

OCEAN TERMINAL SERVICES, INC. AND VICENTE PANGANIBAN, JR., PETITIONERS, VS. NATIONAL LABOR RELATIONS COM-MISSION AND ZALDY BAUTISTA, RESPONDENTS.

G.R. No. 85446. May 27, 1991

Ponente: NARVASA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-85446/>

NARVASA, J.:

Zaldy Bautista was employed in the Purchasing Department of the Ocean Terminal Services, Inc. as Expediter and Canvasser. It was his responsibility, among other things, to make emergency procurements of tools, equipment or other sundry items needed by the company, including arrangements for such emergency repairs as from time to time become necessary.

On March 21, 1986, the Gears and Equipment Department of the firm sent an urgent request to the Purchasing Department for the immediate repair of a "blow/cutting torch." The Purchasing Manager, Lito Pimentel, forthwith instructed Zaldy Bautista to get the money needed for the repair, P270.00, and have the torch repaired by 12 o'clock noon on that same day. Bautista received the sum of P270.00 for the job.

Four days later, however, or on March 25, 1986, the Gears and Equipment Department informed the Purchasing Department that it had not yet received back the blow/cutting torch. Lito Pimentel, the Purchasing Manager, thereupon got in touch with the repair shop. The latter informed him that the repair was completed on March 22, 1986, but the torch had remained unclaimed and the repair cost unpaid up to that day. Pimentel called for Bautista who could not then offer any credible explanation or produce the money. However, it appears that Bautista did thereafter deliver to the repair shop the P270.00 representing the cost of the repair of the blow/cutting torch.

On April 14, 1986 the Company sent Bautista a memorandum requiring him to explain why his employment should not be terminated on the ground of loss of confidence arising from his act of misappropriation. In response, Bautista sent a letter dated April 15, 1986, stating that there had been merely a slight delay in the payment of the repairs occasioned by his having been constrained to spend part of the company's money because of an "urgent financial problem in the province," but that he had replenished the amount a day later and paid for the repair.

After due investigation and evaluation of the evidence, the company addressed a letter to Bautista, dated April 19, 1988, dismissing him from employment on the ground of loss of trust and confidence based on malversation.

Bautista then filed a complaint with the Office of the Arbiter for illegal dismissal and such other reliefs as non-payment of overtime pay and sick and vacation leave pay. At the hearing before the Labor Arbiter, Bautista admitted having spent part of the company's money intended for the repair of the blow/cutting torch (resulting in the delay of four or five days in the payment thereof). In view thereof, the parties stipulated that the only issue to be resolved was the reasonableness of the penalty of dismissal meted out to Bautista, upon which issue position papers were submitted in due course.

The Labor Arbiter's judgment, rendered on March 24, 1988, declared that while there was "indeed a wrong

committed" by Bautista, the penalty of dismissal was not proper in the premises, and consequently, ordered that he be reinstated to his position and paid one year's back wages. The Labor Arbiter opined that the penalty was too harsh considering that the amount involved was nominal, the offense appeared to be the first committed by Bautista, and Bautista had been in the company's service for six years. In his view, the penalty of suspension for two months was sufficient.

The judgment was affirmed by the National Labor Relations Commission in toto, by Resolution dated September 28, 1988. This resolution is now assailed by the company in this Court as having been rendered with grave abuse of discretion.

It is established that Bautista did in fact convert the company's money to his own personal use and benefit and this had caused a delay of four days in the delivery of the blow/cutting torch urgently needed by the employer's Gear & Equipment Department. The respondents attempt to minimize the gravity of Bautista's offense by drawing attention to certain circumstances deemed extenuating, and theorizing that all things considered, the appropriate penalty should be only suspension of two months. The Solicitor General's Office suggests that Bautista be reinstated but re-assigned, no longer in the Purchasing or Procurement Department, but to a "non-sensitive" position in order to obviate repetition of the same or similar offenses; but it seems to the Court that in doing so, it implicitly concedes the reality of a flaw in Bautista's character or moral make-up of such seriousness that were he to remain in the Purchasing or Procurement Department, a "repetition of the same or similar offenses" might not unreasonably be expected.

The Court believes it unfair to require an employer to accept back an employee in whom it has lost confidence because his dishonesty has been clearly demonstrated, and whose moral character is deemed to be so far suspect that even his own defenders concede the inexpedience or unwisdom of reinstating him to other than a "non-sensitive position."

The law allows an employer to dismiss an employee on account of loss of confidence, provided that the loss of confidence arises from particular proven facts. On all fours is the case of *Piedad v. Lanao del Norte Electric Cooperative, Inc.*, decided by this Court in August, 1987.^[1] In that case, a regular audit of a cooperative's bill collectors "revealed a shortage in the petitioner's cash collections in the amount of P299.99 which shortage was acknowledged by petitioner (although on the same day he remitted the amount to the firm's cashier/teller); and when petitioner was dismissed, after investigation, for "failure to show cause within a reasonable period why . . . (he) should not be terminated for incurring a cash shortage of P300.00 . . . ," he sued the cooperative, on the theory that "absence of loss or damage caused the respondent cooperative by reason of the immediate return of the amount in question," and "his 9 years of unblemished service" proscribed such a harsh penalty. This Court however sustained petitioner's discharge from employment, reversing the NLRC. The Court said:

"Clearly, it was neither without rhyme nor reason that the petitioner was dismissed from employment. His acts need not result in material damage or prejudice before his dismissal on grounds of loss of confidence may be effected. Being charged with the handling of company funds, the petitioner's position, though generally described as menial, is, nonetheless, a position of trust and confidence. No company can afford to have dishonest bill collectors.

Loss of confidence is established as a valid ground for the dismissal of an employee. The law does not require proof beyond reasonable doubt of the employee's misconduct to invoke such a justification. It is sufficient that there is some basis for the loss of trust or that the employer has reasonable grounds to believe that the employee is responsible for the misconduct and his participation therein renders him unworthy of the trust and confidence demanded of his position (*Valladolid v. Inciong*, 121 SCRA 2053; see also *Dole Philippines, Inc. v. National Labor Relations Commission*, 123 SCRA 673; and *San Miguel Corporation v. National Labor*

Relations Commission, 115 SCRA 329).

Indeed, an employer may dismiss an employee for breach of trust in the handling of funds in spite of his having been acquitted in the course of a criminal prosecution. Conviction for a crime involving the loss of such funds is not necessary before the employee may be dismissed. (*San Miguel Corporation v. National Labor Relations Commission*, 128 SCRA 180). There is more reason for dismissal where the acts of misconduct and wilful breach of trust are repeatedly committed by an employee (*Philippine Long Distance Telephone v. National Labor Relations Commission*, 122 SCRA 618).

Fitness for continued employment cannot be compartmentalized into tight little cubicles of aspects of character, conduct, and ability separate and independent of each other. A series of irregularities when put together may constitute serious misconduct, which under Article 283 of the Labor Code, is a just cause for dismissal (*National Service Corporation v. Leogardo, Jr.*, 130 SCRA 502).

The precedents on the issue before us are clear. Dismissal of a dishonest employee is to the best interest not only of management but also of labor (*International Hardwood and Veneer Co. of the Phils. v. Leogardo, Jr.*, 117 SCRA 967). As a measure of self-protection against acts inimical to its interest, a company has the right to dismiss its erring employees (*Dole Phil., Inc. v. National Labor Relations Commission*, *supra*) An employer cannot be compelled to continue in employment an employee guilty of acts inimical to its interest, justifying loss of confidence in him (*International Hardwood and Veneer Co. of the Phils. v. Leogardo, Jr.* *supra*; *National Service Corporation v. Leogardo, Jr.*, *supra*; *Engineering Equipment, Inc. v. National Labor Relations Commission*, *supra*). The law does not impose unjust situations on either labor or management."

Similarly, in *San Miguel Corporation v. NLRC*, adjudicated on June 25, 1986,[2] this Court upheld the dismissal of an employee on the ground of loss of trust and confidence, for having been caught stealing several cases of beer and committing irregularities in his collections, it being "well established in our jurisprudence . . (that) an employer . . (may) dismiss an employee whose continuance in the service is inimical to the employer's interest. . . "[3]

The same disposition was made by this Court in another case involving the same company, *San Miguel Corporation v. Deputy Minister of Labor and Employment*, decided on October 27, 1986,[4] where certain employees were proven to have misappropriated funds of the company although they had subsequently "paid their individual shortages." This Court sanctioned the dismissal of the employees from employment, upholding "the right of the employer to dismiss an employee whose continuance in the service is inimical to the employer's interest."

The same disposition was also made in *Dole Philippines, Inc. v. NLRC*, a 1983 case, where certain employees were charged with but acquitted of "pilferage . . done by siphoning the diesel fuel from the tanks of the tractors operated by . . (them)" amounting in the aggregate to P50.00.[5] This Court ruled that loss of confidence as a ground for dismissal "does not entail proof beyond reasonable doubt of the employee's misconduct . . (it being) enough that 'the employer has reasonable grounds to believe, if not to entertain the moral conviction that the employee concerned is responsible for the misconduct and that the nature of his participation therein rendered him absolutely unworthy of the trust and confidence demanded by his position' (*Reyes vs. Zamora*, L-46732, May 5, 1979, 90 SCRA 92, 111 and *Galsim vs. PNB*, L-239121, August 29, 1969, 29 SCRA 293);" that "the acquittal of an employee in the criminal case filed against him by his employer does not also guarantee his reinstatement if the employer has lost confidence in him; and that a company "has the right to dismiss its erring employees if only as a measure of self-protection against acts inimical to its interest (*Manila Trading & Supply Co. v. Zulueta*, 69 Phil. 485 and *International Hardwood and Veneer co. of the Phil. vs. Leogardo*, G.R. No. 57429, October 28, 1982, 117 SCRA 967)."

WHEREFORE, the petition is granted and the writ of certiorari prayed for issued, annulling the Resolution of the respondent Commission dated September 28, 1988, and dismissing the complaint against petitioner, without pronouncement as to costs.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] 153 SCRA, 500 (per Gutierrez, Jr., J.)

[2] 142 SCRA 376 (per Abad Santos, J.)

[3] Citing Manila Trading and Supply Co. vs. Philippine Labor Union, 71 Phil. 124; Engineering Equipment, Inc. vs. NLRC, 133 SCRA 752

[4] 145 SCRA 196 (per Paras, J.)

[5] 123 SCRA 673 (per Aquino, J.); cf., Valladolid v. Inciong, 121 SCRA 205 (1983) and San Miguel Corporation v. NLRC, 115 SCRA 329 (1982) where the employees concerned, although found to have committed acts of dishonesty, were nevertheless ordered reinstated but without back wages, the penalty of dismissal being deemed too harsh, in view of certain special circumstances.

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.