractions of company rules on employee discipline manifest gross and habitual neglect of duty that merited the

imposition of the supreme penalty of dismissal from work. The only difference in their ruling is that the NLRC awarded separation pay. The CA, after reviewing the records of the case, affirmed the findings of the labor tribunals. And, on the basis of these findings, further concluded that petitioner's infractions are worse than inefficiency; they border on dishonesty constituting serious misconduct.

We have examined the records which indeed show that petitioner's unauthorized absences as well as tardiness are habitual despite having been penalized for past infractions. In *Gustilo v. Wyeth Philippines, Inc.*,^[16] we held that a series of irregularities when put together may constitute serious misconduct. We also held that gross neglect of duty becomes serious in character due to frequency of instances.^[17] Serious misconduct is said to be a transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and indicative of wrongful intent and not mere error of judgment.^[18] Oddly, petitioner never advanced any valid reason to justify his absences. Petitioner's intentional and willful violation of company rules shows his utter disregard of his work and his employer's interest. Indeed, there can be no good faith in intentionally and habitually incurring unexcusable absences. Thus, the CA did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in equating petitioner's gross neglect of duty to serious misconduct.

Petitioner is not entitled to separation pay.

Besides, even assuming that the ground for petitioner's dismissal is

gross and habitual neglect of duty, still, he is not entitled to severance pay. In *Central Philippines Bandag Retreaders, Inc. v. Diasnes*,^[19] we discussed the parameters of awarding separation pay to dismissed employees as a measure of financial assistance, viz:

To reiterate our ruling in *Toyota*, labor adjudicatory officials and the CA must demur the award of separation pay based on social justice when an employee's dismissal is based on serious misconduct or willful disobedience; gross and habitual neglect of duty; fraud or willful breach of trust; or commission of a crime against the person of the employer or his immediate family - grounds under Art. 282 of the Labor Code that sanction dismissals of employees. They must be most judicious and circumspect in awarding separation pay or financial assistance as the constitutional policy to provide full protection to labor is not meant to be an instrument to oppress the employers. The commitment of the Court to the cause of labor should not embarrass us from sustaining the employers when they are right, as here. In fine, we should be more cautious in awarding financial assistance to the undeserving and those who are unworthy of the liberality of the law.^[20] (Emphasis supplied.)

WHEREFORE, the petition is DENIED for lack of merit. The assailed October 28, 2005 Decision and January 12, 2006 Resolution of the Court of Appeals in CA-G.R. SP No. 85332 are AFFIRMED.

SO ORDERED.

Carpio[*], (Chairperson), Leonardo-De Castro[**], Brion, and Abad, JJ., concur.

[*] Per Special Order No. 775 dated November 3, 2009.

[**] Additional member per Special Order No. 776 dated November 3, 2009.

[1] Rollo, pp. 9-18.

[2] Id. at 35-42; penned by Associate Justice Lucas P. Bersamin and concurred in by Associate Justices Renato C. Dacudao and Celia C. Librea-Leagogo.

[3] Id. at 44-45.

[4] Id. at 27-31; penned by Commissioner Angelita A. Gacutan and concurred in by Presiding Commissioner Raul T. Aquino and Commissioner Victoriano R. Calaycay.

[5] CA rollo, pp. 37-38.

[6] Id. at 36.

[7] Id. at 37-38.

[8] Id. at 39.

[9] Rollo, pp. 21-26.

[10] G.R. No. 106370, September 8, 1994, 236 SCRA 371. We pronounced in this case that an employee whose dismissal was found to have been justified by unauthorized absences may recover separation pay equivalent to one-half month pay for every year of service.

[11] Rollo, p. 31.

[12] CA rollo, pp. 80-87.

[13] Id. at 24-25.

[14] Rollo, pp. 40-41.

[15] Supra note 10.

[16] 483 Phil. 69, 78 (2004), citing *Piedad v. Lanao del Norte Electric Cooperative, Inc.*, 237 Phil. 481, 488 (1987)

[17] *Divina Luz P. Aquino-Simbulan v. Nicasio Bartolome*, AM No. MTJ-05-1588, June 5, 2009.

[18] *Philippine Long Distance Company v. The Late Romeo F. Bolso*, G.R. No. 159701, August 17, 2007, 530 SCRA 550, 560.

[19] G.R. No. 163607, July 14, 2008, 558 SCRA 194.

[20] Id. at 207.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.