

**HYDRO RESOURCES CONTRACTORS CORPORATION, PETITIONER,
VS. LABOR ARBITER ADRIAN N. PAGALILAUAN AND THE NATIONAL
LABOR RELATIONS COMMISSION, PUBLIC RESPONDENTS, AND
ROGELIO A. ABAN...**

G.R. No. 62909. April 18, 1989

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-62909/>

GUTIERREZ, JR., J.:

This is a petition to review on certiorari the resolution of the National Labor Relations Commission (NLRC) which affirmed the labor arbiter's decision ordering herein petitioner, Hydro Resources Contractors Corporation to reinstate Rogelio A. Aban to his former position without loss of seniority rights, to pay him 12 months backwages in the amount of P18,000.00 and to pay attorney's fees in the amount of P1,800.00.

On October 24, 1978, petitioner corporation hired the private respondent Aban as its "Legal Assistant." He received a basic monthly salary of P1,500.00 plus an initial living allowance of P50.00 which gradually increased to P320.00.

On September 4, 1980, Aban received a letter from the corporation informing him that he would be considered terminated effective October 4, 1980 because of his alleged failure to perform his duties well.

On October 6, 1980, Aban filed a complaint against the petitioner for illegal dismissal.

The labor arbiter ruled that Aban was illegally dismissed. This ruling was affirmed by the NLRC on appeal.

Hence, this present petition.

The only issue raised by the petitioner is whether or not there was an employer-employee relationship between the petitioner corporation and Aban. The petitioner questions the jurisdiction of the public respondents considering the alleged absence of an employer-employee relationship.

The petitioner contends that its relationship with Aban is that of a client with his lawyer. It is its position that "(a) lawyer as long as he is acting as such, as long as he is performing acts constituting practice of law, can never be considered an employee. His relationship with those to whom he renders services, as such lawyer, can never be governed by the labor laws. For a lawyer to so argue is not only demeaning to himself (sic), but also his profession and to his brothers in the profession." Thus, the petitioner argues that the labor arbiter and NLRC have no jurisdiction over the instant case.

The contention is without merit.

A lawyer, like any other professional, may very well be an employee of a private corporation or even of the government. It is not unusual for a big corporation to hire a staff of lawyers as its in-house counsel, pay them regular salaries, rank them in its table of organization, and otherwise treat them like its other officers and

employees. At the same time, it may also contract with a law firm to act as outside counsel on a retainer basis. The two classes of lawyers often work closely together but one group is made up of employees while the other is not. A similar arrangement may exist as to doctors, nurses, dentists, public relations practitioners, and other professionals.

This Court is not without a guide in deciding whether or not an employer-employee relation exists between the contending parties or whether or not the private respondent was hired on a retainer basis.

As stated in the case of *Tabas v. California Manufacturing Co.*, (G.R. No. 80680, January 26, 1989):

"This Court has consistently ruled that the determination of whether or not there is an employer-employee relation depends upon four standards: (1) the manner of selection and engagement of the putative employee; (2) the mode of payment of wages; (3) the presence or absence of a power of dismissal; and (4) the presence or absence of a power to control the putative employee's conduct. Of the four, the right-of-control test has been held to be the decisive factor."

Aban was employed by the petitioner to be its Legal Assistant as evidenced by his appointment paper (Exhibit "A"). The petitioner paid him a basic salary plus living allowance. Thereafter, Aban was dismissed on his alleged failure to perform his duties well. (Exhibit "B")

Aban worked solely for the petitioner and dealt only with legal matters involving the said corporation and its employees. He also assisted the Personnel Officer in processing appointment papers of employees. This latter duty is not an act of a lawyer in the exercise of his profession but rather a duty for the benefit of the corporation.

The above-mentioned facts show that the petitioner paid Aban's wages, exercised its power to hire and fire the respondent employee and more important, exercised control over Aban by defining the duties and functions of his work.

Moreover, estoppel lies against the petitioner. It may no longer question the jurisdiction of the labor arbiter and NLRC.

The petitioner presented documents (Exhibits "2" to "19") before the Labor Arbiter to prove that Aban was a managerial employee. Now, it is disclaiming that Aban was ever its employee. The proper procedure was for the petitioner to prove its allegations that Aban drank heavily, violated company policies, spent company funds and properties for personal ends, and otherwise led the employer to lose trust and confidence in him. The real issue was due process, not the specious argument raised in this petition.

The new theory presented before this Court is a last-ditch effort by the petitioner to cover up for the unwarranted dismissal of its employee. This Court frowns upon such delaying tactics.

The findings of fact of the Labor Arbiter being supported by substantial evidence are binding on this Court. (See *Industrial Timber Corp. v. National Labor Relations Commission*, G.R. No. 83616, January 20, 1989).

Considering that the private respondent was illegally dismissed from his employment in 1980, he is entitled to reinstatement to his former or similar position without loss of seniority rights, if it is still feasible, to backwages without qualification or deduction for three years, (*D.M. Consunjo, Inc. v. Pucan*, 159 SCRA 107 (1988); *Flores v. Nuestro*, G.R. No. 66890, April 15, 1988), and to reasonable attorney's fees in the amount of P5,000.00. Should reinstatement prove no longer feasible, the petitioner will pay him separation pay in lieu of reinstatement. (*City Trust Finance Corp. v. NLRC*, 157 SCRA 87; *Santos v. NLRC*, 154 SCRA 166; *Metro Drug v. NLRC, et al.*, 143 SCRA 132; *Luzon Brokerage v. Luzon Labor Union*, 7 SCRA 116). The amount of such separation pay as may be provided by law or the collective bargaining agreement is to be computed based on the period from 24 October

1978 (date of first employment) to 4 October 1983 (three years after date of illegal dismissal). /Manila Midtown Commercial Corporation v. Nuwhrain, 159 SCRA 212 (1988)_/.

WHEREFORE, the petition is hereby DISMISSED for lack of merit. The petitioner is ordered to reinstate the private respondent to his former or a similar position without loss of seniority rights and to pay three (3) years backwages without qualification or deduction and P5,000.00 in attorney's fees. Should reinstatement not be feasible, the petitioner shall pay the private respondent termination benefits in addition to the above stated three years backpay and P5,000.00 attorney's fees.

SO ORDERED.

Fernan, C.J., (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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.