# SECON PHILIPPINES, LTD., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (NLRC) AND ERNESTO B. GRULLA, RESPONDENTS.

*G.R. No. 97399. December 03, 1999*

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-97399/

**QUISUMBING, J.:**

This special civil action for certiorari seeks to annul the Resolution of NLRC promulgated on December 10, 1990, in POEA Case Nos. (L) 86-03-184, and its Resolution dated January 28, 1991, which denied petitioner's motion for reconsideration.

On July 1, 1985, petitioner hired private respondent as group leader for its construction project in Iraq. The duration of the contract is twelve months but private respondent will be under probation for two months. Before leaving for Iraq, private respondent was told that a representative of petitioner would meet him at the jobsite to provide him specifications of his duties. On July 9, 1985, private respondent together with twenty seven contract workers left Manila for Iraq. Upon arrival at the jobsite, nobody was around to apprise private respondent of his duties as a group leader. Nevertheless, he proceeded to perform his work at the jobsite. In August 4, 1985, a representative of SECON International asked private respondent to attest that their salaries for May, 1985, were already paid to their respective allottees in the Philippines. Private respondent refused to do so in the absence of any confirmation from Manila.

On August 6, 1985, or about only one month in the job, he was surprised to be repatriated to the Philippines. Upon his return to the country, private respondent was served in September, 1985, a notice of termination dated August 25, 1985, informing him that he was repatriated for not passing the probationary period as he did not qualify for the position he was assigned to.[1]

Feeling aggrieved, private respondent filed on March 8, 1986, before the Philippine Overseas Employment Administration (POEA)[2] a complaint for illegal dismissal with prayer for reinstatement and payment of backwages.

In a decision rendered on December 29, 1989, the POEA ruled in favor of private respondent. The labor agency found that petitioner failed to prove that private respondent did not meet the performance standards set by the employer, and that such standards were made known to private respondent at the time of engagement. The POEA decreed as follows:

> "WHEREFORE, premises considered, judgment is hereby rendered ordering respondent to pay unto the complainant the sum of US$5,865.32 representing the unexpired portion of his contract and the further sum of US$398.50 as earned wages.
>
> SO ORDERED."[3]

On appeal, the NLRC affirmed the decision of the POEA.[4] Its motion for reconsideration having been denied,

petitioner filed the instant petition.

More appropriately phrased, the issue for our consideration is whether or not the NLRC committed grave abuse of discretion in affirming the judgment of POEA finding private respondent's dismissal to be illegal.

Petitioner contends that public respondent committed grave abuse of discretion in not considering the several just causes that led to the dismissal of private respondent, and in not finding that the dismissal was for cause.[5]

This petition essentially raises a factual issue. We have consistently ruled that resort to a judicial review of the decisions of the NLRC in a petition for certiorari under Rule 65 of the Rules of Court is confined only to issues of want or excess of jurisdiction and grave abuse of discretion. It does not include an inquiry as to the correctness of the evaluation of evidence which was the basis of the labor tribunal in determining its conclusion. It is not for this Court to re-examine conflicting evidence, re-evaluate the credibility of the witnesses nor substitute the findings of fact of an administrative tribunal which has gained expertise in its specialized field. Thus, factual findings of the Labor Arbiter and the NLRC are entitled to due respect and even finality if supported by substantial evidence.[6]

As revealed by the records, we find that the NLRC judgment sustaining the ruling of the POEA has sufficient factual and legal bases. Thus, there is no cogent reason to set aside the findings and the judgment of the Commission.

It is settled that while probationary employees do not enjoy permanent status, they are entitled to the constitutional protection of security of tenure. Their employment may only be terminated for just cause or when they fail to qualify as regular employees in accordance with reasonable standards made known to them by their employer at the time of engagement,[7] and after due process.[8]

There is no dispute that private respondent was dismissed from the service during his probationary period of employment. As stated in the repatriation letter, he was dismissed for failing to qualify for the position he occupied. Unfortunately, petitioner did not prove that private respondent was properly apprised of the standards of the job at the time of his engagement. Neither was it shown that private respondent failed to meet such standards.

To justify private respondent's dismissal, petitioner relied on the affidavit of Mr. Greco, executive manager of SECON International, claiming that private respondent was thoroughly briefed about his duties as group leader, first, in Manila by Mr. Greco, and then at the jobsite by Mr. Obsina whom private respondent was going to replace. But the POEA found such document of inconsequential value, for it was prepared long after the dismissal of private respondent and after the complaint for illegal dismissal was instituted. In rejecting said document, the POEA also observed that the allegations contained therein contradicts the tenor of a letter of Mr. Greco, affiant himself, addressed to private respondent instructing the latter to read the papers of Mr. Obsina to acquaint himself with the work of a group leader.[9] Private respondent thus appeared lacking adequate briefing about his duties, otherwise such instruction would be unnecessary.

Now, on the procedural aspect of termination of employment. As repeatedly stressed, due process is one which hears before it condemns, which proceeds upon inquiry and renders judgment only after hearing. Even if the employee committed an act which could constitute a lawful cause or justification for his dismissal, nevertheless, the employer should first give him the opportunity to explain or present his side. Where the employee denies the charge against him, a hearing is necessary to thresh out any doubt.[10] Due process in dismissal cases entails compliance with the twin requirements of notice and hearing. Thus, the employer must furnish the employee with two written notices before the termination of employment can be effected. The first apprises the employee of the particular acts or omissions for which his dismissal is sought; the second informs him of the employer's decision to dismiss him.[11]


Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

In the case at bar, private respondent was repatriated to the Philippines on August 6, 1985, yet his repatriation letter (termination notice) dated August 25, 1985, was handed to him only in September, 1985, while he was already in the country. We note also that petitioner enumerates several causes to support its claim that private respondent did not meet the standards of his job. These include gross misconduct, dishonesty, misrepresentation and falsification. But petitioner did not conduct an investigation thereon, much less, afford private respondent a chance to explain and defend himself. Clearly, petitioner was remiss in observing the fundamental requirements of due process in regard to the termination of private respondent.

WHEREFORE, the instant petition is DISMISSED, and the assailed RESOLUTION of public respondent is AFFIRMED.

**SO ORDERED.**

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

---

[1] Rollo, p. 94.

[2] Under Section 10, R.A. 8042, approved on June 7, 1995, the Labor Arbiters have now original and exclusive jurisdiction to hear and decide claims arising out of an employer-employee relationship, or by virtue of any law or contract involving Filipino workers for overseas deployment including claims for damages.

[3] Rollo, p. 59.

[4] Rollo, p. 27.

[5] Rollo, pp. 8 and 14.

[6] ComSavings Bank vs. NLRC, 257 SCRA 307, 317 (1996).

[7] Manlimos vs. NLRC, 242 SCRA 145, 155-156 (1995).

[8] P.I. Manpower Placements, Inc. vs. NLRC, 276 SCRA 451, 457 (1997).

[9] Rollo, p. 57

[10] Caoile vs. NLRC, GR No. 115491, November 24, 1998, p. 10.

[11] Lagatic vs. NLRC, 285 SCRA 251, 258 (1998).


*Study hands-free: podcast-style lessons with read-along highlighting - batas.org*

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.