

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**ROLANDO APARENTE, SR.**  
*Petitioner,*

*-versus-*

**G.R. No. 117652**  
**April 27, 2000**

**NATIONAL LABOR RELATIONS  
COMMISSION, and COCA-COLA  
BOTTLERS PHILIPPINES, INC.,**  
*Respondents.*

X-----X

**DECISION**

**DE LEON, JR., J.:**

Before us is a Petition for Certiorari<sup>[1]</sup> seeking to annul the Resolution dated September 19, 1994 of the National Labor Relations Commission (NLRC)<sup>[2]</sup> which reversed the decision of the labor arbiter dated April 23, 1990 and found the dismissal of petitioner for violation of company rules and regulations as valid.

The pertinent facts are as follows:

Petitioner Rolando Aparante, Sr. was first employed by private respondent Coca-Cola Bottlers Phils., Inc. (CCBPI), General Santos City Plant as assistant mechanic in April 1970. He rose

through the ranks to eventually hold the position of advertising foreman until his termination on May 12, 1988 for alleged violation of company rules and regulations.<sup>[3]</sup> His monthly salary at the time of his termination was ₱5,600.00.<sup>[4]</sup>

On November 9, 1987 at around 10:30 in the morning, petitioner drove private respondent's advertising truck with plate number LBV-970 to install a panel sign. While traversing Zenia St. Ext., Polomolok, South Cotabato, petitioner sideswiped Marilyn Tejero, a ten-year old girl. Petitioner brought Tejero to Heramil Clinic for first aid treatment. As the girl suffered a 2 cm. fracture on her skull which was attributed to the protruding bolt on the truck's door, she was subsequently transferred to the General Santos City Doctor's Hospital where she underwent surgical operation. She stayed in the hospital for about a month.<sup>[5]</sup>

On November 14, 1987 or five days after the accident, petitioner reported the incident to private respondent. At about the same time, petitioner submitted himself to the police authorities at Polomolok, South Cotabato for investigation<sup>[6]</sup> where it was discovered that petitioner had no driver's license at the time of the accident. In view thereof, FGU Insurance Corporation, an insurer of private respondent's vehicles, did not reimburse the latter for the expenses it incurred in connection with Tejero's hospitalization.<sup>[7]</sup> Private respondent spent a total amount of ₱19,534.45, ₱17,988.48 of which was spent for hospitalization expenses while the remaining amount served as Tejero's living allowance during her confinement.

On November 26, 1987, private respondent conducted an investigation of the incident where petitioner was given the opportunity to explain his side and to defend himself.

On May 12, 1988, private respondent dismissed petitioner from employment for having violated the company rules and regulations particularly Sec. 12 of Rule 005-85<sup>[8]</sup> for blatant disregard of established control procedures resulting in company damages amounting to ₱19,534.45.<sup>[9]</sup>

Aggrieved, petitioner instituted a case for illegal dismissal<sup>[10]</sup> against private respondent before the Labor Arbiter. After the parties filed their respective position papers, the Labor Arbiter rendered a decision, the dispositive portion of which reads:

ACCORDINGLY, respondent Coca-Cola Bottlers Phil. Inc. (CCBPI) is hereby directed to reinstate complainant to his former or substantially equivalent position in General Santos City without loss of seniority rights and other privileges. Pursuant to RA 6715, the reinstatement of complainant is immediately executory upon the promulgation of this Decision.

The claim for backwages and damages is however DENIED for reasons aforesaid.<sup>[11]</sup>

Dissatisfied, both parties appealed to the NLRC which dismissed both appeals and affirmed the decision of the Labor Arbiter in a resolution dated June 27, 1994.

Private respondent filed a motion for reconsideration of the said resolution which was granted by the NLRC on September 19, 1994. In reversing its previous resolution, the NLRC ruled:

WHEREFORE, the Resolution of this Commission dated June 27, 1994 is reconsidered. Accordingly, the Resolution affirming<sup>[12]</sup> the decision of Labor Arbiter below dated April 23, 1990 is vacated and set aside. In its stead, judgment is hereby rendered declaring the dismissal of complainant as one for just cause and effected after observance of due process. His dismissal, is, thus, Sustained [as valid and lawful. However, considering that complainant's violation of company rule is not reflective of his moral character plus his eighteen (18) long years of loyal and efficient service to the company, respondent company is ordered to pay complainant separation pay by way of financial assistance equivalent to one-half (1/2) month pay for every year of service.

Complainant's appeal is ordered Dismissed for lack of merit.<sup>[13]</sup>

Hence, this petition.

Petitioner contends that the NLRC erred in holding that private respondent afforded him due process. He argues that when he was investigated for his involvement in the vehicular accident, it was simply for the offense of driving without a valid driver's license. He further asserts that had he been informed of the alleged damages incurred by private respondent, he could have presented evidence to prove otherwise. Thus, he would not have been terminated from service pursuant to Sec. 12 of Rule 005-85 of CCBPI's Code of Disciplinary Rules and Regulations which provides that:

A first, second and third offense is punishable only by a suspension of 6 days, 15 days, and 30 days, respectively. The penalty of "discharge" is imposed only after the fourth offense or when the damage caused upon private respondent is more than ₱5,000.00. (*Underscoring supplied*).

Petitioner's contention is baseless. He was fully aware that he was being investigated for his involvement in the vehicular accident that took place on November 9, 1987. The investigation was conducted because he figured in an accident in which he sideswiped Marilyn Tejero, and not for mere violation of traffic rules. It was also known to petitioner that as a result of the accident, the victim suffered a 2 cm. fracture on her skull which led to the latter's surgical operation and confinement in the hospital for which private respondent incurred expenses amounting to ₱19,534.45 which FGU Insurance Corporation refused to reimburse upon finding that petitioner was driving without a valid driver's license. Thus, being aware of all these circumstances and the imposable sanctions under private respondent's Code of Disciplinary Rules and Regulations, petitioner should have taken it upon himself to present evidence to lessen his culpability.

While the stenographic notes taken during the investigation of petitioner do not state that the amount of ₱19,534.45 was paid for the hospitalization of the victim and that the insurance company did not reimburse private respondent for its expenses, the Memorandum dated May 12, 1988 terminating petitioner's employment clearly states that:

X X X

You, therefore, have violated the Company Rules and Regulations, particularly Sec. 12 of Rule 005-85 for blatant disregard of established control procedures which resulted in Company damages amounting to Nineteen Thousand Five Hundred Thirty Four and 45/100 (P19,534.45).

X X X

If petitioner did not agree with the amount purporting to be the loss suffered by the company, he should have refuted the same before the labor arbiter. This omission creates an adverse inference that such uncontroverted evidence speaks of the truth.<sup>[14]</sup> Not only did petitioner fail to contradict the same, he even impliedly admitted the amount of such expenses when he alleged in his position papers that:

But for the paltry and measly sum of P19,534.45 (yes, the sum is paltry and measly considering the wealth of respondent), he got his walking papers.<sup>[15]</sup>

Entrenched is the rule that the essence of due process does not necessarily mean or require a hearing but simply a reasonable opportunity or a right to be heard or as applied to administrative proceedings, an opportunity to explain one's side.<sup>[16]</sup> In labor cases, the filing of position papers and supporting documents fulfill the requirements of due process.<sup>[17]</sup>

Petitioner also contends that the NLRC erred in ordering his dismissal despite its initial finding that the private respondent had implicitly tolerated his driving without a license.

According to petitioner, he informed the company that he had lost his license five months before the accident. Notwithstanding such fact, the company allowed petitioner to continue performing his job which necessarily included driving the vehicle assigned to him. Thus, petitioner shifts the blame to the company, claiming that it should have simply ordered him to desist from driving the vehicle once it was informed of the loss of petitioner's license. Private respondent's

failure to do so amounted to a waiver of its own rules and regulations which it cannot now invoke to justify petitioner's dismissal from service.

Petitioner's contention is belied by his very own admission in his position papers filed before the Labor Arbiter and the NLRC that the company had in fact prohibited him from driving immediately after he lost his license, and had requested him to secure a new license.<sup>[18]</sup> However, through misrepresentations, the petitioner led the private respondent to believe that he had procured another driver's license. Thus, he was permitted to drive again.<sup>[19]</sup>

In fact, during the investigation conducted by private respondent after the accident, petitioner attempted once more to mislead the private respondent into believing that he had a driver's license at the time of the accident. He declared as follows:

X X X

*Q11.* Upon (sic) basing on the Police report of Traffic Division Head, Cpl. George Valencia, he disclosed further that you were not carrying a valid driver's license during the vehicular accident last November 9, 1987. What can you say about his finding?

*A11.* That is only the Police allegation that I was not carrying a valid driver's license during the vehicular accident. In fact I presented my driver's license to him. My license number is P-LO4-65-011834, which will expire on October 28, 1988.

*Q12.* On (sic) this investigation, can you present your Professional Driver's license to me?

*A12.* Yes.

*Q13.* Upon further analysis on (sic) your Professional Driver's License which bears the number P-LO4-65-11834, which will expire on October 28, 1988, I noticed that it was only issued to you by Gen. Santos LTC last November 16, 1987. What can you say about this?

A13. It was only on that very day that I was able to claim the original copy of the Driver's License for legal purposes.<sup>[20]</sup>

If it were true that the private respondent had known all along that petitioner was driving without a license, then there would have been no need for the latter to assert the contrary during the investigation.

Hence, the issue that arises now is whether or not the infraction committed by petitioner warrants the penalty of dismissal despite the fact that it was his first offense during his eighteen (18) long years of satisfactory and unblemished service.

We answer in the affirmative.

**First**, the petitioner's dismissal is justified by Company rules and regulations. It is true that his violation of company rules is his first offense. Nonetheless, the damage caused to private respondent amounted to more than ₱5,000.00, thus, the penalty of discharge is properly imposable as provided by Section 12 of Rule 005-85 of CCBPI's Code of Disciplinary Rules and Regulations.

It is recognized that company policies and regulations, unless shown to be grossly oppressive or contrary to law, are generally valid and binding on the parties and must be complied with until finally revised or amended, unilaterally or preferably through negotiation, by competent authority.<sup>[21]</sup> The Court has upheld a company's management prerogatives so long as they are exercised in good faith for the advancement of the employer's interest and not for the purpose of defeating or circumventing the rights of the employees under special laws or under valid agreements.<sup>[22]</sup>

**Second**, Article 282<sup>[23]</sup> (a) of the Labor Code of the Philippines sanctions termination by the employer of the employee's services for serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work. In the instant case, petitioner Aparente was terminated from service after having been found guilty of driving without a valid driver's license, which is a clear violation of the company's rules and regulations.

In order that an employer may dismiss an employee on the ground of willful disobedience, there must be concurrence of at least two requisites: The employee's assailed conduct must have been willful or intentional, the willfulness being characterized by a wrongful and perverse attitude; and the order violated must have been reasonable, lawful, made known to the employee and must pertain to the duties which he had been engaged to discharge.<sup>[24]</sup> We have found these requisites to be present in the case at bar. The extant evidence on record clearly reveals the willful act of petitioner Aparente in driving without a valid driver's license, a fact that he even tried to conceal during the investigation conducted by private respondent. Such misconduct should not be rewarded with re-employment and backwages, for to do so would wreak havoc on the disciplinary rules that employees are required to observe. The law warrants the dismissal of an employee without making any distinction between a first offender and a habitual delinquent where the totality of the evidence was sufficient to warrant his dismissal. In protecting the rights of the laborer, the law authorizes neither oppression nor self-destruction of the employer.<sup>[25]</sup>

An employee who is dismissed for cause is generally not entitled to any financial assistance. Equity considerations, however, provide an exception. Equity has been defined as justice outside law, being ethical rather than jural and belonging to the sphere of morals than of law. It is grounded on the precepts of conscience and not on any sanction of positive law, for equity finds no room for application where there is law.<sup>[26]</sup> In the case of *Camua v. NLRC*,<sup>[27]</sup> the Court laid down the guidelines in the grant of separation pay to a lawfully dismissed employee, thus:

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.

In the instant case, we find the award to petitioner of separation pay by way of financial assistance equivalent to one-half (1/2) month's pay for every year of service equitable. Although meriting termination of employment, petitioner's infraction is not so reprehensible nor unscrupulous as to warrant complete disregard for the fact that this is his first offense in an employment that has spanned eighteen (18) long years.

**WHEREFORE**, the petition is **DISMISSED**, and the assailed resolution of public respondent NLRC dated September 19, 1994 is **AFFIRMED**.

No pronouncement as to costs.

**SO ORDERED.**

**Bellosillo, J., (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.**

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[1] Under Rule 65 of the Revised Rules of Court.

[2] NLRC Case No. RAB-11-07-50153-88.

[3] Rollo, p. 134.

[4] Rollo, p. 21.

[5] Rollo, pp. 5, 184.

[6] Rollo, p. 65.

[7] Rollo, p. 48.

[8] A first, second and third offense is punishable only by a suspension of 6 days, 15 days and 30 days respectively. The penalty of "discharge" is imposed only after the fourth offense or when the damage caused upon private respondent is more than P5,000.00.

[9] Rollo, p. 69.

[10] Docketed as RAB-11-07-50153-88, Department of Labor and Employment, Regional (DOLE) Sub-Arbitration Branch No. XI, General Santos City.

[11] Rollo, p. 20.

[12] The dispositive portion of the NLRC Resolution dated September 19, 1994 erroneously stated that it was reversing the decision of the Labor Arbitrator.

[13] Rollo, pp. 33-34.

- [14] Manila Bay Club Corporation v. Court of Appeals, 249 SCRA 303, 305, 306 (1995) citing Starkie on Evidence, p. 846, Moore on Facts, Vol. 1, p. 544; Somers v. McCready, 96 Md. 437, 53 Alt. Rep. 1117, per Jones, C.J. Moore on Facts, Vol. 1, p. 559.
- [15] Rollo, p. 16.
- [16] National Semiconductor (HK) Distribution, Ltd. v. National Labor Relations Commission, 291 SCRA 348, 354 (1998).
- [17] Fernandez v. National Labor Relations Commission, 285 SCRA 149, 168 (1998).
- [18] Rollo, p. 29.
- [19] Ibid.
- [20] Rollo, p. 67.
- [21] Tanala v. NLRC, 252 SCRA 315, 320 (1996).
- [22] Manila Electric Company v. NLRC, 263 SCRA 531, 538 (1996).
- [23] Art. 282. Termination by employee. – An employer may terminate an employment for any of the following causes:
- (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
  - (b) Gross and habitual neglect by the employee of his duties;
  - (c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
  - (d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and
  - (e) Other causes analogous to the foregoing.
- [24] Lagatic v. National Labor Relations Commission, 285 SCRA 251, 257 (1998).
- [25] Colgate-Palmolive Philippines, Inc. v. Ople, 163 SCRA 323, 331 (1988).
- [26] PLDT v. NLRC, 164 SCRA 671, 681 (1988).
- [27] 279 SCRA 45, 51 (1997).