

NATIONAL POWER CORPORATION, PETITIONER, VS. ALAN A. OLANDESCA, RESPONDENT.*G.R. No. 171434. April 23, 2010*

Ponente: PERALTA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-171434/>**PERALTA, J.:**

Before this Court is a petition for review on certiorari under Rule 45 of the Rules of Court seeking to annul and set aside the Decision[1] dated February 9, 2006 of the Court of Appeals in CA-G.R. SP No. 54839, entitled Alan A. Olandesca v. Civil Service Commission and National Power Corporation, which set aside the Resolution dated August 10, 1999 of the Civil Service Commission and the Decision dated March 9, 1998 of the Regional Board of Inquiry and Discipline of the National Power Corporation.

Petitioner National Power Corporation is a government-owned and controlled corporation created under Republic Act No. 6395, as amended, with the mandate to undertake the development of hydroelectric generation of power and the production of electricity from nuclear, geothermal and other sources, as well as the transmission of electric power, on a nationwide basis.[2]

Respondent Alan A. Olandesca was first employed by petitioner as an Extension Aide and was assigned at the Tiwi Watershed. Thereafter, he held various positions in petitioner's corporation, which included the following: Senior Forest Ranger, Extension Services Officer, Watershed Management Officer, Procurement Officer B, Senior Property/Supply Officer, Senior Property Officer. At the time of the alleged commission of acts of dishonesty, respondent held the position of Supervising Property Officer of the Angat River Hydroelectric Plant (HEP), San Lorenzo, Norzagaray, Bulacan.[3]

While an employee of petitioner, respondent was allowed to stay in a house within petitioner's premises. As Supervising Property Officer, respondent had custody of all the materials and supplies stored at the property office of Angat River HEP and was accountable for those properties which were turned over to him under his Property Accountability Report. In addition, respondent was also tasked to monitor the proper documentation of the receipt and release of all items, materials, and supplies in his custody. It was petitioner's policy that the receipt and release of any item from the property office be covered by a Warehouse Requisition Slip (WRS) and duly approved by higher authorities.

On several occasions, from November 17, 1996 to January 25, 1997, respondent withdrew several items from the warehouse/property office, without the required WRS. Among these items were barbed wires, interlink wires, nails, and G.I. wires.

On three occasions, respondent transported the items during nighttime. On some occasions, he even used the petitioner's corporate vehicle to transport the materials he took from the property office. Respondent even used an outsider to withdraw interlink wires from the warehouse.

Upon respondent's directive, all items he withdrew from the property office were duly recorded on the security

logbook of the security guard on duty.

Thereafter, respondent used the foregoing items to fence two (2) development areas which are part of the NPC Angat Watershed Areas and Reservations. On January 28, 1997, three days after the last withdrawal, respondent replaced all the said items he took at his own initiative.

The following month, the management team held a meeting, wherein the issue of respondent's withdrawal of items from the property office was raised. However, since the items withdrawn were already replaced, the management team considered the case closed and terminated. Nevertheless, Teodulo V. Largo, Section Chief of the Angat River HEP, filed with the Officer-In-Charge of the Angat River HEP a Complaint against respondent for acts inimical to the government and for violation of Article VI, Section 3(f) and 3.15 of the NPC Code of Conduct and Discipline.[4] He charged respondent with grave misconduct, and alleged that respondent maliciously withdrew several materials and supplies from the Angat River HEP warehouse without the approved WRS from the Angat HEP Management.

After evaluating the complaint, Lino S. Cruz, petitioner's Vice-President from the Northern Luzon Regional Center, administratively charged respondent with Acts of Dishonesty/Getting Supplies, Materials for Personal Use/Acts Prejudicial to the Interest of the Corporation (Administrative Case No. 97-20). The charge states:

That sometime and during the periods from November 17, 1996 until January 25, 1997, taking advantage of your present position as SUPERVISING PROPERTY OFFICER of Angat Hydro Electric Plant of the National Power Corporation and with intent of gain, have maliciously and personally withdrawn materials and supplies at Angat HE Plant Warehouse without the Approved Warehouse Requisition Slip (WRS), as follows:

DATE/DAY

TIME

QUANTITY

ITEM DESCRIPTION

AMOUNT

11/17/96 Sunday

1645H

3 Rolls

Interlink 8Ft. x 50Ft.

P 3,750.00

11/23/96 Sunday

2130H

5 Rolls

Barbed Wire 50 Kgs./Roll

3,900.00

12/12/96 Thursday

2045H

5 Rolls

-do-

3,900.00

01/04/97 Saturday

1425H

3 Rolls

-do-

2,340.00

1/4 kl.

Nails - 3"

8.75

01/07/1997 Tuesday

0745H

2 Rolls

Barbed Wires - 50 Kgs./Roll

1,560.00

2 ½ kls.

Nails - 3"

87.50

01/08/1997 Wednesday

1100H

1 Roll

Barbed Wires - 50 Kgs./Roll

780.00

1 Roll

G.I. Wires

800.00

01/17/97 Friday

1000H

1 Roll

Interlink 8Ft. x 50Ft.

1,250.00

01/18/97 Saturday

1845H

3 Rolls

-do-

3,750.00

01/23/97 Thursday

1130H

4 Rolls

-do-

5,000.00

01/25/97 Saturday

1155H

2 Rolls

-do-

2,500.00

P 29,626.00

and for which the above supplies/materials withdrawn, carried and taken away from the warehouse were personally used by you in your clearing and planting activities within the Angat Watershed Area covered by Proclamation No. 55 and P.D. No. 599, but to the great damage and prejudice of the Corporation.

CONTRARY TO LAW.[5]

Respondent was directed to submit his answer to the foregoing charges, as well as supporting evidence in his defense.

Petitioner's Regional Board of Inquiry and Discipline (RBID) heard the case. Thereafter, the RBID issued its findings and recommended that respondent suffer the penalty of dismissal with forfeiture of all cash and non-cash benefits due him by virtue of his employment.[6] The recommendation was adopted by the Vice-President of the Northern Luzon Regional Center (NLRC) and petitioner's President.[7]

Respondent moved for the reconsideration of the decision, but the Board denied his motion.[8] His appeal to the Civil Service Commission (CSC) was also denied through Resolution No. 991764[9] dated August 10, 1999.

Aggrieved, respondent filed a petition for review[10] with the Court of Appeals (CA). The CA granted the petition and ordered respondent's reinstatement. The dispositive portion of the CA's decision provides:

WHEREFORE, under the premises, the petition is GRANTED. The assailed Resolution of the CSC and the March 9, 1998 Decision of the NPC are SET ASIDE and respondent is ordered to REINSTATE petitioner to his former position without loss of seniority rights and PAY him backwages.

SO ORDERED.[11]

Frustrated by this turn of events, petitioner filed herein petition, raising the following issues, to wit:

I

THE COURT OF APPEALS ERRED IN REVERSING THE FACTUAL FINDINGS OF THE CIVIL SERVICE COMMISSION AND NATIONAL POWER CORPORATION ON THE ACTS OF DISHONESTY COMMITTED BY RESPONDENT WHICH ARE SHOWN BY THE UNDISPUTED FACTS.

II

THE COURT OF APPEALS ERRED IN RULING THAT THE FACTS ESTABLISHED DO NOT SHOW INTENT TO CHEAT, DECEIVE OR DEFRAUD NATIONAL POWER CORPORATION.

III

THE PRESENT PETITION FALLS UNDER THE WELL-ESTABLISHED EXCEPTIONS TO THE GENERAL RULE REGARDING RULE 45 OF THE RULES OF COURT.

Petitioner alleges that respondent's act of taking materials without the required WRS during Saturdays and Sundays, and even during nighttime, proved his lack of moral principle and integrity as a public employee. His acts clearly proved his intention to cheat his employer by deliberately and maliciously taking undue advantage of his position as Supervising Property Officer. He took advantage and gravely abused his position of trust by ignoring the usual and normal procedure for taking out properties from the warehouse which amounts to bad faith and malice. According to petitioner, respondent's intent to cheat is manifested by the following acts:

- a. The ten separate and distinct acts of taking clearly indicate habituality;
- b. The unlawful withdrawals during Saturdays and Sundays and even during nighttime evince taking undue advantage of the absence of other employees;
- c. The connivance with an outsider (a certain Canlas) to take some of the items on one occasion makes his intent doubly suspicious;
- d. The instruction to the security guard to record the withdrawals in the logbook instead of showing the required WRS or MIV is a clear abuse of authority;
- e. The subsequent replacement of the items taken with inferior quality place the NPC at a clear disadvantage; and
- f. The subsequent taking of items even after the instruction/advice of his immediate supervisor to stop and desist from making any further withdrawals shows a clear disregard of lawful order.

Petitioner submits that respondent's instruction to the security guard on duty to record all the items he brought out from the warehouse served as a cover up to avoid detection or possible suspicion that the taking was unauthorized.

Petitioner further alleges that the area fenced by respondent was exactly the same area which he occupied for his own personal benefit. He enclosed the said area to protect his own interest. Moreover, by replacing the items he withdrew, respondent, in effect, admitted that the withdrawals were indeed unauthorized. Although the two developmental areas fenced by respondent were part of the Angat Watershed Areas and reservations and, thus, belonging to petitioner, it did not necessarily imply that respondent did not have the intent to enrich himself because he was the occupant and usufructuary thereof.

Respondent, on the other hand, maintains that the various materials he took from the warehouse were used to fence the mango seedlings which were planted on petitioner's watershed areas. Respondent said that he did not

realize any personal gain, as it was petitioner who benefited from his initiative. This was admitted by the parties in their stipulation of facts, which provides that the watershed areas fenced by respondent, with the materials taken from petitioner's warehouse, are properties of petitioner. In 1989, respondent, as then Extension Services Officer, planted mango seedlings in the said areas in line with the mango seedlings dispersal program which he initiated. It was also stipulated that the materials were borrowed from petitioner's property warehouse and that the withdrawal was duly recorded in the security logbook by the security guard on duty. Respondent also replaced all the materials taken three days after the last withdrawal even without any demand from any of petitioner's officers or personnel. Due to the foregoing, respondent maintains that there was lack of intent to conceal the truth or to defraud the government in taking the property from the warehouse.

Anent the allegation that respondent purposely selected nighttime and Saturdays and Sundays to conceal his act of taking materials from the warehouse, respondent explained that he was forced to take the properties from the warehouse during nighttime and on weekends because he had to attend to his official duties during office hours. Respondent also alleges that he committed an honest mistake in replacing the materials withdrawn. He claims that he should not have replaced the withdrawn materials, considering that they have never ceased and have continued to remain petitioner's properties, as the same were used for the protection of the mango seedlings found in petitioner's property.

The petition is without merit.

The CA ruled that respondent did not commit dishonesty. It said that respondent acted in complete good faith, and was motivated only by a desire to serve the public beyond the call of duty. The CA justified its ruling when it noted that, while the recording of the withdrawn items in the logbook by the security guard fell short of the documentary requirement of petitioner, the initiative taken by the respondent to have the withdrawals logged negated any intention to deceive or defraud petitioner. Respondent displayed his honesty when he promptly and voluntarily replaced the items he withdrew. Moreover, respondent did not misappropriate the subject items for his own personal use or benefit. Instead, he used them to fence a project of petitioner which he thought was in peril at that time.

The CA acknowledged that, while respondent initiated the planting of trees in the watershed areas at the time he was still an Extension Services Officer, it was no longer his duty to attend to it when he was promoted as Supervising Property Officer. Despite this, however, petitioner acted according to what he perceived to be proper under the circumstance in order to save the project, even at the risk of being reprimanded for taking shortcuts in the administrative process. To the CA's mind, respondent exhibited qualities that are now so rare in the civil service, such as initiative and innovativeness. For these, he should be rewarded rather than penalized.

The Court agrees with the factual findings of the CA. In *Philippine Amusement and Gaming Corporation v. Rilloroza*, [12] dishonesty is defined as the disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.

It is not disputed that respondent took several materials and supplies from petitioner's warehouse without the approved WRS. However, this should not be construed as dishonesty on the part of respondent that would warrant his dismissal from the service for the following reasons:

First. The withdrawals of the supplies were duly recorded in the security guard's logbook. If respondent intended to defraud petitioner, he could have easily taken items from the warehouse without having them recorded as he was then the Supervising Property Officer who had free access to the supplies. Allowing the recording to be done in the logbook indicates his lack of intent to deceive or defraud petitioner. Any person who intends to deceive or

commit any misdeed certainly would not want to leave any trace of his unlawful act. On the contrary, one would do everything necessary to conceal the subject of his wrongful act.

Second. Right after withdrawing the items, respondent replaced them on his own initiative, without anyone instructing him to do so. This act negates his intent to defraud petitioner. Records show that when the issue of withdrawal of the items was raised in the management team meeting, the team considered the case against him as closed and terminated when it learned that the items had been replaced. This would show that per the management team's initial assessment, the taking was not so grave so as to warrant further investigation or the imposition of any sanction against the respondent.

Third. There is no clear showing that respondent misappropriated or converted the items for his own personal use or benefit. Records show that in a Memorandum dated October 8, 1998 to Federico E. Puno, President of petitioner, Atty. Lamberto P. Melencio, Officer-in-Charge of the Office of the Vice-President, General Counsel, acting on respondent's Petition for Reconsideration, found that no dishonesty was committed but only violation of reasonable office rules and regulations because the withdrawal of supplies was not covered by the approved WRS, and recommended that petitioner's Decision be reconsidered and set aside and, considering that this was his first offense, he should be meted only the penalty of reprimand, instead of dismissal from the service.[13] Atty. Melencio even appended a draft of the letter to be sent to respondent, which would adopt and approve his recommendation of merely reprimanding respondent.[14] From the foregoing, it can be gleaned that early on, even the Office of the General Counsel of petitioner found the penalty of dismissal to be inappropriate.

Fourth. Moreover, the Graft Investigation Officer of the Office of the Ombudsman, in its Resolution[15] dated February 5, 1999, in OMB-1-98-2011, dismissed a complaint for qualified theft filed by Teodulo V. Largo, Section Chief, Power Generation Group of petitioner against respondent as there was no competent and sufficient evidence on record to show that there was intent to gain on the part of the respondent, considering that the materials and supplies taken by him were used in fencing the watershed and reservation area of petitioner. Likewise, there was no basis to charge him for malversation of public property as there was no misappropriation of the supplies for his personal use and that the same were for general purpose and not for any specific use. The said Resolution stated that there was no competent and sufficient evidence on record to show that respondent used the materials for his benefit. It also found that respondent acted in good faith and there was no undue injury to petitioner as the materials and supplies were used in the petitioner's premises. Thus, the company itself benefited from the conduct of the respondent.

Nonetheless, although the respondent did not commit an overt act of dishonesty, he is not exonerated from liability. It was an established company procedure that before the materials can be taken out from the warehouse, the issuance of a WRS is an indispensable requirement. In fact, there was even a warning posted at the door of the property office which states: "BAWAL MAGLABAS NG GAMIT O MAGKARGA NG GASOLINA NG WALANG APRUBADONG WRS." Being the Supervising Property Officer, respondent knows fully well that taking items from the warehouse without the required WRS is against the company rules and regulations. Respondent's paramount duty was to protect the properties in the warehouse and to ensure that none shall be taken away without proper documentation.

The Machiavellian principle that "the end justifies the means" has no place in government service, which thrives on the rule of law, consistency and stability. Respondent, by taking the said properties without the approved WRS, violated reasonable office rules and regulations as provided in Section 52 (C), (3), Rule IV of Civil Service Commission Memorandum Circular No. 19, series of 1999 (Uniform Rules on Administrative Cases in the Civil Service).[16] Since this is the first offense of respondent in his more than 16 years of service,[17] the appropriate penalty to be imposed against him is reprimand.

Reprimand being the appropriate imposable penalty for respondent's actuations from the very beginning, this Court finds that respondent was unfairly denied from reporting for work and earning his keep, thus, entitling him to the payment of backwages.

This Court is not unmindful of our previous pronouncements in similar cases involving suspension or dismissal from service, wherein the penalty imposed was reduced, but the award of backwages was denied.

In *Re: Initial Reports on the Grenade Incident that Occurred at about 6:40 a.m. on December 6, 1999 Submitted by DCAs Zenaida Elepaño and Reynaldo Suarez*,^[18] the Court ruled that a suspended public official is not entitled to any compensation for service that is not actually rendered unless later declared totally innocent of the charges.

In *Sales v. Mathay*,^[19] therein petitioner Romulo Sales' penalty of dismissal was reduced by the CSC to six (6) months suspension based on its finding that, at most, petitioner should be found guilty only of gross neglect of duty. His prayer that he be paid back salaries during the period that he was prevented to work as Postal Clerk II in the Pinamalayan Post Office was denied. The Court held that a public official is not entitled to any compensation if he has not rendered any service. The general proposition is that a public official is not entitled to any compensation if he has not rendered any service. As he works, he shall earn.^[20]

Given the circumstances of the case, however, where the proper penalty should only be a reprimand, this Court finds the aforementioned cases to be inapplicable herein. On this note, this Court deems it proper to distinguish between the penalties of dismissal or suspension and reprimand and their respective effects on the grant or award of backwages. When an employee is dismissed or suspended it is but logical that since he is barred from reporting to work the same negates his right to be paid backwages. He has no opportunity to work during the period he was dismissed or suspended and, therefore, he has no salary to expect. However, the same does not hold true for an employee who is reprimanded. A reprimand usually carries a warning that a repetition of the same or similar act will be dealt with more severely. Under normal circumstances, an employee who is reprimanded is never prevented from reporting to work. He continues to work despite the warning. Thus, in the case at bar, since respondent's penalty should only be a reprimand, this Court deems it proper and equitable to affirm the CA's award of backwages.

In two instances, this Court granted the award of backwages during the period the employees were prevented from reporting to work despite concluding that the employee concerned violated reasonable office rules and regulations and imposing the penalty of reprimand.

In *Jacinto v. Court of Appeals*,^[21] this Court awarded petitioner Jacinto backwages after finding that she was only culpable of violating reasonable office rules and regulations for not having asked permission from school authorities to leave the school premises and seek medical attention and for not filing an application for sick leave for approval by the school authorities.

Also, in *Bangalisan v. Court of Appeals*, ^[22] after affirming the findings that one of the petitioners, Rodolfo Mariano, is only liable for his violation of reasonable office rules and regulations for attending the wake and internment of his grandmother without the benefit of an approved leave of absence and the imposition of the penalty of reprimand, this Court still granted him backwages.

Therefore, in line with *Bangalisan* and *Jacinto*, the grant of backwages to respondent is but proper. It is to be stressed that in the imposition of the appropriate penalties, it must not only be made within the parameters of the law, but it should also satisfy the basic tenets of equity, justice, and fairplay.

WHEREFORE, the Decision of the Court of Appeals dated February 9, 2006 in CA-G.R. SP No. 54839, is

AFFIRMED with MODIFICATION that respondent Alan A. Olandesca is found guilty of violation of a reasonable office rule and regulation and is REPRIMANDED with a stern warning that a repetition of the same or similar act shall be dealt with more severely.

SO ORDERED.

Puno, C.J., Carpio, Corona, Carpio Morales, Velasco, Jr., Leonardo-De Castro, Brion, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, and Mendoza, JJ., concur.
Nachura, J., no part. signed as Sol Gen.

[1] Penned by Associate Justice Godardo A. Jacinto, with Associate Justices Juan Q. Enriquez, Jr. and Vicente Q. Roxas, concurring; rollo , pp. 6-13.

[2] Republic Act No. 6395, Sec. 2.

[3] CA rollo, p. 78.

[4] Id. at 65-66.

[5] CA rollo, p. 67-68.

[6] Id. at 38-47.

[7] Id. at 37.

[8] Id. at 59.

[9] Id. at 60-64; Composed of Chairman Corazon Alma G. de Leon and Commissioners Thelma P. Gaminde and Jose F. Erestain, Jr. (did not participate).

[10] Id. at 7-35.

[11] Rollo, p. 13.

[12] G.R. No. 141141, June 25, 2001, 359 SCRA 525, citing BLACKS LAW DICTIONARY (1990), Sixth ed., p. 468.

[13] Supra note 3, at 432.

[14] Id. at 433.

[15] Id. at 434-436.

[16] RULE IV. PENALTIES

Section 52. Classification of Offenses. -- Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

C. The following are Light Offenses with corresponding penalties:

3. Violation of reasonable office rules and regulations.

1st offense -- Reprimand

x x x

[17] Service Record of respondent, supra note 3.

[18] A.M. No. 99-12-03-SC, October 10, 2001, 367 SCRA 1.

[19] No. L-39557, May 3, 1984, 129 SCRA 180.

[20] Bangalisan v. Court of Appeals, G.R. No. 124678, July 31, 1997, 276 SCRA 619, 633.

[21] G.R. No. 124540, November 14, 1997, 281 SCRA 657.

[22] Supra note 20.

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.