

HERMENEGILDO L. SANTOS, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, JOHNSON & JOHNSON (PHILS.), INC. AND JAIME V. CASTRO, RESPONDENTS.

G.R. No. 76991. October 28, 1988

Ponente: FERNAN, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-76991/>

FERNAN, C.J.:

In this petition for certiorari, the Court is called upon to decide whether or not the National Labor Relations Commission abused its discretion in affirming the labor arbiter's decision upholding the dismissal from employment of petitioner-managerial employee on the ground of abandonment of work.

Petitioner Hermenegildo L. Santos was employed as product manager by respondent Johnson & Johnson (Phils.), Inc. on November 1, 1979. Less than two years later, or on July 1, 1981, he was transferred to the sales department of the company as its sales administration manager.

Petitioner must have creditably performed his assigned jobs that in recognition thereof, he was given merit increases in his monthly basic salary. Thus, from P5,500, his basic monthly salary steadily rose, such that by January 1, 1983, he was receiving P8,200.00. As sales administration manager, he also enjoyed benefits, including a car plan in the amount of fifty thousand pesos (P50,000) only 70% of which was shouldered interest free by petitioner with no downpayment and payable in seventy-two (72) equal monthly installments. Furthermore, in September, 1981, petitioner was sent by respondent company to Sydney and Melbourne, Australia for a two-week training course in sales forecasting and servicing of field requirements.

One of petitioner's three children, Guillermo (Sonny), is a victim of cerebral palsy. Afflicted with the ailment since birth, Sonny, who was eight years old when the labor case arose, had been undergoing medical treatment and rehabilitation in the United States since 1982. As it was imperative for Sonny's parents to actively participate in his treatment and rehabilitation, petitioner and his wife had to leave annually for the United States.

Hence, in April, 1983, petitioner requested from the company a leave of absence of two months - from April 7, 1983 to mid-June, 1983. However, the company authorized him a leave of absence from April 7 to May 8, 1983 or for one month only. Nonetheless, petitioner left for the United States.

As his one-month leave of absence was about to expire or during the first week of May, Sonny's teacher asked petitioner and his wife to come to her office on May 20, 1983 to discuss the improvements in Sonny's condition, to review the accomplishments in Sonny's treatment and to develop appropriate goals for the new school year. Thus, on May 5, 1983, petitioner sent a telex to respondent Jaime V. Castro, then his immediate superior in the company, informing Castro of his inability to return on May 9 due to "doctor and teacher conference evaluation" and of his definite return on or before June 13.

In reply, Castro sent a telex stating that "urgent business requirements" made petitioner's request to return on June 13, unacceptable to the company and that petitioner should return on May 16 "at the latest to report back to office"

otherwise his position would be filled up. Reacting to Castro's directive, petitioner sent another telex stating that "due to budget fare limitation," his earliest flight to Manila would be on May 31 and he would report to work on June 2. Through another telex, the company advised petitioner that his return to work on June 2 was unacceptable to the company.[1]

Petitioner received yet another telex, this time from Virgilio Caparoso, who was acting for and in behalf of Castro, stating that for his failure to report for work on May 16, 1983, his employment was considered terminated as of said date "for abandonment of work and for refusing or neglecting to obey the order of management." [2] Said telex was confirmed through Caparoso's letter dated June 8, 1983.

Upon his arrival from the United States, petitioner received a telegram from the company demanding the payment of his remaining car plan balance of P29,861.24 or the surrender of his car plan unit on or before June 30, 1983. Petitioner obliged by surrendering his car.

Aggrieved by the action taken against him by the company, petitioner filed a complaint for illegal dismissal and damages in the then Ministry of Labor and Employment's arbitration branch in España, Manila. Full arbitration proceedings were conducted and, in his decision of August 15, 1985, the labor arbiter dismissed petitioner's complaint, upheld his dismissal, and dismissed for lack of actual and legal bases his claims for damages. Petitioner appealed to the National Labor Relations Commission (NLRC) but it affirmed the labor arbiter's decision. Hence, the instant petition.

At the outset, we shall settle a point which private respondents raise - the propriety of the instant petition for certiorari as a procedural remedy. Private respondents contend that the instant petition may no longer be acted upon by this Court because the petitioner lost the remedy of appeal when he failed to interpose one within the reglementary period. They base their contention on the fact that on November 10, 1986, the NLRC issued an order considering the case closed and terminated.[3]

Appeals from the NLRC to the Secretary of Labor had been eliminated by the promulgation of Presidential Decree No. 1391 on May 29, 1978. It is precisely because petitioner had exhausted all available administrative remedies that he now resorts to the present special civil action. While it is true that this petition was filed only on January 20, 1987 or seven months after the NLRC promulgated its decision on June 19, 1986, the records do not show that a writ of execution has been issued in this case.[4] Furthermore, the substantive issues in this case merit the Court's attention.

Dismissal from employment on the ground of abandonment is legal and valid if it is shown that there is a clear and deliberate intent on the part of the employee to discontinue his employment without any intention of returning back to work.[5] The employee's deliberate unjustified refusal to continue his employment must be clearly evidenced by overt acts unerringly pointing to the fact that the employee simply does not want to work anymore.[6]

We agree with both the petitioner and the Solicitor General that the former did not abandon his job. Petitioner's repeated requests through telexes that he be allowed to stay longer in the United States certainly do not reflect an intention to leave his job in the Philippines. Neither does his discussions with Mr. Bowman, former president of respondent company, on the "possibility" of applying for a job with Johnson & Johnson (U.S.).[7] If ever, his scouting for a job in the United States was prompted by petitioner's quest for a solution to his personal problem with regard to the treatment and rehabilitation of his son in a foreign land which required his personal attention and assistance. He should not be faulted for that. It should be emphasized that petitioner applied for a job not with the competitor of his employer or any other prospective employer but with Johnson & Johnson (U.S.), his employer's mother company.

Respondent's allegation of abandonment is further belied by the fact that after learning that his services have been terminated, petitioner filed the complaint for illegal dismissal. Abandonment of work is inconsistent with the filing of said complaint.[8]

Respondent's belated assertion before this Court that the company has lost confidence on the petitioner and therefore he should be dismissed from employment,[9] must likewise fail. In the proceeding below, the issue of loss of confidence was not raised and discussed. Hence, the decisions of both the labor arbiter and the NLRC do not contain any factual findings to support the claim of loss of confidence.[10] Unless duly proved or sufficiently substantiated, impartial tribunals do not rely only on the statement made by the employer that it has lost confidence on its employee.[11]

We are aware of private respondents' allegation that petitioner failed to report back to work at the time when the company was short-handed. However, we are not persuaded that petitioner's absence had rendered the sales department (baby products division) so inutile that it incurred losses enough to justify the outright dismissal of petitioner. The least that the company should have done was to subject petitioner to an investigation if only to give petitioner a chance to explain his predicament and the company an opportunity to prove that it respects its employee's right to due process. Instead of dismissing him, petitioner should have been admonished and warned or even suspended if so warranted considering that it was his first misconduct or misdemeanor.

The summary dismissal of petitioner smacks of high-handedness that has no place in a company that respects human rights. While it is true that an employer has its own interests to protect and that, pursuant thereto, it may terminate a managerial employee for a just cause, such prerogative to dismiss or lay-off an employee must be exercised without abuse of discretion.[12] Its implementation should be tempered with compassion and understanding. The employer should bear in mind that in the execution of said prerogative, what is at stake is not only the employee's position but his livelihood. Moreover, the fact that petitioner is a managerial employee does not by itself exclude him from the protection of the constitutional guarantee of security of tenure.[13]

WHEREFORE, the decisions of the labor arbiter and the National Labor Relations Commission are hereby reversed and set aside. Respondent Johnson & Johnson (Phils.), Inc. is ordered to reinstate petitioner to the position of sales administration manager or to an equivalent position without loss of seniority rights and other benefits, and to pay him the equivalent of three years pay as backwages.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

[1] Petitioner's memorandum, pp. 11-12.

[2] Petition, p. 6.

[3] Comment, p. 1.

[4] Cf. *Philippine Overseas Drilling and Oil Development v. Ministry of Labor*, G.R. No. 55703, November 27, 1986, 146 SCRA 79, 85.

[5] *Capital Garment Corporation v. Ople*, G.R. No. 53627, September 30, 1982, 117 SCRA 473.

[6] *Flexo Manufacturing Corporation v. NLRC*, G.R. No. 55971, February 28, 1985, 135 SCRA 145, 154.

[7] *Rollo*, p. 45.

[8] *Judric Canning Corporation v. Inciong*, G.R. No. 51494, August 19, 1982, 115 SCRA 887.

[9] Comment, p. 7

[10] Cf. *Almoite v. Pacific Architects & Engineers, Inc.*, G.R. No. 73680, July 10, 1986, 142 SCRA 623.

[11] *De Leon v. NLRC*, G.R. No. 52056, October 30, 1980, 100 SCRA 691, 700.

[12] *D.M. Consunji, Inc. v. NLRC*, G.R. No. 71459, July 30, 1986, 143 SCRA 204.

[13] *Dosch v. NLRC*, G.R. No. 51182, July 5, 1983, 123 SCRA 296.

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.