

ZAMBOANGA CITY WATER DISTRICT, PETITIONER, VS. GENARO A. BARTOLOME, LABOR ARBITER PASTOR I. ALVAREZ AND COMMISSIONERS GUILLERMO C. MEDINA, GABRIEL M. GATCHALIAN AND MIGUEL B. VA...

G.R. No. 66766. December 20, 1985

Ponente: AQUINO, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-66766/>

AQUINO, C.J.:

This is an illegal dismissal case. Genaro Bartolome was employed by the Zamboanga City Water District as meter reader in July, 1976. In a sworn statement dated February 9, 1981 before Agent Virgilio Mendez of the National Bureau of Investigation, Bartolome admitted that in September, 1980 he opened the water meter of Manuela Cahipe in order to enable his fellow-employee, Ulysis Lunjas, to adjust the meter reading. After the adjustment, Cahipe offered them a drink of beer (pp. 44-45, Rollo). Bartolome was supposed to read the water meter, not to open it.

On the other hand, Lunjas in his sworn statement before Agent Mendez dated February 3, 1981 pointed to Bartolome as the one who tampered with the water meter by reversing the gear to get the desired meter reading (pp. 43-44, Rollo).

Angel Fernando, another fellow-employee of Bartolome, in his sworn statement before Agent Mendez, declared that Bartolome confided to him that he was tampering with the water meters of the establishments in the market site (No. 8, Annex J, p. 54, Rollo).

Fiscal Pablo I. Murillo found that at one time Cahipe's water consumption of 60 cubic meters was reduced to 48 cubic meters because of meter tampering. He recommended her prosecution under the Anti-Graft and Corrupt Practices Law (pp. 39-41, Rollo).

In a later resolution dated September 16, 1982, Fiscal Murillo "apologized" for his error in having overlooked Bartolome's participation in the theft of water. He recommended that Bartolome be prosecuted for theft (p. 46, Rollo).

The fact that the theft case against Bartolome was dismissed (p. 33, Rollo) would not preclude his removal. The conviction of an employee in a criminal case is not a condition precedent to his dismissal by his employer. The dropping by the city fiscal of the criminal complaint is not binding upon a labor tribunal (*Sea-Land Service, Inc. vs. National Labor Relations Commission*, G. R. No. 68212, May 24, 1985, 136 SCRA 544, 547-548).

Bartolome was dismissed by the petitioner in June, 1981. He filed a complaint for illegal dismissal. We find that Bartolome was guilty of gross misconduct which is a ground for dismissal under section 283 of the Labor Code.

The Labor Arbiter committed a grave abuse of discretion amounting to lack of jurisdiction when he directed the reinstatement of Bartolome with backwages from June, 1981 to June, 1982 at P630 a month and when he ordered

the payment to him of P4,560 as allowance for the same period plus P1,010 as 13th month pay (p. 25, Rollo). The NLRC should not have dismissed petitioner's appeal from that decision.

WHEREFORE, the NLRC resolution dismissing petitioner's appeal and the decision of the Labor Arbiter are reversed and set aside. Bartolome's complaint is dismissed. Costs against Bartolome.

SO ORDERED.

Concepcion, Jr., Escolin, Cuevas, and Alampay, JJ., concur.

Abad Santos, J., see dissenting opinion.

DISSENTING OPINION

ABAD SANTOS, J.:

Genaro A. Bartolome was an employee of Zamboanga City Water District. He filed a case for illegal dismissal against his employer. The Labor Arbiter ordered the reinstatement of Bartolome with back wages. The employer appealed to the NLRC but the appeal was dismissed for lack of merit on the ground that the Labor Arbiter's decision was "substantially supported by the facts and evidence adduced in the record." The appeal was dismissed on the additional ground that the employer-appellant failed to comply with procedural requirements.

The instant petition filed by Zamboanga City Water District would have this Court order the NLRC "to dismiss the complaint of Genaro Bartolome for lack of merit."

On April 4, 1984, this Court dismissed the petition "for being factual and for lack of merit." The petitioner filed a motion for reconsideration and the result is the ponencia of Chief Justice Aquino.

I dissent. The resolution dismissing the petition should be maintained. For as the Solicitor General states:

"x x x, the NLRC correctly brushed aside on the merits the appeal interposed by petitioner. Thus —
'Moreover, We find no merit in the appeal, the assailed decision being substantially supported by the facts and evidence adduced in the record. We cannot give due credence and weight to respondent's alleged evidence particularly Exhibit '6' purporting to be a subsequent resolution of the investigating fiscal allegedly including complainant Genaro Bartolome as one of those recommended for prosecution in court for the reason that nowhere in the record can the said evidence be found sufficient to controvert the Resolution dated 14 September 1981 of Assistant City Fiscal Pablo L. Murillo (Exh. 'D' to 'D-7') duly approved by Tanodbayan Bernardo P. Fernandez on 19 March 1982 and the Certification of the Office of the City Fiscal of Zamboanga City dated 22 January 1982 (Exh. 'E') attesting to the fact that said complainant Genaro Bartolome 'has no pending criminal case with this office either for violation of law or Ordinance within the City of Zamboanga.' (Annex "B", Petition)'

"Another factor deals the cause of petitioner a fatal blow, that is, the absence of clearance from the Ministry of Labor to dismiss respondent Bartolome. It is true that petitioner applied for clearance on June 4, 1981, but there is no evidence to show that the application was approved. Since at that time Batas Pambansa Blg. 130 and its implementing rules doing away with the clearance requirement were not yet in existence, the requirement of a clearance before dismissal applies in this case.

"Under Section 2, Rule XIV of the old implementing rules and regulations, any 'dismissal without prior clearance shall be conclusively presumed to be termination of employment without a just cause.' What could be more illustrative of the rule than the case of respondent Bartolome whose dismissal is conclusively presumed to be

illegal and without just cause in the absence of a clearance?

"All the foregoing show that the instant petition fails to demonstrate grave abuse of discretion. There is indeed no support to hold the contrary view as the NLRC did actually 'find no merit in the appeal, the assailed decision being substantially supported by the facts and evidence adduced in the record.'

"It is our submission that the questions involved here are factual rather than those reviewable by this Court on certiorari. The principle is well-established that findings of administrative agencies which have acquired expertise because their jurisdiction is confined to specific matters are generally accorded not only respect but even finality (*Genconsu Free Workers Union v. Inciong*, 91 SCRA 311 [1979]). And judicial review does not go as far as to evaluate the sufficiency of evidence upon which the Labor Ministry based its determination but is limited to issues of jurisdiction or grave abuse of discretion (*Special Events & Central Shipping Office Workers Union v. San Miguel Corp.*, 122 SCRA 557 [1983]). In the case at bar, no such infirmity exists." (Rollo, pp. 125-126.)

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.