

**TAIHEI COMPANY LTD. AND MARITIME FACTORS, INC.,
PETITIONERS, VS. THE NATIONAL LABOR RELATIONS COMMISSION,
THE PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION AND
RODOLFO E. GRAMPA...**

G.R. Nos. 75052-53. August 12, 1991

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-75052-53/>

CRUZ, J.:

This petition against the resolution of the NLRC dated December 2, 1985, was dismissed by the Court for failure to show that the public respondent had acted with grave abuse of discretion.[1] On the petitioner's motion for reconsideration, we eventually gave due course to the petition and required the parties to submit simultaneously their respective memoranda.[2] After re-examining the issues and the arguments of the petitioner and the respondents in the light of the pertinent record, we find no reason to grant the reconsideration sought or to reverse our original dismissal of this case.

The issues raised are essentially factual and therefore within the competence of the NLRC and the POEA to assess and resolve, subject to review and reversal by this Court only if the findings thereon are tainted with arbitrariness. The reason is that this Court is not a trier of facts and must ordinarily rely for the determination thereof on the proceedings below. As the resolution by the public respondent of the factual issues in the case at bar has not been demonstrated to be flawed, it must be affirmed.

As found by the POEA, private respondent Rodolfo Grampa was hired by Taihei Company, Ltd., the herein petitioner, as a Group A Chief Engineer for its vessel, the Yanbu-16. His contract was for 18 months with a monthly salary of US\$800 plus a fixed monthly overtime pay of US\$300.[3] The Crew Agreement signed by the parties included the following provision:

(c) all claims, complaints or controversies relative to this Contract shall be exclusively resolved through the established grievance procedure, the National Seamen Board; and the Philippine Court of Justice, in that order.

The term of the contract began on October 15, 1983, when Grampa left for Saudi Arabia to assume his duties. It was terminated on April 7, 1984, when he received a notice of his dismissal from Operations Manager Ko Sasaki of the petitioner company for various offenses enumerated in the notice.[4]

The offenses included insubordination, disrespect, disobedience, laziness, incompetence, gross misbehavior, and poor personal relations with his co-workers, among other shortcomings. The dismissal was based on several reports of Grampa's superiors and complaints filed by his crew-mates, some of whom threatened to resign if he was not replaced or transferred.[5]

Grampa refuted the charges against him in his letter to Sasaki dated April 11, 1984,[6] but he was nevertheless repatriated on April 21, 1984, after working for only 6 months and 6 days for the petitioner.

Upon his return to the Philippines, he filed a complaint for illegal dismissal against the petitioner, which filed its own complaint for his expatriation expenses and for attorney's fees. The two cases were consolidated.

After considering the position papers submitted by the parties, the POEA held in favor of the complainant and awarded him damages in "the amount of US\$12,440.14, or its equivalent in Philippine currency at the prevailing foreign exchange rate of payment, representing unearned salaries corresponding to the unexpired portion of the employment contract." [7] On appeal, this decision was affirmed in toto by the NLRC in its resolution dated December 2, 1985. [8]

We also affirm.

We find, in the first place, that the ruling of the POEA and the NLRC regarding the illegality of the manner of Grampa's dismissal cannot be faulted. It is not denied that the petitioner has not complied with the above-quoted provision in the Crew Agreement nor has it proved that there was any kind of formal investigation of the charges against Grampa or at least a report of such investigation.

Independently of such stipulation, there were also the pertinent provisions in our labor laws that were equally disregarded by the petitioner. The procedure for terminating employment is set forth in the rules implementing BP 130 as follows:

Sec. 2. Notice of Dismissal. - Any employee who seeks to dismiss a worker shall furnish him a written notice stating the particular acts or omission constituting the grounds for his dismissal. In cases of abandonment of work, the notice shall be served at the worker's last known address.

Sec. 5. Answer and Hearing. - The worker may answer the allegations stated against him in the notice of dismissal within a reasonable period from receipt of such notice. The employer shall afford the worker ample opportunity to be heard and to defend himself with the assistance of his representative if he so desires.

Sec. 6. Decision to dismiss. - The employer shall immediately notify a worker in writing of a decision to dismiss him stating clearly the reasons therefor.

The petitioner stresses that Grampa was duly notified of the charges against him in the letter dated January 29, 1984, of Captain James Milhench, Chief Superintendent, [9] and that it was only on April 11, 1984, that the private respondent submitted his explanation to Mr. Sasaki. There is no indication on the face of the letter of the date it was received by the private respondent and of the period within which he should answer the charges.

We may suppose from the composition and grammar of his letter that it took Grampa some difficulty to write it, let alone the fact that he apparently had no one to consult or help him, much less a counsel to advise him at that time. At any rate, it is clear that Grampa was not given an opportunity to be heard and that, on the contrary, it was simply assumed, as the letter threatened, that his silence was an admission of his guilt. The record shows that the decision to dismiss him had already been reached on April 4, 1984, as the action memo of that date shows, [10] before Grampa's explanation was received.

Considering the factual nature of the charges against Grampa, the least the petitioner could have done was to remind him of the need to submit his explanation before unilaterally pronouncing his guilt. The long explanation he made clearly showed that the charges required no less than a formal investigation where he could confront the witness against him and refute their accusations face to face.

The petitioner now argues that even if Grampa was not allowed such formal investigation before his dismissal, the defect was cured when he was allowed the opportunity to be heard in the proceedings before the POEA and the NLRC. In *Wenphil Corporation v. NLRC*, [11] this Court still held the employer liable for dismissing the employee without a formal investigation although the employee was not denied due process in the proceedings

held later before the labor arbiter and the NLRC. The subsequent compliance with procedural due process did not wipe out the defect of its earlier denial by the employer.

Concerning the grounds for Grampa's dismissal, we find that the assessment thereof by the POEA and the NLRC was based on the copious evidence submitted by the parties and on their arguments in their position papers. We agree with the observation that the petitioner should not have taken 6 months to dismiss the private respondent if his services were really unsatisfactory. That delay could have been justified if a formal investigation was being held in the meantime, but no such investigation was made at all. The petitioner would have acted more swiftly if indeed Grampa's "continued presence on board (would) endanger the machinery under his control and adversely affect the work of other crew members." [12]

The circumstance that the charges were made by the petitioner's employees also casts some doubt on their credibility although it is conceded that such complaints could not have come except only from them. In the nature of things, we think it is not unlikely for an employee to defer to the requests of his employer to testify in its favor, if only to protect his own employment, if not actually to improve it.

That is why we find especially noteworthy the certification made by Capt. Gemidel D. Ibabao, Grampa's immediate superior, attesting that the private respondent was a "hardworker, sincere to his duties and is able to maintain a harmonious relationship with his co-workers." [13] This was handwritten and dated April 11, 1984. While it is true that he was one of those who signed the petition to dismiss Grampa on April 15, 1984, [14] Ibabao retracted this on May 2, 1984, and reiterated his original certification. [15] This stance of Ibabao's appears to be more credible because it was made against the interests of the petitioner at risk of his own employment.

In striking contrast to the complaints against Grampa are the testimonials of his qualifications submitted by disinterested persons who did not have to be in the good graces of the petitioner. [16] The fact that they referred to his services before his employment with the petitioner company did not mean that he had changed suddenly and drastically to become the odious person the petitioner would portray him to be. If Grampa had indeed acted differently later, the cause might have come from the conditions of his new employment and the treatment he received from his superiors and co-workers.

We have carefully considered the decision of then POEA Administrator Patricia A. Sto. Tomas (who has since been promoted to Chairman of the Civil Service Commission) and find that her evaluation of the evidence submitted in this case is not tainted with grave abuse of discretion. On the contrary, it is quite judicious. In a petition for certiorari under Rule 65 of the Rules of Court, the factual findings in the challenged decision are conclusive on this Court except only where it is clearly shown that they were arrived at arbitrarily or in disregard of the evidence on record. As there is no such showing here, the proceedings below must be sustained.

WHEREFORE, the motion for reconsideration is DENIED with finality and the challenged resolution of the NLRC dated December 2, 1985, is again AFFIRMED, with costs against the petitioner. It is so ordered.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Rollo, p. 87.

[2] Ibid., p. 142.

[3] Annex A, Original Records, p. 621.

[4] Original Records, p. 649.

[5] Report of disrespect and insubordination made by Capt. Romeo Llander, the company's nautical superintendent, dated Jan. 7, 1984, and reiterated on April 3, 1984 (Rollo, pp. 23-24; 32-33); complaints for inefficiency and disobedience submitted by Chief Engr. Grajo dated Jan. 7 & 23, 1984 (Ibid., pp. 25, 26-27); letters submitted by Chief Engineer Cesar Montes dated March 6, 1984 and April 1, 1984, attesting to Grampa's misbehavior and incompatibility with his co-workers (Rollo, p. 29 & 31); March 22, 1984, report by Oiler Tirso Somoza, Jr. of Grampa's non-cooperation with his co-workers (Rollo, p. 30).

[6] Ibid., pp. 84-86.

[7] Id., pp. 36-42.

[8] id., pp. 44-51.

[9] id., p. 28.

[10] id., p. 34.

[11] 170 SCRA 69.

[12] Action Memo, Rollo, p. 34.

[13] Original Records, p. 640.

[14] Rollo, p. 35.

[15] Original Records, p. 639.

[16] Certification issued by E. Smith, Superintendent Engineer of Lamnalco Ltd. (Saudi Arabia) attesting to the superior conduct and ability of Grampa as an Engineer during his employment from Feb. 12, 1980, to Sept. 28, 1980 (Original Records, p. 653); letter issued by Lorna Reyes, President of E.L.S. Reyes Enterprises, shipping agent of M.V. Daphnenar, vouching for Grampa's good performance as a third engineer during his employment from Nov. 28, 1980 to April 28, 1980 (Original Records, p. 652); confirmations made by W.M. Morris, operations manager of Gulf Marine Services and Florida Galang, its personnel officer, warranting that as a chief engineer in RIAH 3402 and in Jack Up Barge NAASH 4302 from August 25, 1981, to Feb. 25, 1982, and April 23, 1982 and Sept. 1, 1982, respectively, Grampa's performance was satisfactory (Original Records, pp. 650 & 651).

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.