

DEL MONTE PHILIPPINES, INC. (FORMERLY PHILIPPINE PACKING CORPORATION), PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND ARSENIO L. GALAGAR, RESPONDENTS.

G.R. No. 87371. August 06, 1990

Ponente: CORTES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-87371/>

CORTES, J.:

Private respondent Arsenio L. Galagar was hired by petitioner Del Monte Philippines, Inc. (formerly Philippine Packing Corporation) in 1975 initially as an issuing clerk. At the time of his dismissal, he had been working as "gas tender" for more than two years. His principal task as "gas tender" was to ensure that the gasoline purchased by petitioner was entirely and safely emptied into its underground tank and then to acknowledge receipt of the fuel by signing the delivery invoice.

On May 17, 1986, a "letter-notice" was sent by petitioner to Galagar containing the company's final decision to terminate Galagar's employment due to "Loss of Confidence - Pilferage of Company Property" based on a finding that after appropriate investigation conducted by the company, Galagar was caught stealing over 2,000 liters of diesel fuel [Decision of Labor Arbiter, p. 4; Rollo, p. 14.]

On June 2, 1986, Galagar filed a complaint for illegal dismissal and reinstatement with backwages (docketed NLRC RAB X Case No. 6-0171-86) before Executive Labor Arbiter Ildefonso G. Abuya. In a decision promulgated on August 12, 1986, the labor arbiter dismissed the complaint for lack of merit.

The following factual findings were made by the labor arbiter:

On April 2, 1986, Galagar signed Caltex Delivery Invoice No. AP 41736, acknowledging full receipt of 12,000 liters of gasoline from the Caltex delivery truck into petitioner's Dalirig underground tank. The fuel was drained into the underground tank with the assistance of Galagar, after which Juanito Salazar, the truck driver, left the Dalirig compound. On the way to Cagayan de Oro City some 200 meters away from the Dalirig station, Salazar met and was stopped by petitioner's Inventory and Management Control Supervisor, Mr. Honorato J. Gamboa. Upon inspection of the compartments which stored the purchased fuel, Gamboa found some 70 liters of gasoline still left in the first three compartments he opened. The fourth compartment yielded a full tank of 2,000 liters. Salazar remarked then that he was told by the "gas tender" (Galagar) to bring the fuel over to the company's Phillips station. However, Gamboa did not believe this since the capacity of the underground tank could easily accommodate the entire delivery, and besides, Galagar had no authority to order the diversion of the delivery to the other stations. Evidently, Galagar, in connivance with Salazar, deliberately failed to completely drain the contents of all four compartments of the delivery tanker in order to sell the fuel.

In his signed statement, Salazar admitted that he left five hundred pesos in Galagar's clipboard, apparently as part of the latter's share of the loot. Galagar, who remained in the Dalirig station when Salazar left with the undrained fuel, denied knowledge of the five hundred pesos left in his clipboard. However, despite such denial, he returned Three Hundred Pesos (P300.00) to the plantation security headquarters. Furthermore, the denial was contradicted

by his claim in a signed statement that the difference of Two Hundred Pesos (P200.00) was lent to security guard Elias Pacpaco. Galagar was suspended from work on April 16, 1986 and after investigation, was finally terminated from work on May 16, 1986.

Finding that all circumstances pointed to Galagar's participation in the attempt to pilfer over 2,000 liters of diesel fuel, the labor arbiter rejected his claim of good faith in acknowledging full receipt of the fuel although the contents of the delivery truck were not completely transferred to the tank. The labor arbiter stated that even granting that the receipts were indeed signed in good faith, Galagar would still be considered notoriously negligent in the performance of his duties.

However, although finding that Galagar was dismissed for cause, the labor arbiter ordered petitioner to extend "financial assistance" equivalent to one-half month's pay for every year of service "in view of Complainant's length of service." [Labor Arbiter's Decision, p. 7; Rollo, p. 17.]

Petitioner then appealed to the NLRC assailing solely the part of the decision which awarded separation pay in the guise of "financial assistance" notwithstanding the finding of just cause for dismissal.

Galagar, in his reply/opposition to petitioner's appeal, addressed a different issue. Arguing that he was unjustly dismissed, he maintained that he should be reinstated with backwages.

On March 30, 1988, the NLRC, based on a different interpretation of the events that took place, rendered the assailed decision reversing the labor arbiter's finding of just cause for dismissal and thereby ordered petitioner to reinstate Galagar with full backwages. The motion for reconsideration filed by petitioner was dismissed by the NLRC. Hence, this petition.

Private respondent and the Solicitor General filed their respective comments. Considering the comments as the answer, the Court resolved to give due course to the petition and to require the parties to file their respective memoranda. Petitioner filed its reply to the Solicitor General's comment, and later complied by submitting its memorandum. The private and public respondents adopted their comments as their respective memoranda.

The issue presented for adjudication in this petition is whether or not there was grave abuse of discretion on the part of the NLRC in reversing the labor arbiter's decision.

We rule in the affirmative.

An appeal from a decision, award or order of the labor arbiter must be brought to the NLRC within ten (10) calendar days from receipt of such decision, award or order, otherwise, the same becomes final and executory [Art. 223, Labor Code; Rule VIII, Sec. 1(a), Revised Rules of the NLRC.] Moreover, the rules of the NLRC expressly provide that on appeal, the Commission shall limit itself only to the specific issues that were elevated for review, all other matters being final and executory [Rule VIII, Sec. 5 (c), Revised Rules of the NLRC, underscoring supplied.]

In the present case, petitioner, aggrieved by the labor arbiter's decision ordering the extension of financial assistance to Galagar despite the finding that his termination was for just cause, specifically limited his appeal to a single legal question, i.e., the validity of the award of financial assistance to an employee dismissed for pilfering company property. On the other hand, private respondent did not appeal.

When petitioner limited the issue on appeal, necessarily the NLRC may review only that issue raised. All other matters, including the issue of the validity of private respondent's dismissal, are final. If private respondent wanted to challenge the finding of a valid dismissal, he should have appealed his case seasonably to the NLRC. By raising new issues in the reply to appeal, private respondent is in effect appealing his case although he has, in

fact, allowed his case to become final by not appealing within the reglementary period. A reply/opposition to appeal cannot take the place of an appeal. Therefore, in this case, the dismissal of the complaint for illegal dismissal and the denial of the prayer for reinstatement, having become final, can no longer be reviewed.

Justifying its right to review the entire case and not just the sole legal question raised, public respondent relied on Article 218 (c) of the Labor Code. In the resolution denying the motion for reconsideration, public respondent quoted that portion which provides that the NLRC may in the exercise of its appellate power "correct, amend or waive any error, defect or irregularity whether in substance or in form." [Resolution p. 2; Rollo, p. 35.]

Such reliance is misplaced.

The Labor Code provision, read in its entirety, states that the NLRC's power to correct errors, whether substantial or formal, may be exercised only in the determination of a question, matter or controversy within its jurisdiction [Art. 218, Labor Code.] Therefore, by considering the arguments and issues in the reply/opposition to appeal which were not properly raised by timely appeal nor comprehended within the scope of the issue raised in petitioner's appeal, public respondent committed grave abuse of discretion amounting to excess of jurisdiction.

The contention that the NLRC may nevertheless look into other issues although not raised on appeal since it is not bound by technical rules of procedure, is likewise devoid of merit.

The law does not provide that the NLRC is totally free from "technical rules of procedure", but only that the rules of evidence prevailing in courts of law or equity shall not be controlling in proceedings before the NLRC [Art. 221, Labor Code.] This is hardly license for the NLRC to disregard and violate the implementing rules it has itself promulgated. Having done so, the NLRC committed grave abuse of discretion.

On the other hand, the finding of the labor arbiter that private respondent breached his employer's trust and confidence by pilfering company property was supported by substantial evidence, and became final when no appeal was made on the legality of the dismissal. We find no cogent reason to depart from the findings of fact of the labor arbiter or the conclusion that the dismissal was lawful.

Coming now to the award of financial assistance to private respondent, we find that the same must be deleted. The ruling in *Philippine Long Distance Telephone Co. v. NLRC* [G.R. No. 80609, August 23, 1988, 164 SCRA 671,] a case likewise involving award of financial assistance to employees validly dismissed on grounds of dishonesty, is clear on the matter and applies to the present case. To reiterate the rule in said case:

We hold that henceforth separation pay shall be allowed as a measure of social justice only in those instances where the employee is validly dismissed for causes other than serious misconduct or those reflecting on his moral character. Where the reason for the valid dismissal is, for example, habitual intoxication or an offense involving moral turpitude, like theft or illicit sexual relations with a fellow worker, the employer may not be required to give the dismissed employee separation pay, or financial assistance, or whatever other name it is called, on the ground of social justice. [At p. 682.]

WHEREFORE, premises considered, the decision of the NLRC promulgated March 30, 1988 is hereby SET ASIDE. The decision of the labor arbiter in NLRC RAB X Case No. 6-0171-86 is hereby REINSTATED but with the MODIFICATION that the award of financial assistance is deleted.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., and Feliciano, JJ., concur.

Bidin, J., on leave.

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.