

A.M. ORETA & CO., INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND SIXTO GRULLA, JR., RESPONDENTS.

G.R. No. 74004. August 10, 1989

Ponente: MEDIALDEA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-74004/>

MEDIALDEA, J.:

This is a petition for certiorari under Rule 65 of the Rules of Court seeking the annulment of the Resolution of the respondent National Labor Relations Commission dated January 17, 1986 (p. 24, Rollo) in BES Case No. 81-1371 entitled, "SIXTO GRULLA, JR., Complainant, versus A.M. ORETA & COMPANY, INC. and/or ENGINEERING CONSTRUCTION & INDUSTRIAL DEVELOPMENT CO. (ENDECO), Respondents", affirming the decision of the Philippine Overseas Employment Administration (POEA) awarding to private respondent herein Sixto Grulla the salaries corresponding to the unexpired portion of his employment contract.

The antecedent facts are as follows:

Private respondent Grulla was engaged by Engineering Construction and Industrial Development Company (ENDECO) through A.M. Oreta and Co., Inc. as a carpenter in its project in Jeddah, Saudi Arabia. The contract of employment, which was entered into on June 11, 1980 was for a period of twelve (12) months. Respondent Grulla left the Philippines for Jeddah, Saudi Arabia on August 5, 1980.

On August 15, 1980, Grulla met an accident which fractured his lumbar vertebrae while working at the jobsite. He was rushed to the New Jeddah Clinic and was confined there for twelve (12) days. On August 27, 1980, Grulla was discharged from the hospital and was told that he could resume his normal duties after undergoing physical therapy for two weeks.

On September 18, 1980, respondent Grulla reported back to his Project Manager and presented to the latter a medical certificate declaring the former already physically fit for work. Since then, he started working again until he received a notice of termination of his employment on October 9, 1980.

In December, 1981, respondent Grulla filed a complaint for illegal dismissal, recovery of medical benefits, unpaid wages for the unexpired ten (10) months of his contract and the sum of P1,000.00 as reimbursement of medical expenses against A.M. Oreta and Company, Inc. and Engineering Construction and Industrial Development Co. (ENDECO) with the Philippine Overseas and Employment Administration (POEA).

The petitioner A.M. Oreta and Company, Inc. and ENDECO filed their answer and alleged that the contract of employment entered into between petitioners and Grulla provides, as one of the grounds for termination of employment, violation of the rules and regulations promulgated by the contractor; and that Grulla was dismissed because he has not performed his duties satisfactorily within the probationary period of three months.

On August 8, 1985, the POEA rendered a decision (pp. 97-107, Rollo), the dispositive portion of which states, *inter alia*:

"In view of the foregoing, this Office finds and so holds that complainant's dismissal was illegal and warrants the award of his wages for the unexpired portion of the contract.

"2. Anent the complainant's claim for medical expenses, this Office finds the same to be well-taken. Respondent did not deny either specifically or generally said claim. Hence, it is deemed admitted.

"WHEREFORE, judgment is hereby rendered ordering respondents A.M. Oreta and Company, Inc. and its foreign principal Engineering Construction and Industrial Development Company (ENDECO) jointly and severally to pay complainant within ten (10) days from receipt of this Order the sum of THREE THOUSAND SEVEN HUNDRED US DOLLARS (US \$3,700.00) or its peso equivalent at the time of payment representing complainant's salaries for the unexpired portions of his contract for ten (10) months and the sum of ONE THOUSAND PESOS (P1,000.00) representing reimbursement of medical expenses.

"Respondent is likewise ordered to pay attorney's fees equivalent to ten (10%) percent of the total award.

"SO ORDERED."

Petitioner appealed from the adverse decision to the respondent Commission. On January 17, 1986, respondent Commission dismissed the appeal for lack of merit and affirmed in toto the decision of the POEA.

On April 1, 1986, the instant petition was filed on the ground that the respondent Commission committed grave abuse of discretion in affirming the decision of the POEA. A temporary restraining order was issued by this Court on April 23, 1986, enjoining the respondents from enforcing the questioned resolution of the respondent Commission.

The issues to be resolved in the instant case are whether or not the employment of respondent Grulla was illegally terminated by the petitioner; and whether or not the respondent Grulla is entitled to salaries corresponding to the unexpired portion of his employment contract.

Petitioner contends that the respondent Grulla was validly dismissed because the latter was still a probationary employee; and that his dismissal was justified on the basis of his unsatisfactory performance of his job during the probationary period. This contention has no merit.

Article 280 (formerly Article 281) of the Labor Code, as amended, provides:

"Article 280. Regular and Casual Employment. - The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreements of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employment or where the work or service to be performed is seasonal in nature and the employment is for the duration of the season.

"An employment shall be deemed to be casual if it is not covered by the preceding paragraph: Provided, that any employee who has rendered at least one year of service, whether such service is continuous or broken, shall be considered a regular employee with respect to the activity in which he is employed and his employment shall continue while such actually exists."

It may be well to cite at this point Policy Instructions No. 12 of the then Minister of Labor (now Secretary of Labor and Employment) which provides:

"PD 850 has defined the concept of regular and casual employment. What determines regularity or casualness is not the employment contract, written or otherwise, but the nature of the job. If the job is usually necessary or desirable to the main business of the employer, then employment is regular. x x x."

Petitioner admitted that respondent Grulla was employed in the company as a carpenter for a period of twelve months before he was dismissed on October 9, 1980. A perusal of the employment contract reveals that although the period of employment of respondent Grulla is twelve (12) months, the contract period is renewable subject to future agreement of the parties. It is clear from the employment contract that the respondent Grulla was hired by the company as a regular employee and not just a mere probationary employee.

On the matter of probationary employment, the law in point is Article 281 (formerly Article 282) of the Labor Code which provides in part:

"Art. 281. Probationary Employment. - x x x. The services of an employee who has been engaged on a probationary basis may be terminated for a just cause or when he fails to qualify as a regular employee in accordance with reasonable standards made known by the employer to the employee at the time of his engagement. An employee who is allowed to work after a probationary period shall be considered a regular employee." (Emphasis ours)

The law is clear to the effect that in all cases involving employees engaged on probationary basis, the employer shall make known to the employee at the time he is hired, the standards by which he will qualify as a regular employee. Nowhere in the employment contract executed between petitioner company and respondent Grulla is there a stipulation that the latter shall undergo a probationary period for three months before he can qualify as a regular employee. There is also no evidence on record showing that the respondent Grulla had been apprised of his probationary status and the requirements which he should comply in order to be a regular employee. In the absence of these requisites, there is justification in concluding that respondent Grulla was a regular employee at the time he was dismissed by petitioner. As such, he is entitled to security of tenure during his period of employment and his services cannot be terminated except for just and authorized causes enumerated under the Labor Code and under the employment contract.

Granting, in gratia argumenti, that respondent is a probationary employee, he cannot, likewise, be removed except for cause during the period of probation. Although a probationary or temporary employee has limited tenure, he still enjoys security of tenure. During his tenure of employment or before his contract expires, he cannot be removed except for cause as provided for by law (*Euro-Linea Phils., Inc. v. NLRC*, No. L-75782, December 1, 1987, 156 SCRA 78; *Manila Hotel Corporation v. NLRC*, No. L-53453, January 22, 1986, 141 SCRA 169).

Article 282 of the Labor Code sets forth the following just causes for which an employer may terminate an employment, namely:

"(a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;

"(b) Gross and habitual neglect by the employee of his duties;

"(c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;

"(d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and

"(e) Other causes analogous to the foregoing."

The alleged ground of unsatisfactory performance relied upon by petitioner for dismissing respondent Grulla is not one of the just causes for dismissal provided in the Labor Code. Neither is it included among the grounds for termination of employment under Article VII of the contract of employment executed by petitioner company and respondent Grulla (p. 18, Rollo). Moreover, petitioner has failed to show proof of the particular acts or omissions

constituting the unsatisfactory performance of Grulla of his duties, which was allegedly due to his poor physical state after the accident. Contrary to petitioner's claims, records show that the medical certificate issued by the hospital where respondent Grulla was confined as a result of the accident, clearly and positively stated that Grulla was already physically fit for work after he was released from the hospital (p. 102, Rollo).

Anent the respondent Commission's finding of lack of due process in the dismissal of Grulla, the petitioner claims that notice and hearing are important only if the employee is not aware of the problems affecting his employment; that the same is not true in the instant case where respondent Grulla knew all along that he could no longer effectively perform his job due to his physical condition. We find that this contention has no legal basis.

The twin requirements of notice and hearing constitute essential elements of due process in cases of employee dismissal: the requirement of notice is intended to inform the employee concerned of the employer's intent to dismiss and the reason for the proposed dismissal, while the requirement of hearing affords the employee an opportunity to answer his employer's charges against him and accordingly to defend himself therefrom before dismissal is effected. Neither of these requirements can be dispensed with without running afoul of the due process requirement of the constitution (*Century Textile Mills, Inc., et al. v. NLRC, et al.*, G.R. No. 77859, May 25, 1988).

In the case at bar, respondent Grulla was not, in any manner, notified of the charges against him before he was outrightly dismissed. Neither was any hearing or investigation conducted by the company to give the respondent a chance to be heard concerning the alleged unsatisfactory performance of his work.

In view of the foregoing, the dismissal of respondent Grulla violated the security of tenure under the contract of employment which specifically provides that the contract term shall be for a period of twelve (12) calendar months. Consequently, the respondent Grulla should be paid his salary for the unexpired portion of his contract of employment which is ten (10) months (See *Cuales v. NLRC, et al.*, No. L-57379, April 28, 1983, 121 SCRA 812).

The findings of the POEA and the respondent Commission that the respondent Grulla is entitled to salaries in the amount of US \$3,700.00 or its equivalent in Philippine currency for the unexpired portion of his contract and the sum of P1,000.00 as reimbursement of medical expenses bear great weight. Well-established is the principle 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. Judicial review by this Court on labor cases does not go so far as to evaluate the sufficiency of the evidence upon which the labor officer or office based his or its determination but are limited to issues of jurisdiction or grave abuse of discretion (*Special Events and Central Shipping Office Workers Union v. San Miguel Corporation*, Nos. L-51002-06, May 30, 1983, 122 SCRA 557). In the instant case, the assailed Resolution of the respondent Commission is not tainted with arbitrariness that would amount to grave abuse of discretion or lack of jurisdiction and therefore, We find no reason to disturb the same.

ACCORDINGLY, premises considered, the instant petition is dismissed for lack of merit and the resolution of the respondent Commission dated January 17, 1986 is hereby AFFIRMED. The temporary restraining order issued on April 23, 1986 is lifted.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Grino-Aquino, 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.