

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**ENRIQUE A. ARBOLEDA,**  
*Petitioner,*

*-versus-*

**G.R. No. 119509  
February 11, 1999**

**NATIONAL LABOR RELATIONS  
COMMISSION and MANILA ELECTRIC  
COMPANY,**

*Respondents.*

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**D E C I S I O N**

**BELLOSILLO, J.:**

This Petition for Certiorari seeks to reverse and set aside for grave abuse of discretion the Decision of respondent National Labor Relations Commission (NLRC) dated 29 November 1994 reversing that of the Labor Arbiter sustaining petitioner.

Enrique A. Arboleda was an employee of Manila Electric Company (MERALCO) for twenty-five (25) years. He served from 1963 to 11 February 1988 when he was dismissed by MERALCO under Sec. 7, par. 1, of its Company Code of Employee Discipline for misappropriating or withholding company funds. His record shows

that he rose from the ranks to become branch clerk, and later, radio operator of MERALCO's Novaliches branch.

On 18 July 1986 a certain Antonio D. Sy applied for electrical service for his residence and for his hardware store situated in the premises leased to him by the spouses Renato and Sylvia Cruz. Pending the processing of his application, Sy was found to have illegal electrical connection, first on 6 March 1987, and then on 8 June 1987.

According to Sy, on 9 June 1987 he went to the MERALCO office in Novaliches to pay for his Found Connection (FC) bills.<sup>[1]</sup> There he met petitioner Arboleda who told him that he had to pay his FC bills amounting to around P2,000.00 for three (3) months before a meter could be installed. Sy demurred saying he had with him only P1,200.00. Petitioner agreed to accept the amount so Sy handed it to him who received it without issuing any official receipt. Thereafter petitioner sent over Brigido "Adu" Anonuevo and a certain "Mulong" to install the meter.<sup>[2]</sup>

Marcelo P. Umali, then branch manager of MERALCO at Novaliches, narrated that on 16 June 1987 he happened to pass by Sy's house and noticed the illegal connection. He immediately confronted Sy who protested that he had paid his FC bills to petitioner.<sup>[3]</sup> Umali then interviewed Sylvia Cruz about Sy's claims and she confirmed them.<sup>[4]</sup>

Sy immediately settled his FC bills with MERALCO for which he was issued an official receipt. On 18 June 1987, after complying with all the requirements of MERALCO, his application for electrical service was granted. On the same day, Umali submitted his recommendation to his immediate supervisor, R. A. Villanueva, to have Arboleda investigated.<sup>[5]</sup>

On 21 October 1987 Atty. Anecito A. Mejorada of MERALCO's Special Presidential Committee wrote petitioner Arboleda notifying him that on 27 October 1987 an investigation would be conducted against him for misappropriation of FC bills,<sup>[6]</sup> but petitioner sought a postponement of the investigation.<sup>[7]</sup> On 7 November 1987 he was suspended pending his investigation.<sup>[8]</sup> On 9 November 1987 the investigation proceeded with Juanito Rivera, Chief Steward and Vice-President of the employees' labor union, as petitioner's

representative. In the investigation, Arboleda made a general denial about knowing Sy, “Adu” and “Mulong.”<sup>[9]</sup> He claimed that sometime thereafter Brigido Anonuevo went to his house bringing his Affidavit of Justification, Certificate of Attendance at a MERALCO Seminar and Sy’s Affidavit of Desistance.<sup>[10]</sup> On 21 November 1987 petitioner wrote the MERALCO investigators Jose Benalla and Eligio Reonal, Jr., informing them of the visit of Anonuevo and his wife to Sy’s house along with Sylvia Cruz.<sup>[11]</sup> Despite his suspension which lasted until his dismissal, petitioner continued to receive his salary of P11,332.50 from 20 December 1987 to 11 February 1988.<sup>[12]</sup>

On 20 April 1988 Arboleda filed a case against MERALCO for illegal dismissal. He was subsequently sustained by the Labor Arbiter on three (3) grounds: (a) Sy’s accusation against him was only prompted by Umali; (b) Sy’s credibility was suspect since he was apprehended thrice for illegal use of electric current; and, (c) Sy’s motive was malicious and his testimony was made only to save his own skin.<sup>[13]</sup>

On appeal by MERALCO the NLRC reversed the Labor Arbiter on the ground that there was no proof of instigation on the part of Umali; Sy’s testimony was credible; and, Anonuevo’s exculpatory evidence in favor of Arboleda was a ruse.<sup>[14]</sup>

The principle that factual findings of administrative bodies are binding upon this Court may be sustained only when no issue of credibility is raised. But when the findings of fact of the NLRC do not agree with those of the Labor Arbiter, this Court must of necessity review the records to determine which findings should be preferred as more conformable to the evidentiary facts.<sup>[15]</sup>

The main issue being the legality of petitioner’s dismissal, it may be worth to look into the requisites for the validity of a dismissal, namely, (a) the employee must be afforded due process, i.e., he must be given an opportunity to be heard and to defend himself, and (b) the dismissal must be for a valid cause as provided in Art. 282 of the Labor Code.<sup>[16]</sup>

As regards his right to due process, petitioner contends that he was denied such right during the investigation conducted by MERALCO

as he did not have the opportunity to confront the witnesses against him.

The essence of due process in administrative proceedings is an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling complained of. Before an employee can be validly dismissed, the Labor Code requires the employer to furnish the employee with two (2) written notices: (a) a written notice containing a statement of the cause for termination to afford the employee ample opportunity to be heard and defend himself with the assistance of his representative, if he so desires; and, (b) if the employer decides to terminate the services of the employee, the employer must notify him in writing of the decision to dismiss him, stating clearly the reasons therefor.<sup>[17]</sup> This MERALCO more than substantially complied with when it notified Arboleda in a letter dated 21 October 1987 of the charges against him and of his right to be represented by a lawyer or representative, and when it gave him notice by letter dated 11 February 1988 of his dismissal and the reasons therefor.

The requirement of notice and hearing in termination cases does not connote full adversarial proceedings as elucidated in numerous cases decided by this Court. Actual adversarial proceedings become necessary only for clarification or when there is a need to propound searching questions to witnesses who give vague testimonies. This is a procedural right which the employee must ask for since it is not an inherent right, and summary proceedings may be conducted thereon.<sup>[18]</sup>

In termination cases the settled rule is that the burden of proving that the termination was for a valid or authorized cause rests on the employer.<sup>[19]</sup> Thus, MERALCO must not only rely on the weakness of petitioner's evidence but must stand on the merits of its own defense.

The core of MERALCO's evidence is the testimony of Alberto Sy who identified petitioner Arboleda as the one who received P1,200.00 from him for purposes of paying off his FC arrears and for which Arboleda did not issue an official receipt. This testimony of Sy was discredited by the Labor Arbiter in his belief that Sy did so with the ulterior motive of avoiding criminal prosecution because of his illegal

connection and that he only complained due to the instigation of Umali, the Novaliches branch manager. But the NLRC believed that Sy categorically denounced Arboleda without any promptings from Umali and that, despite petitioner's denials, Anonuevo was known to petitioner. For, why else would Anonuevo come out in defense of the latter? In fact, the NLRC explicitly termed the testimony of Anonuevo as a ruse.

We agree with the NLRC. Sy categorically and spontaneously denounced Arboleda without any prodding from Umali.<sup>[20]</sup> It may be recalled that Umali only asked Sy why he had an FC.<sup>[21]</sup> Perhaps Umali did not even expect Sy to implicate anyone from MERALCO as the culprit, much less think of Arboleda as the guilty party, especially when there was no showing of any enmity between them. Apparently, when Sy mentioned Arboleda's name, it was more out of indignation that the electrical connection should be found to be illegal when he had paid for its proper and legitimate connection. Sy's alarm was understandable in the light of the two (2) instances when he was found to have illegal connections. That the testimony of Sy is credible is shown by the fact that his statements were replete with consistent and positive details congruent with human experience. Testimony is positive when the witness affirms that a fact did or did not occur, and negative when he says that he did not see or know of the factual occurrence. Positive testimony is entitled to greater weight than negative testimony.<sup>[22]</sup>

There is nothing on record to indicate any ulterior motive on the part of Sy to fabricate his testimony. The finding of the Labor Arbiter that Sy only denounced Arboleda to save his own skin from possible criminal prosecution may be explained by these questions: Why would Sy implicate Arboleda when, according to Arboleda, seconded by Anonuevo, they had never met before? Why did Sy not name Anonuevo instead as the one to whom he paid the money? Absent convincing evidence showing any cogent reason why a witness should testify falsely, his testimony may be accorded full faith and credit.<sup>[23]</sup> Proof beyond reasonable doubt is not required for a judgment on the legality of an employee's dismissal, nor even preponderance of evidence for that matter, substantial evidence being sufficient.<sup>[24]</sup> Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.<sup>[25]</sup>

The nature of petitioner's testimony is that of a general denial; consequently, as between an affirmative assertion and a general denial, weight must be accorded to the affirmative assertion.<sup>[26]</sup>

Neither can we extend credence to the testimony of Anonuevo as it is only in the nature of negative assertions which are obviously in conflict with the affirmative statements of Sy. Besides, Anonuevo's testimony runs counter to the normal course of human behavior. Anonuevo's act of coming to Arboleda's rescue with an Affidavit of Justification<sup>[27]</sup> upon hearing of his investigation makes Anonuevo speciously suspect. His Affidavit of Justification although notarized on the 19th of November was actually dated 10 October 1987, or more than twenty (20) days before Arboleda was confidentially notified of the impending investigation.<sup>[28]</sup> Anonuevo's explanation that Sy named Arboleda because he happened to mention the latter's name to Sy is, to say the least, fatuous. He claimed that he was not on intimate terms or even familiar with Arboleda, having supposedly seen him only around MERALCO and only knowing his position therein, yet he had the temerity to drop Arboleda's name to Sy. This defies logic and common experience.

Furthermore, Anonuevo's actuations regarding his supposed contract with Sy were a little strange. For one, he seemed confused as to what the contract was all about, whether it was just to follow up the application for electrical connection, or for payment of FC bills, or for the installation of electric meters, as he did not seem to know for what was the amount supposedly given to him by Sy.<sup>[29]</sup> Stranger still was his installing the electric meter ahead of paying the FC bills or before getting the go-signal from MERALCO. All these, coupled with the fact that in Anonuevo's affidavit<sup>[30]</sup> he admitted having returned the money to Sy after learning about Umali's memorandum-complaint against petitioner when such complaint was supposed to be confidential, clearly demonstrate that Anonuevo was merely used by the petitioner in an attempt to improve his lot. Thus it is evident that petitioner was guilty of serious misconduct to warrant his dismissal from the service which, in this case, was lawfully effected with proper notice and for a just cause.

**WHEREFORE**, finding no grave abuse of discretion, the petition is **DISMISSED**. The decision of the National Labor Relations Commission dismissing petitioner's complaint for illegal dismissal is **AFFIRMED**.

**SO ORDERED.**

**Puno, Mendoza, Quisumbing and Buena, JJ., concur.**

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- [1] Affidavit of Antonio Sy executed on 9 October 1987, Records, p. 15.
- [2] TSN, 4 April 1990, pp. 16-21.
- [3] Id., 7 March 1990, pp. 18-25.
- [4] Id., 12 March 1990, pp. 8-9.
- [5] Records, p. 55.
- [6] Id., p. 58.
- [7] Id., pp. 59-60.
- [8] Id., p. 64.
- [9] Sinumpaang Salaysay of Enrique Arboleda dated 9 November 1987, id., pp. 479-481.
- [10] TSN, 14 September 1992, pp. 15-22.
- [11] Records, pp. 484-485.
- [12] Certification by A.S. Morillo, Manager, General Payroll, 6 October 1988, id., p. 65.
- [13] Decision of Labor Arbiter Salimathar V. Nambi, 29 December 1993, Records, pp. 717-721.
- [14] Decision of NLRC penned by commissioner Vicente S. E. Veloso, concurred in by Presiding Commissioner Bartolome S. Carale and Commissioner Alberto R. Quimpo, 29 November 1994, Rollo, pp. 12-21.
- [15] Tanala vs. NLRC, G.R. No. 116588, 24 January 1996, 252 SCRA 314, 319.
- [16] Pizza Hut/Progressive Development Corporation vs. NLRC, G.R. No. 117059, 29 January 1996, 252 SCRA 531, 535.
- [17] See Note 16, pp. 535-536.
- [18] Manila Electric Company vs. NLRC, G.R. No. 114129, 24 October 1996, 263 SCRA 531, 542, citing Manggagawa ng Komunikasyon sa Pilipinas vs. NLRC, 206 SCRA 109 [1992].
- [19] Gesulgon vs. NLRC, G.R. No. 90349, 5 March 1993, 219 SCRA 561, 570; Art 277, Labor Code, as amended.
- [20] See Note 2.
- [21] See Note 3, pp. 21-25.
- [22] See Note 15, pp. 319-320.
- [23] People vs. Bernal, G.R. No. 101332, 13 March 1996, 254 SCRA 659, 669-670, citing People vs. Taneo, 281 SCRA 494 [1993].

- [24] Domasig vs. NLRC, G.R. No. 118101, 16 September 1996, 261 SCRA 779, 786.
- [25] Id., p. 785.
- [26] Madlos vs. NLRC, G.R. No. 115365, 4 March 1996, 254 SCRA 248, 256.
- [27] Exh. "D," Records, p. 482.
- [28] Id., p. 58.
- [29] TSN, 16 December 1992, pp. 7-10, 14-15.
- [30] Records, p. 16.

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