SUPREME COURT
FIRST DIVISION

PASTOR DIONISIO V. AUSTRIA,
***Petitioner*,**

-versus-

G.R. No. 124382
August 16, 1999

HON. NATIONAL LABOR RELATIONS COMMISSION (Fourth Division), CEBU CITY, CENTRAL PHILIPPINE UNION MISSION CORPORATION OF THE SEVENTH-DAY ADVENTIST, ELDER HECTOR V. GAYARES, PASTORS REUBEN MORALDE, OSCAR L. ALOLOR, WILLIAM U. DONATO, JOEL WALES, ELY SACAY, GIDEON BUHAT, ISACHAR GARSULA, ELISEO DOBLE, PROFIRIO BALACY, DAVID RODRIGO, LORETO MAYPA, MR. RUFO GASAPO, MR. EUFRONIO IBESATE, MRS. TESSIE BALCY, MR. ZOSIMO KARA-AN, and MR. ELEUTERIO LOBITANA,
***Respondents*.**
x----------x

D E C I S I O N

KAPUNAN, *J.*:

Subject to the instant petition for certiorari under Rule 65 of the Rules of Court is the Resolution[1] of public respondent National Labor Relations Commission (the "NLRC"), rendered on 23 January 1996, in NLRC Case No. V-0120-93, entitled "Pastor Dionisio V. Austria vs. Central Philippine Union Mission Corporation of Seventh Day Adventists, et. al.," which dismissed the case for illegal dismissal filed by the petitioner against private respondents for lack of jurisdiction.

Private Respondent Central Philippines Union Mission Corporation of the Seventh Day Adventists (hereinafter referred to as the "SDA") is a religious corporation duly organized and existing under Philippine law and is represented in this case by the other private respondents, officers of the SDA. Petitioner, on the other hand, was a Pastor of the SDA until 31 October 1991, when his services were terminated.

The records show that petitioner Pastor Dionisio V. Austria worked with the SDA for twenty eight (28) years from 1963 to 1991.[2] He began his work with the SDA on 15 July 1963 as a literature evangelist, selling literature of the SDA over the island of Negros. From then on, petitioner worked his way up the ladder and got promoted several times. In January, 1968, petitioner became the Assistant Publishing Director in the West Visayan Mission of the SDA. In July, 1972, he was elevated to the position of Pastor in the West Visayan Mission covering the island of Panay, and the provinces of Romblon and Guimaras. Petitioner held the same position up to 1988. Finally, in 1989, petitioner was promoted as District Pastor of the Negros Mission of the SDA and was assigned at Sagay, Balintawak and Toboso, Negros Occidental, with twelve (12) churches under his jurisdiction. In January, 1991, petitioner was transferred to Bacolod City. He held the position of district pastor until his services were terminated on 31 October 1991.

On various occasions from August up to October, 1991, petitioner received several communications[3] from Mr. Eufronio Ibesate, the treasurer of the Negros Mission asking him to admit accountability and responsibility for the church tithes and offerings collected by his

wife, Mrs. Thelma Austria, in his district which amounted to P15,078.10, and to remit the same to the Negros Mission.

In his written explanation dated 11 October 1991,[4] petitioner reasoned out that he should not be made accountable for the unremitted collections since it was private respondents Pastor Gideon Buhat and Mr. Eufronio Ibesate who authorized his wife to collect the tithes and offerings since he was very sick to do the collecting at that time.

Thereafter, on 16 October 1991, at around 7:30 a.m., petitioner went to the office of Pastor Buhat, the president of the Negros Mission. During said call, petitioner tried to persuade Pastor Buhat to convene the Executive Committee for the purpose of settling the dispute between him and the private respondent, Pastor David Rodrigo. The dispute between David Rodrigo and petitioner arose from an incident in which petitioner assisted his friend, Danny Diamada, to collect from Pastor Rodrigo the unpaid balance for the repair of the latter's motor vehicle which he failed to pay to Diamada.[5] Due to the assistance of petitioner in collecting Pastor Rodrigo's debt, the latter harbored ill-feelings against petitioner. When news reached petitioner that Pastor Rodrigo was about to file a complaint against him with the Negros Mission, he immediately proceeded to the office of Pastor Buhat on the date abovementioned and asked the latter to convene the Executive Committee. Pastor Buhat denied the request of petitioner since some committee members were out of town and there was no quorum. Thereafter, the two exchanged heated arguments. Petitioner then left the office of Pastor Buhat. While on his way out, petitioner overheard Pastor Buhat saying "Pastor daw inisog na ina iya (Pastor you are talking tough)."[6] Irked by such remark, petitioner returned to the office of Pastor Buhat, and tried to overturn the latter's table, though unsuccessfully, since it was heavy. Thereafter, petitioner banged the attaché case of Pastor Buhat on the table, scattered the books in his office, and threw the phone.[7] Fortunately, private respondents Pastors Yonillo Leopoldo and Claudio Montaño were around and they pacified both Pastor Buhat and petitioner.

On 17 October 1991, petitioner received a letter[8] inviting him and his wife to attend the Executive Committee meeting at the Negros Mission Conference Room on 21 October 1991, at nine in the

morning. To be discussed in the meeting were the non-remittance of church collection and the events that transpired on 16 October 1991. A fact-finding committee was created to investigate petitioner. For two (2) days, from October 21 and 22, the fact-finding committee conducted an investigation of petitioner. Sensing that the result of the investigation might be one-sided, petitioner immediately wrote Pastor Rueben Moralde, president of the SDA and chairman of the fact-finding committee, requesting that certain members of the fact-finding committee be excluded in the investigation and resolution of the case.[9] Out of the six (6) members requested to inhibit themselves from the investigation and decision-making, only two (2) were actually excluded, namely: Pastor Buhat and Pastor Rodrigo. Subsequently, on 29 October 1991, petitioner received a letter of dismissal.[10] citing misappropriation of denominational funds, willful breach of trust, serious misconduct, gross and habitual neglect of duties, and commission of an offense against the person of employer's duly authorized representative, as grounds for the termination of his services.

Reacting against the adverse decision of the SDA, petitioner filed a complaint.[11] On 14 November 1991, before the Labor Arbiter for illegal dismissal against the SDA and its officers and prayed for reinstatement with backwages and benefits, moral and exemplary damages and other labor law benefits.

On 15 February 1993, Labor Arbiter Cesar D. Sideño rendered a decision in favor of petitioner, the dispositive portion of which reads thus:

> WHEREFORE, PREMISES CONSIDERED, respondents CENTRAL PHILIPPINE UNION MISSION CORPORATION OF THE SEVENTH-DAY ADVENTISTS (CPUMCSDA) and its officers, respondents herein, are hereby ordered to immediately reinstate complainant Pastor Dionisio Austria to his former position as Pastor of Brgy. Taculing, Progreso and Banago, Bacolod City, without loss of seniority and other rights and backwages in the amount of ONE HUNDRED FIFTEEN THOUSAND EIGHT HUNDRED THIRTY PESOS (P115,830.00) without deductions and qualifications.

Respondent CPUMCSDA is further ordered to pay complainant the following:

A.	13th month pay	P21,060.00
B.	Allowance	P4,770.83
C.	Service Incentive Leave Pay	P3,461.85
D.	Moral Damages	P50,000.00
E.	Exemplary Damages	P25,000.00
F.	Attorney's Fee	P22,012.27

SO ORDERED.[12]

The SDA, through its officers, appealed the decision of the Labor Arbiter to the National Labor Relations Commission, Fourth Division, Cebu City. In a decision, dated 26 August 1994, the NLRC vacated the findings of the Labor Arbiter. The decretal portion of the NLRC decision states:

> WHEREFORE, the Decision appealed from is hereby VACATED and a new one ENTERED dismissing this case for want of merit.
>
> SO ORDERED.[13]

Petitioner filed a motion for reconsideration of the above-named decision. On 18 July 1995, the NLRC issued a Resolution reversing its original decision. The dispositive portion of the resolution reads:

> WHEREFORE, premises considered, Our decision dated August 26, 1994 is VACATED and the decision of the Labor Arbiter dated February 15, 1993 is REINSTATED.
>
> SO ORDERED.[14]

In view of the reversal of the original decision of the NLRC, the SDA filed a motion for reconsideration of the above resolution. Notable in the motion for reconsideration filed by private respondents is their invocation, for the first time on appeal, that the Labor Arbiter has no jurisdiction over the complaint filed by petitioner due to the constitutional provision on the separation of church and state since the case allegedly involved and ecclesiastical affair to which the State cannot interfere.

The NLRC, without ruling on the merits of the case, reversed itself once again, sustained the argument posed by private respondents and, accordingly, dismissed the complaint of petitioner. The dispositive portion of the NLRC resolution dated 23 January 1996, subject of the present petition, is as follows:

> WHEREFORE, in view of all the foregoing, the instant motion for reconsideration is hereby granted. Accordingly, this case is hereby DISMISSED for lack of jurisdiction.
>
> SO ORDERED.[15]

Hence, the recourse to this Court by petitioner.

After the filing of the petition, the Court ordered the Office of the Solicitor General (the "OSG") to file its comment on behalf of public respondent NLRC. Interestingly, the OSG filed a manifestation and motion in lieu of comment[16] setting forth its stand that it cannot sustain the resolution of the NLRC. In its manifestation, the OSG submits that the termination of petitioner of his employment may be questioned before the NLRC as the same is secular in nature, not ecclesiastical. After the submission of memoranda of all the parties, the case was submitted for decision.

The issues to be resolved in this petition are:

1) Whether or not the Labor Arbiter/NLRC has jurisdiction to try and decide the complaint filed by petitioner against the SDA;

2) Whether or not the termination of the services of petitioner is an ecclesiastical affair, and, as such, involves the separation of church and state; and

3) Whether or not such termination is valid.

The first two issues shall be resolved jointly, since they are related.

Private respondents contend that by virtue of the doctrine of separation of church and state, the Labor Arbiter and the NLRC have no jurisdiction to entertain the complaint filed by petitioner. Since the matter at bar allegedly involves the discipline of a religious minister, it is to be considered a purely ecclesiastical affair to which the State has no right to interfere.

The contention of private respondents deserves scant consideration. The principle of separation of church and state finds no application in this case.

The rationale of the principle of the separation of church and state is summed up in the familiar saying, "Strong fences make good neighbors."[17] The idea advocated by this principle is to delineate the boundaries between the two institutions and thus avoid encroachments by one against the other because of a misunderstanding of the limits of their respective exclusive jurisdictions.[18] The demarcation line calls on the entities to "render therefore unto Ceasar the things that are Ceasar's and unto God the things that are God's."[19] While the State is prohibited from interfering in purely ecclesiastical affairs, the Church is likewise barred from meddling in purely secular matters.[20]

The case at bar does not concern an ecclesiastical or purely religious affair as to bar the State from taking cognizance of the same. An ecclesiastical affair is "one that concerns doctrine, creed or form or worship of the church, or the adoption and enforcement within a religious association of needful laws and regulations for the government of the membership, and the power of excluding from such associations those deemed unworthy of membership.[21] Based on this definition, an ecclesiastical affair involves the relationship between the church and its members and relate to matters of faith,

religious doctrines, worship and governance of the congregation. To be concrete, examples of this so-called ecclesiastical affairs to which the State cannot meddle are proceedings for excommunication, ordinations of religious ministers, administration of sacraments and other activities which attached religious significance. The case at bar does not even remotely concern any of the abovecited examples. While the matter at hand relates to the church and its religious minister it does not ipso facto give the case a religious significance. Simply stated, what is involved here is the relationship of the church as an employer and the minister as an employee. It is purely secular and has no relation whatsoever with the practice of faith, worship or doctrines of the church. In this case, petitioner was not excommunicated or expelled from the membership of the SDA but was terminated from employment. Indeed, the matter of terminating an employee, which is purely secular in nature, is different from the ecclesiastical act of expelling a member from the religious congregation.

As pointed out by the OSG in its memorandum, the grounds invoked for petitioner's dismissal, namely; misappropriation of denominational funds, willful breach of trust, serious misconduct, gross and habitual neglect of duties and commission of an offense against the person of his employer's duly authorize representative, are all based on Article 282 of the Labor Code which enumerates the just causes for termination of employment.[22] By this alone, it is palpable that the reason for petitioner's dismissal from the service is not religious in nature. Coupled with this is the act of the SDA in furnishing NLRC with a copy of petitioner's letter of termination. As aptly stated by the OSG, this again is an eloquent admission by private respondents that NLRC has jurisdiction over the case. Aside from these, SDA admitted in a certification[23] issued by its officer, Mr. Ibesate, that petitioner has been its employee for twenty-eight (28) years. SDA even registered petitioner with the Social Security System (SSS) as its employee. As a matter of fact, the worker's records of petitioner have been submitted by private respondents as part of their exhibits. From all of these it is clear that when the SDA terminated the services of petitioner, it was merely exercising its management prerogative to fire an employee which it believes to be unfit for the job. As such, the State, through the Labor Arbiter and the NLRC, has the right to take cognizance of the case and to determine

whether the SDA, as employer, rightfully exercised its management prerogative to dismiss an employee. This is in consonance with the mandate of the Constitution to afford full protection to labor.

Under the Labor Code, the provision which governs the dismissal of employees, is comprehensive enough to include religious corporations, such as the SDA, in its coverage. Article 278 of the Labor Code on post-employment states that "the provisions of this Title shall apply to all establishments or undertakings, whether for profit or not." Obviously, the cited article does not make any exception in favor of a religious corporation. This is made more evident by the fact that the Rules Implementing the Labor Code, particularly, Section 1, Rule 1, Book VI on the Termination of Employment and Retirement, categorically includes religious institutions in the coverage of the law, to wit:

> SECTION 1. Coverage. — This Rule shall apply to all establishments and undertakings, whether operated for profit or not, including educational, medical, charitable and religious institutions and organizations, in cases of regular employment with the exception of Government and its political subdivisions including government-owned or controlled corporations.[24]

With this clear mandate, the SDA cannot hide behind the mantle of protection of the doctrine of separation of church and state to avoid its responsibilities as an employer under the Labor Code.

Finally, as correctly pointed out by petitioner, private respondents are estopped from raising the issue of lack of jurisdiction for the first time on appeal. It is already too late in the day for private respondents to question the jurisdiction of the NLRC and the Labor Arbiter since the SDA had fully participated in the trials and hearings of the case from start to finish. The Court has already ruled that the active participation of a party against whom the action was brought, coupled with his failure to object to the jurisdiction of the court or quasi-judicial body where the action is pending, is tantamount to an invocation of that jurisdiction and a willingness to abide by the resolution of the case and will bar said party from later on impugning the court or body's jurisdiction.[25] Thus, the active participation of

private respondents in the proceedings before the Labor Arbiter and the NLRC mooted the question of jurisdiction.

The jurisdictional question now settled, we shall now proceed to determine whether the dismissal of petitioner was valid.

At the outset, we note that as a general rule, findings of fact of administrative bodies like the NLRC are binding upon this Court. A review of such findings is justified, however, in instances when the findings of the NLRC differ from those of the labor arbiter, as in this case.[26] When the findings of 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.[27]

We turn now to the crux of the matter. 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.[28] Thus, private respondents must not merely rely on the weaknesses of petitioner's evidence but must stand on the merits of their own defense.

The issue being the legality of petitioner's dismissal, the same must be measured against the requisites for a valid 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 Article 282 of the Labor Code.[29] Without the concurrence of this twin requirements, the termination would, in the eyes of the law, be illegal.[30]

Before the services of an employee can be validly terminated, Article 277 (b) of the Labor Code and Section 2, Rule XXIII, Book V of the Rules Implementing the Labor Code further require the employer to furnish the employee with two (2) written notices, to wit: (a) a written notice served on the employee specifying the ground or grounds for termination, and giving to said employee reasonable opportunity within which to explain his side, and, (b) a written notice of termination served on the employee indicating that upon due consideration of all the circumstances, grounds have been established to justify his termination.

The first notice, which may be considered as the proper charge, serves to apprise the employee of the particular acts or omissions for which his dismissal is sought.[31] The second notice on the other hand seeks to inform the employee of the employer's decision to dismiss him.[32] This decision, however, must come only after the employee is given a reasonable period from receipt of the first notice within which to answer the charge and ample opportunity to be heard and defend himself with the assistance of a representative, if he so desires.[33] This is in consonance with the express provision of the law on the protection to labor and the broader dictates of procedural due process.[34] Non-compliance therewith is fatal because these requirements are conditions sine quo non before dismissal may be validly effected.[35]

Private respondent failed to substantially comply with the above requirements. With regard to the first notice, the letter,[36] dated 17 October 1991, which notified petitioner and his wife to attend the meeting on 21 October 1991, cannot be construed as the written charge required by law. A perusal of the said letter reveals that it never categorically stated the particular acts or omissions on which petitioner's impending termination was grounded. In fact, the letter never even mentioned that petitioner would be subject to investigation. The letter merely mentioned that petitioner and his wife were invited to a meeting wherein what would be discussed were the alleged unremitted church tithes and the events that transpired on 16 October 1991. Thus, petitioner was surprised to find out that the alleged meeting turned out to be an investigation. From the tenor of the letter, it cannot be presumed that petitioner was actually on the verge of dismissal. The alleged grounds for the dismissal of petitioner from the service were only revealed to him when the actual letter of dismissal was finally issued. For this reason, it cannot be said that petitioner was given enough opportunity to properly prepare for his defense. While admittedly, private respondents complied with the second requirement, the notice of termination, this does not cure the initial defect of lack of the proper written charge required by law.

In the letter of termination,[37] dated 29 October 1991, private respondents enumerated the following as grounds for the dismissal of petitioner, namely: misappropriation of denominational funds, willful breach of trust, serious misconduct, gross and habitual neglect of

duties, and commission of an offense against the person of employer's duly authorized representative. Breach of trust and misappropriation of denominational funds refer to the alleged failure of petitioner to remit to the treasurer of the Negros Mission tithes, collections and offerings amounting to P15,078.10 which were collected by his wife, Mrs. Thelma Austria, in the churches under his jurisdiction. On the other hand, serious misconduct and commission of an offense against the person of the employer's duly authorized representative pertain to the 16 October 1991 incident wherein petitioner allegedly committed an act of violence in the office of Pastor Gideon Buhat. The final ground invoked by private respondents is gross and habitual neglect of duties allegedly committed by petitioner.

We cannot sustain the validity of dismissal based on the ground of breach of trust. Private respondents allege that they have lost their confidence in petitioner for his failure, despite demands, to remit the tithes and offerings amounting to P15,078.10, which were collected in his district. A careful study of the voluminous records of the case reveals that there is simply no basis for the alleged loss of confidence and breach of trust. Settled is the rule that under Article 282 (c) of the Labor Code, the breach of trust must be willful. A breach is willful if it is done intentionally, knowingly and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently.[38] It must rest on substantial grounds and not on the employer's arbitrariness, whims, caprices or suspicion, otherwise, the employee would eternally remain at the mercy of the employer.[39] It should be genuine and not simulated.[40] This ground has never been intended to afford an occasion for abuse, because of its subjective nature. The records show that there were only six (6) instances when petitioner personally collected and received from the church treasurers the tithes, collections, and donations for the church.[41] The stenographic notes on the testimony of Naomi Geniebla, the Negros Mission Church Auditor and a witness for private respondents, show that Pastor Austria was able to remit all his collections to the treasurer of the Negros Mission.[42]

Though private respondents were able to establish that petitioner collected and received tithes and donations several times, they were not able to establish that petitioner failed to remit the same to the Negros Mission, and that he pocketed the amount and used it for his

personal purpose. In fact, as admitted by their own witness, Naomi Geniebla, petitioner remitted the amounts which he collected to the Negros Mission for which corresponding receipts were issued to him. Thus, the allegations of private respondents that petitioner breached their trust have no leg to stand on.

In a vain attempt to support their claim of breach of trust, private respondents try to pin on petitioner the alleged non-remittance of the tithes collected by his wife. This argument deserves little consideration. First of all, as proven by convincing and substantial evidence consisting of the testimonies of the witnesses for private respondents who are church treasurers, it was Mrs. Thelma Austria who actually collected the tithes and donations from them, and, who failed to remit the same to the treasurer of the Negros Mission. The testimony of these church treasurers were corroborated and confirmed by Ms. Geniebla and Mrs. Ibesate, officers of the SDA. Hence, in the absence of conspiracy and collusion, which private respondents failed to demonstrate, between petitioner and his wife, petitioner cannot be made accountable for the alleged infraction committed by his wife. After all, they still have separate and distinct personalities. For this reason, the Labor Arbiter found it difficult to see the basis for the alleged loss of confidence and breach of trust. The Court does not find any cogent reason, therefore, to digress from the findings of the Labor Arbiter which is fully supported by the evidence on record.

With respect to the grounds of serious misconduct and commission of an offense against the person of the employer's duly authorized representative, we find the same unmeritorious and, as such, do not warrant petitioner's dismissal from the service.

Misconduct has been defined as improper or wrong conduct. It is the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies wrongful intent and not mere error in judgment.[43] For misconduct to be considered serious it must be of such grave and aggravated character and not merely trivial or unimportant.[44] Based on this standard, we believe that the act of petitioner in banging the attaché case on the table, throwing the telephone and scattering the books in the office of Pastor Buhat, although improper, cannot be considered

as grave enough to be considered as serious misconduct. After all, as correctly observed by the Labor Arbiter, though petitioner committed damage to property, he did not physically assault Pastor Buhat or any other pastor present during the incident of 16 October 1991. In fact, the alleged offense committed upon the person of the employer's representatives was never really established or proven by private respondents. Hence, there is no basis for the allegation that petitioner's act constituted serious misconduct or that the same was an offense against the person of the employer's duly authorized representative. As such, the cited actuation of petitioner does not justify the ultimate penalty of dismissal from employment. While the Constitution does not condone wrongdoing by the employee, it nevertheless urges a moderation of the sanctions that may be applied to him in light of the many disadvantages that weigh heavily on him like an albatross on his neck.[45] Where a penalty less punitive would suffice, whatever missteps may have been committed by the worker ought not be visited with a consequence so severe such as dismissal from employment.[46] For the foregoing reasons, we believe that the minor infraction committed by petitioner does not merit the ultimate penalty of dismissal.

The final ground alleged by private respondents in terminating petitioner, gross and habitual neglect of duties, does not requires an exhaustive discussion. Suffice it to say that all private respondents had were allegations but not proof. Aside from merely citing the said ground, private respondents failed to prove culpability on the part of petitioner. In fact, the evidence on record shows otherwise. Petitioner's rise from the ranks disclose that he was actually a hard-worker. Private respondents' evidence,[47] which consisted of petitioner's Worker's Reports, revealed how petitioner travelled to different churches to attend to the faithful under his care. Indeed, he labored hard for the SDA, but, in return, he was rewarded with a dismissal from the service for a non-existent cause.

In view of the foregoing, we sustain the finding of the Labor Arbiter that petitioner was terminated from service without just or lawful cause. Having been illegally dismissed, petitioner is entitled to reinstatement to his former position without loss of seniority right[48] and the payment of full backwages without any deduction

corresponding to the period from his illegal dismissal up to the actual reinstatement.[49]

WHEREFORE, the petition for certiorari is **GRANTED**. The challenged Resolution of public respondent National Labor Relations Commission, rendered on 23 January 1996, is **NULLIFIED** and **SET** ASIDE. The Decision of the Labor Arbiter, dated 15 February 1993, is reinstated and hereby **AFFIRMED**.

SO ORDERED.

Davide, Jr., *C.J.*, Puno, Pardo and Ynares-Santiago, *JJ.*, concur.

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[1] Penned by Presiding Commissioner Irenea E. Ceniza and concurred in by Commissioner Amorito V. Cañete. Commissioner Bernabe S. Batuhan dissented. Records, Vol. 1, p. 901.
[2] Exhibit "B" for petitioner, Id., at 467.
[3] Exhibits "5," "6," "7," "8," and "9" for private respondents, Id., at 355–359.
[4] Exhibit "M" for petitioner, Id., at 252.
[5] Decision of the labor arbiter, Id., at 489, 531.
[6] Id., at 532.
[7] Ibid.
[8] Exhibit "H" for petitioner, Id., at 247.
[9] Exhibit "C" for petitioner, Id., at 239.
[10] Exhibit "E" for petitioner, Id., at 241.
[11] Records, Vol. 1, p. 1.
[12] Decision of the Labor Arbiter, Id., at 489, 536.
[13] Decision of the NLRC, Id., at 611, 618.
[14] Resolution of the NLRC, Id., at 789, 796.
[15] Id., at 901, 903.
[16] Rollo, p. 188.
[17] ISAGANI A. CRUZ, PHILIPPINE POLITICAL LAW (1998), p. 68.
[18] Ibid.
[19] Id.
[20] Id.
[21] BLACK'S LAW DICTIONARY, Fifth Edition (1979), p. 460.
[22] Rollo, p. 233.
[23] Exhibit "B" for petitioner, Records, Vol. 1, p. 238.
[24] Emphasis supplied.
[25] Maneja vs. NLRC and Manila Midtown Hotel, G.R. No. 124013, June 5, 1998 citing Marquez vs. Secretary of Labor, 171 SCRA 337 (1989)
[26] Lim, et al. vs. NLRC, et al., G.R. No. 124630, February 19, 1999.

[27] Arboleda vs. NLRC and Manila Electric Company, G.R. No. 119509, February 11, 1999, citing Tanala vs. NLRC, 252 SCRA 314 (1996).
[28] Id., citing Gesulgon vs. NLRC, 219 SCRA 561 (1993).
[29] Id., citing Pizza Hut/Progressive Dev't. Corp. vs. NLRC, 252 SCRA 531 (1996).
[30] Salaw vs. NLRC, 202 SCRA 7, 12 91991) citing San Miguel Corporation vs. NLRC, 173 SCRA 314 (1989)
[31] Tiu vs. NLRC, 215 SCRA 540, 551 (1992)
[32] Ibid.
[33] Id.
[34] Id., at 552.
[35] Id., citing Metro Port Service, Inc. vs. NLRC, 171 SCRA 190 (1989)]
[36] Exhibit "H" for petitioner, Records, Vol. 1, p. 247.
[37] Exhibit "E" for petitioner, Id., at 241.
[38] Atlas Consolidated Mining & Dev't. Corp. vs. NLRC and Isabelo O. Villacencio, G.R. No. 122033, May 21, 1998.
[39] Ibid.
[40] Id.
[41] Exhibits "47," "49," "50," "51," "52," and "53," for private respondents, Records, Vol. 1, pp. 398, 400-403.
[42] TSN, June 22, 1992, pp. 198-199; August 18, 1992, pp. 189-191, 198-201.
[43] Alma Cosep, et al. vs. NLRC and Premiere Development Bank, G.R. No. 124966, June 16, 1998.
[44] Ibid.
[45] Gandara Mill Supply and Milagros Sy vs. NLRC and Silvestre Germano, G.R. No. 126703, December 29, 1998 citing Diosdado de Vera vs. NLRC, 191 SCRA 633 (1990).
[46] PLDT vs. NLRC and Enrique Gabriel, G.R. No. 106947, February 11, 1999, citing Madios vs. NLRC, 254 SCRA 248 (1996).
[47] Exhibits "44" – "46" for private respondents, Records, Vol. 1, pp. 395-397.
[48] Salaw vs. NLRC, supra note 30 citing Santos vs. NLRC, 154 SCRA 166 (1987)
[49] Joaquin Servidad vs. NLRC, 265 SCRA 61, 71 (1996)