

SUSAN D. CAPILI, PETITIONER, VS. PHILIPPINE NATIONAL BANK, RESPONDENT.

G.R. No. 204750. July 11, 2016

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

This Petition for Review on Certiorari assails the July 25, 2012 Decision[1] of the Court of Appeals (CA) in CA-GR. SP No. 121824. The CA set aside the May 31, 2011 Decision[2] and July 22, 2011 Resolution[3] of the National Labor Relations Commission (NLRC) in NLRC LAC No. 07-002293-08 (RA-U-10), which affirmed the September 11, 2010 Decision[4] of the Labor Arbiter (LA) in NLRC NCR Case No. 08-09149-07. Likewise challenged 'is the December 5, 2012 CA Resolution[5] denying Susan D. Capili's (Capili) Motion for Reconsideration.

Factual Antecedents

From December 29, 1994[6] until, her dismissal on August 9, 2007, Capili was the Assistant Vice President - Systems and Methods Division (AVP-SMD) of

the Philippine National Bank (PNB).[7] On October 8, 2005, PNB President, Omar Byron Mier (Pres. Mier) received information from Hyun Duk Cho (Hyun), a Korean national, that Capili was engaged in anomalous transactions.[8] Resultantly, PNB created a Fact Finding Committee to verify the matter. On March 31, 2006, the Committee reported[9] that Capili owned a private company named Sandino Builders (SB); Capili, representing SB, and Hyun, representing I-Gen. Multi-Trading Corporation, entered into a contract of sale of scrap metals; and the signing and payment thereof were made within PNB premises. It also reported that the NBI[10] record[11] showed that Capili's name was listed for tax liabilities, and violation of Batas Pambansa Blg. 22 (BP 22).

Later, PNB gave Capili a notice[12] to explain her alleged violations of its Code of Conduct for a) "Doing personal work during office hours or abuse of company time for personal or unauthorized business [; b)] Unauthorized use of Bank name or misrepresenting authority that may cause damage to the Bank[; and, c) Commission of a criminal offense involving moral turpitude or that which results in breach of trust or loss of confidence[.][13]

In her Sworn Answer,[14] Capili claimed that while there were times she met Hyun during work days, these meetings were made during her personal time at lunch: she never concealed that she owned SB as she even had a PNB bank account for it; she informed Hyun that it was Hydro Resources Contractors Coiporation (HRCC), which owned the scrap metals; and had she represented that it was PNB which owned them, then PNB would be a party to her contract with Hyun.

Also, Capili confirmed that in-1999, Francisco Motor Corporation (FMC) filed a BP 22 case against her relating to two checks she issued as part of the installment payment for a car she purchased from it (Makati case); when she was notified of the dishonor, she paid the value of the checks in cash but the sales agent did not turn over it to

FMC; she clarified the matter with FMC, which, in turn, had desisted[15] in pursuing the case. She further asserted that she came to know that in 2000, a BP 22 case was also filed against her arising from her aborted purchase of a truck (Bulacan case). She insisted that the pendency of the Bulacan case should not be taken against her as she was not convicted of any offense or that which will result in breach of PNB's trust. She added that other than these BP 22 cases, there are no cases filed or are pending against her.

Later, PNB's Investigation, Evaluation and Charging Division (IECD), served upon Capili a Memorandum[16] charging her of committing: "(a) Acts which Tend to Show Questionable Moral Character, Integrity or Honesty, Constituting Loss of Confidence (Paragraph 2.4 [General Circular] No. 2-1345/2004 dated February 24, 2004 re: Policy on Loss of Confidence);" and "(b) Falsification of Personnel Records or Other Bank Records (Item X-C, Table 1, Bank's Code of Conduct." The IECD opined that as a PNB officer, Capili was in the best position to understand that the issuance of worthless checks disrupts banking transactions, trading and commerce; also, Capili's failure to inform PNB that she owned SB violated its Manual on Personnel and Manpower Development, and its Employee Handbook; and her untruthful statement in her "Statement of Equity Holdings and/or Connections"[17] that as of December 31, 2003, she had nothing to report even if she owned SB is a concealment of fact amounting to falsification of personnel and bank records.

In her Answer[18] to IECD Memorandum, Capili asserted that the Makati case was already dismissed[19] with finality; the Bulacan case was still pending, but it had no reasonable connection to her function as PNB officer; she did not falsify any personnel or bank records because on November 30, 2005, she disclosed her ownership of SB;[20] and, she did not indicate in her 2003 Statement of Equity Holdings and/or Connections her interest in SB because it was a dormant business that had only engaged in 2 transactions since 1999.

In its Decision[21] dated January 16, 2007, PNB's Administrative Adjudication Panel (AAP) declared that Hyun's accusation, and the charge of falsification against Capili were without basis; and that the issue on her purported questionable integrity lost its basis relative to the Makati case that was already dismissed. However, it stated that with respect to the Bulacan case, the decision therein would be necessary in resolving the issue on her character. Thus, AAP provisionally dismissed the administrative complaint against her.

On February 20, 2007, Capili informed PNB that in its August 24, 2006 Order,[22] the Municipal Trial Court of Santa Maria, Bulacan already dismissed the Bulacan case; as such, she requested that she be excluded from the list of employees with pending administrative cases and that the benefits due her be released.[23] On February 22, 2007, Edgardo T. Nallas (Nallas), PNB's First Senior VP (FSVP), informed her that since the dismissal of the Bulacan case was provisional and PNB's decision is contingent upon its outcome, then its January 16, 2007 Decision remains.[24]

On May 16, 2007, Capili attended the administrative hearing[25] conducted by the AAP.

On August 1, 2007, the AAP rendered its Decision[26] finding Capili guilty of violating PNB General Circular No. 2-1345[27] (Policy on Loss of Confidence in relation to Article 282(e) of the Labor Code) and dismissing her effective August 9, 2007.[28] It explained that Capili's issuance of worthless checks put her character in question. It also explained that under the BSP[29] Circular No. 513, Series of 2006,[30] the directors, officers or employees are disqualified when they have derogatory records with the NBI, among others, affecting their integrity and/or ability to discharge their duties; since Capili's NBI record indicated that she was a respondent in several criminal cases, then this gives basis to disqualify her from her work.

On August 23, 2007, Capili filed a Complaint[31] against PNB, and its officers, Pres. Mier, Nallas, Anthony O. Chua, John D. Medina, Diego A. Allena, Jr., Carmela A. Pama, Ricardo C. Ramos and Ma. Luisia S. Toribio[32] for illegal dismissal; non-payment of salary, service incentive leave, 13th month pay, retirement benefits; actual,

moral and exemplary damages, attorney's fees, among other claims.

In her Position Paper,[33] Reply,[34] and Rejoinder,[35] Capili argued that her termination was without cause because all the charges supporting PNB's loss of confidence had been dismissed by the proper courts. She stated that in PNB's Decision dated January 16, 2007 (First Decision), the AAP held that Hyun's complaint and the charge of falsification against her were without sufficient basis. She also insisted that the BP 22 cases against her were not work-related and were already dismissed with finality. She added that she submitted to PNB court clearances[36] showing that there were no pending cases against her.

Capili claimed that she was singled out by PNB since there were other PNB managerial employees, who had cases in court like her; but unlike her, they were not administratively charged. Lastly, she averred that notwithstanding the administrative case, she was given a rating[37] of "Very Good" in her latest performance appraisal report, which showed that she consistently and completely met the demands of her work.

On November 16, 2007, the MTC dismissed with finality the Bulacan case.[38]

For their part, PNB and its officers argued in their Position Paper,[39] Reply[40] and Rejoinder[41] that as AVP - SMD, Capili occupied a position requiring PNB's trust and confidence. According to them, Capili's questionable activities and/or conduct were revealed through the complaint of Hyun, the BP 22 cases, and her 2003 Statement of Equity and/or Connections. They also affirmed that its Second Decision dismissing Capili from her work is valid because it emanated from the administrative charges pending at the time of its rendition. They further declared that Capili was notified of the charges against her and was given the chance to answer them; she also was given a second notice informing her of the penalty of dismissal imposed against her.

Ruling of the Labor Arbiter

On September 11, 2010, the LA rendered a Decision[42] finding PNB guilty of illegally dismissing Capili. The dispositive portion of the Decision reads:

WHEREFORE, judgment is hereby rendered ordering respondent Philippine National Bank to:

- Immediately reinstate complainant (Capili) to her former position without loss of seniority rights and benefits;
- Pay complainant full backwages which as of this Decision is now P2,146,000.00 subject to further computation up to the time of her actual reinstatement;
- Pay complainant P20,076.92 (P2,230.76 x 9 days), representing her salaries for the period August 1-9,2007;
- Pay complainant P58,000.00 representing her 13th month pay for the year 2007;and
- Pay complainant attorney's fees equivalent to 10% of the total award. All other claims are dismissed for lack of factual and legal basis.

SO ORDERED.[43]

The LA decreed that despite PNB's compliance with the required procedural due process, its claim of loss of trust and confidence on Capili is unfounded as the latter committed no derogatory act against PNB, and even had impressive work performance appraisal. He also pointed out that the dismissal of the administrative case under PNB's First Decision was only provisional because of the Bulacan case, which PNB viewed as a prejudicial issue to the administrative case. He added that all the BP 22 cases against Capili were already dismissed by the courts; thus, she enjoys the presumption of innocence. Finally, he stressed that Capili issued the subject checks a long time ago, in her personal dealings that were unrelated to her work.

PNB and its officers appealed the LA Decision.

Pending appeal in the main case, Capili moved for the execution of the LA Decision on her immediate reinstatement. On December 22, 2010, the LA approved Capili's payroll reinstatement ordering PNB to deposit her accrued salaries with the NLRC Cashier until the case is decided with finality.[44] On March 24, 2011, acting on Capili's motion, the LA ordered the release in her favor P328,666.67 that PNB deposited to the NLRC Cashier.[45]

PNB and its officers appealed[46] the March 24, 2011 LA Order arguing that the December 22, 2010 Order only granted the deposit of Capili's payroll salary, and not the release thereof to Capili while the main case is pending.

Ruling of the National Labor Relations Commission

On May 31, 2011, the NLRC affirmed[47] the September 11, 2010 LA Decision. It held that to be a ground for dismissal, loss of trust and confidence must refer to work-related acts, which make the concerned employee unfit to continue with his work. It ruled that Capili's issuance of checks was personal in nature and did not pertain to her duties as AVP. It also declared that the BP 22 cases against her were already dismissed with finality. Hence, PNB's loss of confidence is without basis.

The NLRC also clarified that BSP Circular No. 513 relied upon by PNB pertained to the disqualification of officers or employees from holding a director position; there being no proof that Capili was a PNB Director, then this circular is not applicable here. It added that the NBI record under "Capili, Susan" does not show that its entire information pertained to Capili herself. It likewise noted that Capili in fact submitted to PNB court clearances showing that she was not convicted of any offense nor was there any pending case against her. It also ruled that in PNB's First Decision, Capili was absolved of the charge of falsification arising from her purported non-disclosure of business interest, and its Second Decision did not discuss such accusation at all.

Meanwhile, on July 15, 2011, the NLRC denied[48] the appeal on the March 24, 2011 LA Order. Later, it also denied[49] PNB and its officers' Motion for Reconsideration.

On July 22, 2011, the NLRC denied[50] the Motion for Reconsideration on its May 31, 2011 Decision.

Ruling of the Court of Appeals

Undeterred, PNB filed with the CA a Petition for Certiorari essentially reiterating that it validly dismissed Capili. It stated that Capili's issuance of worthless checks violated its policy on loss of confidence; there is reasonable relation between her work and her purported dishonest conduct since she was expected to uphold bank-related laws more than an ordinary employee. It also faulted Capili for transacting with Hyun within its premises because it gave the semblance of a work-related deal. PNB likewise insisted that its First Decision was subject to the revival of the charges, and its Second Decision was a mere continuation of the proceedings in the administrative case.

In its Supplemental Petition, PNB ascribed grave abuse of discretion to the NLRC for ordering the release of the deposited salaries to Capili because it contravenes the December 22, 2010 NLRC Order that merely required the deposit of such salaries to the NLRC Cashier.

For her part, Capili alleged that PNB's First Decision dismissed all charges against her with finality, except the charge arising from the then pending Bulacan case. She also explained that the BP 22 cases against her did not involve PNB, and PNB merely used these dormant cases to illegally dismiss her. She also affirmed that these BP 22 cases were all dismissed; hence, they cannot be the basis of her termination.

In response to PNB's Supplemental Petition, Capili stated that the reinstatement of the employee, whether actual

or on payroll, is immediately executory.

On July 25, 2012, the CA rendered the assailed Decision[51] setting aside the May 31, 2011 Decision and July 22, 2011 Resolution of the NLRC. It found that by issuing worthless checks, Capili gave PNB reasonable ground to lose its trust on her. As regards Capili's payroll reinstatement, the CA declared that it is rendered moot because of its finding that PNB legally dismissed her.

On December 5, 2012, the CA denied[52] Capili's Motion for Reconsideration.

Hence, Capili filed the instant Petition raising the following grounds:

[1.] x x x [T]he Court of Appeals erroneously denied payment of herein petitioner's salaries and benefits from the time of her payroll reinstatement pending appeal until the date of retirement of herein petitioner, x x x

[2.] The Court of Appeals erroneously ruled that the filing of criminal cases against herein petitioner Capili for violation of Batas Pambansa Blg. 22 in the years 2000 and 2001 were sufficient grounds to terminate her employment six (6) years later in the year 2007 on the ground of loss of confidence notwithstanding the fact that said cases were dismissed by the trial courts and had nothing to do with [C]apili's employment in PNB.

[3.] The Court of Appeals erred in ruling that respondent PNB's First Decision dated 16 January 2007 which dismissed the charges against herein petitioner did not bar PNB from rendering a Second Decision terminating petitioner's employment on the ground of loss of confidence.

[4] The Court of Appeals erred in refusing to recognize that respondent PNB is already bound by the terms of settlement it entered into with herein petitioner during the pre-execution conferences before the Labor Arbiter.

[5] The Court of Appeals erred in refusing to appreciate that respondent PNB discriminated against herein petitioner Capili.[53]

Capili reiterates that the BP 22 cases against her cannot justify her dismissal on the ground of loss of confidence because these cases were filed six years before PNB dismissed her from her work; they were already dismissed by the court; and, they were not work-related. She also maintains that PNB's First Decision cleared her from all the charges except the Bulacan case then pending. She asserts that PNB is estopped from reversing the dismissal of these charges because PNB itself ruled that Hyun's complaint, the falsification charge and the Makati case were insufficient bases to dismiss her. Thus, when she submitted to PNB the subsequent dismissal order relating to the Bulacan case, then she is fully cleared of all the charges from which the administrative case arose.

Capili also contends that since the LA immediately reinstated her, she is entitled to the payment of her accrued salaries and benefits during the period of appeal until reversal of the high court, or until her supposed mandatory retirement in July 2011.

For its part, PNB counters that when it received Hyun's complaint against Capili, it resultantly discovered the other charges against Capili; thus, it lost its trust and confidence on her. It points out that its First Decision is not a bar for it to re-evaluate the charges against Capili and render a subsequent decision against her. PNB also echoes the CA's finding that the issue on payment of salaries and benefits of Capili pending appeal had been mooted by the CA Decision reversing that of the NLRC.

Issue

Is Capili's dismissal on the ground of loss of trust and confidence valid?

Our Ruling

The Court grants the Petition.

hi order that the extraordinary writ of certiorari be issued against a court or quasi-judicial body, it is necessary to prove that such court or tribunal gravely abused its discretion, which connotes "a capricious and whimsical exercise of judgment as; is equivalent to lack of jurisdiction, such as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross so as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law." [54]

Specifically, in labor cases, grave abuse of discretion may be imputed against the NLRC when its findings and conclusions are not supported by substantial evidence or such amount of relevant evidence a reasonable mind might accept as adequate to support a conclusion. [55]

In turn, to constitute a valid dismissal from employment, two requirements must concur: the dismissal must be for any of the causes under Article 297 [56] (previously Article 282) of the Labor Code; and the employee must be given the opportunity to be heard and defend himself or herself. [57] One of the grounds under Article 297 of the Labor Code is the employer's loss of trust and confidence on the employee. To validly dismiss on this ground, the employee must hold a position of trust and confidence; and, he or she must have committed an act justifying such loss of trust of the employer. [58]

As such, to determine if Capili was validly dismissed, PNB must comply with the foregoing requirements; after all, the burden is on the employer to prove that it has justifiable reasons for terminating an employee. [59] Thus, PNB must prove by substantial evidence the facts upon which it based its loss of trust and confidence on Capili.

Records reveal that PNB, through its IECD, charged Capili of committing: "(a) Acts which Tend to Show Questionable Moral Character, Integrity or Honesty, Constituting Loss of Confidence (Paragraph 2.4 [General Circular] No. 2-1345/2004 dated February 24, 2004 re: Policy on Loss of Confidence);" and "(b) Falsification of Personnel Records or Other Bank Records (Item X-C, Table 1, Bank's Code of Conduct)." [60] Under Paragraph 2.4 of PNB General Circular No. 2-1345, acts constituting loss of confidence include: "Any other act which tends to show questionable moral character, integrity or honesty." [61]

Being an AVP-SMD, it is clear that Capili held a position of trust and confidence. The remaining question is, did she commit any act justifying PNB's loss of trust and confidence?

In its First Decision dated January 16, 2007, PNB, through its AAP, declared that 1) Hyun's complaint is without basis; 2) because the Makati case was already dismissed, it lost its basis in connection with the administrative case; 3) the charge of falsification is unfounded; and, 4) the only remaining matter is the Bulacan case and the decision of which will assist PNB in resolving the issue on Capili's character, to wit:

x x x We find that the accusations of [Hyun] against [Capili] have in fact no sufficient basis. The contract is the best evidence in this regard. There is no statement or provision therein to show that the scrap metal is an acquired asset of PNB. Neither does the contract state that SB or Capili is representing PNB in the transaction.

x x x x

As to the issue of [Capili's] questionable character, integrity or honesty brought about by her issuance of bum checks, the administrative charge in this regard lost its basis after the Metropolitan Trial Court of Makati City, Branch AJ63, dismissed the criminal cases x x x against her on May 23, 2006.

With respect to the [Bulacan case], it is believed that the decision of the trial court in this regard can help Us in settling the issue of [Capili's] character, integrity or honesty. At this time our ruling is premature.

Anent [Capili's] failure to disclose her business interest x x x, it is believed that the opening of bank account by [Capili] in the name of Sandino Builders and disclosing her participation therein is sufficient disclosure of her

business interest and does not amount to falsification of personal records.[62] (Emphasis supplied)

Too, the decretal portion of PNB's First Decision distinctly stated that the administrative case was dismissed but only provisionally because of the then pending Bulacan case, viz.:

WHEREFORE, in view of the pending criminal case against respondent SUSAN D. CAPILI in court the resolution of which shall determine whether or not this administrative case can proceed, this administrative case is PROVISIONALLY DISMISSED.[63]

To further bolster the position that the only remaining charge against Capili is that which relates to the Bulacan case is the statement made by PNB's FSVP Nallas (when Capili requested that benefits due her be released by PNB) that "[considering that the AAP Decision dated 16 January 2007 is contingent to the outcome of [the Bulacan] case, which has not yet attained finality, the said AAP Decision remains." [64]

It is clear from the foregoing that in its First Decision, PNB absolved Capili of all the charges against her, except that arising from the Bulacan case. In fine, the Bulacan case was the sole reason for the provisional dismissal of the administrative case. However, PNB changed its position in its Second Decision. There, it revived the Makati case against Capili and her alleged derogatory NBI record, and dismissed her from work. This Second Decision is, nonetheless, incongruent with the following guidelines set forth under Paragraph 3.6 of PNB General Circular No. 2-1345:

Matters to be considered. - In resolving any case under this circular, the AAP/HRC shall consider the following factors:

- Loss of confidence must not be simulated;
- It must not be used as subterfuge for causes which are improper, illegal or unjustified.
- It must not be arbitrarily asserted in the face of overwhelming evidence to the contrary; and
- It must be genuine, not a mere afterthought to justify earlier action taken in bad faith.[65] (Emphases supplied)

First, PNB's assertion - that because of the BP 22 cases, it lost its trust on Capili - is a mere afterthought considering that in its First Decision, PNB resolved that the issue on her questionable character lost its basis as regards the Makati BP 22 case; and the only matter remaining was the Bulacan case. Worthy to note is that after PNB issued its Second Decision, the Bulacan case was also dismissed with finality by the court. Thus, PNB's loss of confidence is also simulated because all the while it represented that the administrative case against Capili will be contingent on the resolution of the Bulacan case; nevertheless, PNB unjustifiably changed its position to the detriment and eventual illegal dismissal of Capili.

Second, the relevance of all the charges against Capili, except that relative to the Bulacan case, had been fully threshed out in PNB's First Decision. PNB may no longer use these same matters to justify her dismissal.[66]

Third, Capili presented valid defenses for the misconduct imputed against her. For one, the complaint of Hyun was indeed a personal transaction that does not involve PNB. For another, her interest in SB was in fact disclosed considering her having a PNB bank account for it. As regards the BP 22 cases, she already settled them with the parties involved and these cases were already dismissed with finality by the courts. Certainly, she did not breach PNB's trust and confidence on her.

Fourth, the guidelines set forth by PNB relative to its policy on loss of confidence are the same guidelines specified in *General Bank & Trust Co. v. Court of Appeals*[67] concerning the Court's policy on loss of trust and confidence. In said case, the Court was unconvinced that the employer indeed lost its trust on its Bank Manager

because said employer even commended the latter for his efficient work performance, among other circumstances, disproving its loss of trust.

In the same vein, we are unconvinced that PNB lost its confidence on Capili. As properly pointed out by the LA, PNB in fact gave Capili a "Very Good" rating in her work performance. Particularly, in her Performance Appraisal Report[68] dated February 27, 2007, Capili was given a "Very Good" rating by PNB. During this time, PNB was well aware of the BP 22 cases against her, and the administrative case was also then pending investigation already. When PNB gave Capili a very satisfactory rating in her work performance, it did not consider the pendency of the administrative case as sufficient to prevent her from performing well in her work; in the process, she continually enjoyed the trust and confidence of PNB.

As also held in *General Bank & Trust Company*, "managerial employees should enjoy the confidence of top management x x x especially x x x in banks where [its officers] handle large sum of money and engage in confidential x x x transactions. However, loss of confidence [must] not be simulated. It [must] not be used as subterfuge x x x for improper, illegal, or unjustified [causes. It must] not be arbitrarily asserted in the face of overwhelming evidence to the contrary. [Lastly,] it must be genuine and not a mere afterthought to justify earlier action taken in bad faith."[69]

At the same time, PNB arbitrarily relied on BSP Circular No. 513 as another basis in dismissing Capili. Nonetheless, as properly pointed out by the NLRC, this BSP circular pertained to the disqualification of a bank officer or employee from holding a director position upon conviction by final judgment tending to show questionable character. This circular stated that the enumeration therein pertains to "persons disqualified to become directors." [70] Capili was neither a director nor was she convicted by final judgment of any offense; certainly, this circular could not be used as ground in dismissing her from work.

67 220 Phil. 243, 249, 252 (1985).

As regards the issue on Capili's reinstatement pending appeal, Article 229[71] (previously Article 223) of the Labor Code provides that the LA Decision ordering the reinstatement of an employee pending appeal is immediately executory, such that the employee will either be actually reinstated or at the option of the employer, be reinstated in the payroll viz.:

In any event, the decision of the Labor Arbiter reinstating a dismissed or separated employee, insofar as the reinstatement aspect is concerned, shall immediately be executory, even pending appeal. The employee shall either be admitted back to work under the same terms and conditions prevailing prior to his dismissal or separation or, at the option of the employer, merely reinstated in the payroll. The posting of a bond by the employer shall not stay the execution for reinstatement provided herein.

In *Aboc v. Metropolitan Bank and Trust Company*[72] respondent therein opted to reinstate in its payroll Antonio Aboc pursuant to the LA ruling that he was illegally dismissed. The Court held that payroll reinstatement restored Aboc to his previous position; even if the LA's order of reinstatement is reversed on appeal, "it is obligatory on the part of the employer to reinstate and pay the wages of the dismissed employee during the period of appeal until final reversal by the higher court." [73]

In *Wenphil Corporation v. Abing*, [74] the Court reiterated the foregoing principles on reinstatement of employee pending appeal. It further held that in case of payroll reinstatement, the reinstated employee is not required to return the salary he received during the period the lower court or tribunal declared that he was illegally dismissed, even if the employer's appeal would eventually be ruled in its favor. Such non-requirement to reimburse salary presupposes that salary must in fact be paid to the concerned employee when he or she is ordered reinstated pending appeal. This is contrary to PNB's contention that mere deposit of salary to the NLRC Cashier is sufficient

compliance to Capili's payroll reinstatement pending appeal.

Given all these, the Court finds that the CA erred in finding that the NLRC committed grave abuse of discretion in ruling that Capili was illegally dismissed, as her employer, PNB, failed to prove by substantial evidence that there is just cause supporting such dismissal.

WHEREFORE, the Petition is GRANTED. The Decision dated July 25, 2012 and Resolution dated December 5, 2012 of the Court of Appeals in CA-G.R. SP No. 121824 are REVERSED and SET ASIDE. Accordingly, the Decision dated May 31, 2011 and Resolution dated July 22, 2011 of the National Labor Relations Commission in NLRC LAC No. 07-002293-08 (RA-11-10) are REINSTATED.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, and Leonen, JJ., concur.
Mendoza, J., on official leave.

[1] CA rollo, pp. 917-929; penned by Associate Justice Markne Gonzales-Sison and concurred in by Associate Justices Hakim S. Abdulwahid and Edwin D. Scrongon.

[2] NLRC records, Volume III, pp. 180-189; penned by Presiding Commissioner Gerardo C. "Nograles and concurred in by Commissioner Perlita B. Vdasco. Commissioner Romeo L. Go, dissented.

[3] Id. at 230-231.

[4] Id. at 18-26; penned by Labor Arbiter Adolfo C. Babi:onc.

[5] CA rollo, pp. 977-978.

[6] NLRC records, Volume I, p. 44.

[7] Id. at 8.

[8] Id. at 155-157.

[9] Id. at 44-46.

[10] National Bureau of Investigation.

[11] NLRC records, Vol. I, pp. 172-173.

[12] Id. at 43.

[13] Id. at 45-46.

[14] Id. at 49-59.

[15] Id. at 68-70.

[16] Id. at 78-79.

[17] Id. at 220.

[18] Id. at 81-87.

[19] Id. at 88.

- [20] Id. at 96.
- [21] Id. at 99-102.
- [22] Id. at 98.
- [23] Id. at 104.
- [24] Id. at 105.
- [25] Id. at 135,207.
- [26] Id. at 106-115.
- [27] Id. at 117-121.
- [28] Id. at 116.
- [29] *Banko Sentral ng Pilipinas*.
- [30] NLRC records, Vol. I, pp. 122-127.
- [31] Id. at 1-3.
- [32] Id. at 130.
- [33] Id. at 8-35.
- [34] Id. at 242-260.
- [35] Id. at 262-280.
- [36] Id. at 71-77.
- [37] Id. at 39-42.
- [38] Id. at 103.
- [39] Id. at 129-152.
- [40] Id. at 224-241.
- [41] Id. at 281-291.
- [42] NLRC records, Volume III, pp. 18-26.
- [43] Id. at 25-26.
- [44] NLRC records, Volume IV, pp. 26-29.
- [45] Id. at 131-134.
- [46] Id. at 135-149.
- [47] NLRC records, Volume III, pp. 180-189.
- [48] NLRC records, Volume IV, pp. 186-194; penned by Presiding Commissioner Gerardo C. Nograles. Commissioner Perlita B. Velasco concurred; Commissioner Romeo L. Go took no part.
- [49] Id. at 222-223.

- [50] NLRC records, Volume III, pp. 230-231.
- [51] CA rollo, pp. 917-929.
- [52] Id. at 977-978.
- [53] Rollo, p. 23.
- [54] Manila Memorial Park Cemetery, Inc. v. Panado, 524 Phil. 282, 295 (2006).
- [55] Cebu People's Multi-Purpose Cooperative v. Carbonilla, Jr., G.R. No. 212070, January 27, 2016.
- [56] The Labor Code of the Philippines as amended and renumbered, July 21,2015.
- [57] Janssen Pharmaceutica v. Silqyro, 570 Phil. 215,226 (2008).
- [58] Martinez v. Central Pangasinan Electric Cooperative, 714 Phil. 70,74-75 (2013).
- [59] Janssen Pharmaceutica v. Silayro, supra at 227.
- [60] NLRC records, Vol. I, pp. 78-79.
- [61] Id. at 118.
- [62] Id. at 101.
- [63] Id.
- [64] Id. at 105.
- [65] Id at 119.
- [66] See Felix v. National Labor Relations Commission, 485 Phil. 140 (2004).
- [68] NLRC records, Volume I, pp. 39-42.
- [69] Supra note 66 at 252.
- [70] NLRC records, Vol. I, p. 122.
- [71] The Labor Code of the Philippines as amended and renumbered, July 21,2015.
- [72] 652 Phil. 311 (2010).
- [73] Id. at 330; emphasis in the original.

[74] 721 SCRA 126, 136-138 (2014).

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