

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**CMP FEDERAL SECURITY AGENCY,
INC.,**

Petitioner,

-versus-

**G.R. No. 125298
February 11, 1999**

**NATIONAL LABOR RELATIONS
COMMISSION, LABOR ARBITER
CRESENCIANO R. INIEGO, and
FERNANDO CARANTO, RESTY
REMITTERE, REYNALDO ROSALES,
ANTONIO TAPAR, NARCISO CLARO,
SIONY MANOS, BALDO VIODOR and
DAWAY WAHAB,**

Respondents.

X-----X

DECISION

BELLOSILLO, J.:

CMP FEDERAL SECURITY AGENCY INC. seeks in this petition for certiorari to annul, for having been rendered with grave abuse of discretion amounting to lack or excess of jurisdiction, the 26 October 1995 Decision of the National Labor Relations Commission in NLRC NCR CA 007480-94, Fernando Caranto, et al. vs. CMP Federal

Security Agency, Inc., et al.,^[1] affirming with modifications the decision of the Labor Arbiter and ordering herein petitioner to pay private respondents wage differentials, 13th month pay, holiday pay and service incentive leave pay; and, its Resolution of 29 November 1995 denying reconsideration.

CMP Federal Security Agency Inc. (CMP hereon) is in the business of providing detective and security services. Among its employees were herein private respondent security guards Fernando Caranto, Resty Remittere, Reynaldo Rosales, Antonio Tapar, Narciso Claro, Siony Manos, Baldo Viodor and Daway Wahab,^[2] all assigned at the Maalikaya Health Complex in Quezon City.

On 10 March 1994 private respondents filed complaints for illegal deduction, underpayment and/or non-payment of wages, premium pay for holiday, rest day and night shift differential pay, 13th month pay, service incentive leave pay, separation pay, allowance and unfair labor practice against CMP,^[3] Carolina Mabanta Piao and Ponciano Mabanta Sr. Private respondent Fernando Caranto later amended his complaint to include illegal dismissal^[4] after he was relieved from his post at the Maalikaya Health Complex by CMP, allegedly upon request of the client.

The case was initially set for mandatory conference or conciliation on 29 March 1994. It was reset to 11 April 1994 by agreement of the parties to give them adequate time to explore the possibility of amicable settlement. Thereafter the hearing was reset several times with Labor Arbiter Cresencio R. Iniego directing the parties each time to submit their respective position papers and other documentary evidence. Efforts at settlement failed.

When the case was finally called for hearing on 23 May 1994 private respondents filed their position paper and other documentary evidence in compliance with the Labor Arbiter's orders. On the other hand, CMP moved for another postponement which the Labor Arbiter denied. Thereafter, the case was deemed submitted for decision. It was only on 13 June 1994 that CMP presented its position paper.

On 22 July 1994 the Labor Arbiter rendered a decision in favor of private respondents ordering CMP to reinstate Fernando Caranto

with full back wages, pay salary differentials to all private respondents, plus attorney's fees.

Both parties appealed to the NLRC. Private respondents, in their Partial Appeal, alleged that the Labor Arbiter erred in excluding the awards for service incentive leave pay, holiday pay, overtime pay and illegal deductions. CMP for its part argued that the Labor Arbiter erred in holding that CMP did not submit any position paper despite his repeated orders; in ruling that the non-filing of the position paper amounted to an admission of liability by CMP; and, in deciding the case solely on the basis of the position paper and evidence submitted by complainants.

In its assailed Decision of 26 October 1995 the NLRC denied CMP's appeal, granted private respondents' Partial Appeal and modified the decision of the Labor Arbiter by including in the computation of monetary awards holiday pay, service incentive leave pay, 13th month pay, overtime pay and reimbursement for illegal deductions. The dispositive portion reads —

WHEREFORE, the appealed decision is modified. Respondent CMP Federal Security Agency is directed to pay complainants the following:

1. Pay all complainants wage differential(s) in the amount of One Hundred Twenty Eight Thousand Nine Hundred Eighty Nine and 70/100 (P128,989.70) as well as holiday pay, 13th month pay and service incentive leave pay, as follows:

FERNANDO CARANTO

13 th Month Pay	P3,792.75
Holiday Pay	P1,760.00
Service Incentive Leave Pay	P590.00

	P6,142.75

RESTY REMITTERE

13 th Month Pay	P9,195.49
Holiday Pay	P3,318.00
Service Incentive Leave Pay	P1,770.00

	P14,283.49

REYNALDO ROSALES

13 th Month Pay	P11,280.17
Holiday Pay	P4,026.00
Service Incentive Leave Pay	P1,770.00

	P17,076.17

ANTONIO TAPAR

13 th Month Pay	P10,253.91
Holiday Pay	P3,355.00
Service Incentive Leave Pay	P1,770.00

	[*]P17,076.17

CLARO NARCISO

13 th Month Pay	P6,186.50
Holiday Pay	P2,138.00
Service Incentive Leave Pay	P1,180.00

	P9,504.50

SIONY MANOS

13 th Month Pay	P4,101.83
Holiday Pay	P1,666.00
Service Incentive Leave Pay	P1,770.00

	P7,537.83

BALDO VIODOR

13 th Month Pay	P11,280.16
Holiday Pay	P4,026.00
Service Incentive Leave Pay	P1,770.00

	P17,076.16

DAWAY WAHAB

13 th Month Pay	P362.50
Holiday Pay	P430.00

	P797.50

GRAND TOTAL	P87,797.31
	=====

2. The individual respondents Carolina Mabanta Piad and Ponciano Mabanta are held liable in their official capacity.
3. The other findings stand affirmed.

Its motion for reconsideration having been denied by the NLRC through its Resolution of 29 November 1995, petitioner CMP now comes to us through the present petition imputing grave abuse of discretion on the NLRC: (a) in holding that private respondent Caranto was illegally dismissed, basing its findings solely on surmises and baseless conclusion that petitioner resorted to retaliatory acts; and, (b) in granting the money claims of private respondents on the unfounded presumption that since petitioner failed to submit its position paper it is deemed to have admitted the charges in the complaint.

The issues are: (a) whether the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction in holding that private respondent Fernando Caranto was illegally dismissed by CMP; and, (b) whether in granting all the money claims of private respondents CMP was denied due process.

Well-settled is the rule that the findings of the NLRC, except when there is grave abuse of discretion, are practically conclusive on this Court. It is only when the NLRC's findings are bereft of any substantial support from the records that the Court may step in and proceed to make its own independent evaluation of the facts.^[5] We see no cogent reason to deviate from this rule.

On the legality of Caranto's dismissal, the NLRC held —

On the other hand, respondent's [CMP] contention that complainant Fernando Caranto abandoned his work is without sufficient basis. The plea of abandonment is inconsistent with his immediate filing of a complaint for illegal dismissal with prayer for reinstatement. It is illogical for an employee to abandon his work and then immediately seek reinstatement. (*Judric Canning Corp. vs. Inciong*, 115 SCRA 887). Moreover, respondents failed to prove by evidence that Caranto was indeed absent without leave.^[6]

CMP insists that Caranto was never really dismissed but was merely relieved from his post at Maalikaya Health Complex upon request of the Manager, and transferred by CMP to SM-Feati; that two (2) special orders were allegedly sent by CMP to Caranto informing him of his relief from guard duties at Maalikaya and his assignment at SM-Feati but despite receipt of these orders he failed to report at CMP office; that a follow-up letter was likewise addressed to him requiring him to show cause why he should not be dismissed, which he never answered; and, that his refusal to accept a new assignment and his prolonged absence justify the presumption that he voluntarily abandoned his job.

In termination cases like the one before us, the burden of proving that the dismissal of the employee was for a valid or authorized cause rests on the employer^[7] and failure to discharge that duty would mean that the dismissal is not justified and therefore illegal.^[8] The same principle was reiterated by this Court in *Golden Donuts Inc. vs. NLRC*^[9] when it ruled that the employer carries the burden of proof in showing just cause for terminating the services of an employee.

In the instant case, CMP failed to present evidence to justify Caranto's dismissal. We have scoured the records but could not find any letter, memorandum or correspondence between CMP and the management of Maalikaya Health Complex dealing with the latter's alleged request for Caranto's relief from guard duties at Maalikaya Health Complex, nor the two (2) special orders supposedly sent by CMP to Caranto: the first order, informing him of his relief from his post at Maalikaya Health Complex, and the other, reassigning him to SM-Feati; neither the follow-up letter by CMP requiring Caranto to explain and show cause why his services should not be terminated. We could not find any evidence, for that matter, which would clearly and convincingly show that Caranto was absent without any valid reason and with no intention of returning to work.

Apparently, CMP failed to discharge its burden of proof. Its allegation that Caranto was merely relieved and reassigned is empty and self-serving, too insufficient to establish a just and valid cause for his dismissal as employee. To allow an employer to terminate the employment of his worker based merely on allegations without proof places the latter in an uncertain situation. He is at the sole mercy of his employer who, in this case, has emasculated his right to a security of tenure.

Contrariwise, when Caranto was relieved from his post on 6 May 1994 he immediately pursued his claim against CMP by amending his complaint six (6) days after to include illegal dismissal among his charges. This can hardly be expected from one who has voluntarily "abandoned" his job, as claimed by CMP. The immediate filing of a complaint for illegal dismissal against the employer is a clear indication that the employee has not given up on his work.^[10]

As already stated above, CMP failed to justify Caranto's dismissal thereby rendering it illegal. Consequently, no grave abuse of discretion was committed by the NLRC in upholding the decision of the Labor Arbiter ordering Caranto's reinstatement.

On the second issue, CMP maintains that both the Labor Arbiter and the NLRC gravely abused their discretion in granting the money claims of private respondents, alleging that a reading of the Labor Arbiter's decision and that of the NLRC clearly shows that only the

pleadings and evidence submitted by private respondents were taken into consideration while those presented by CMP were completely ignored, in clear violation of its constitutional right to due process.

Before resolving the merit of the argument, it may be worth to mention the nature of the proceedings before labor courts in relation to the requirements of due process. Under Art. 221 of the Labor Code, technical rules of evidence prevailing in courts of law or equity are not controlling in any proceeding before the NLRC or the Labor Arbiter. Both are mandated to use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process.^[11]

While administrative tribunals exercising quasi-judicial powers, like the NLRC and Labor Arbiters, are free from the rigidity of certain procedural requirements, they are nonetheless bound by law and practice to observe the fundamental and essential requirements of due process. The standard of due process that must be met in administrative tribunals allows a certain degree of latitude as long as fairness is not ignored.^[12] Hence, it is not legally objectionable, for being violative of due process, for the Labor Arbiter to resolve a case based solely on the position papers, affidavits or documentary evidence submitted by the parties. The affidavits of witnesses in such case may take the place of their direct testimony.^[13]

Set against the records of this case, CMP's claim that it was deprived of its right to be heard readily collapses. The earlier narration of facts clearly demonstrates that the parties were repeatedly ordered by the Labor Arbiter to submit their position papers together with the affidavits of their witnesses and other evidence in support thereof — first on 11 April 1994, then on 22 April 1994, and finally on 6 May 1994. During the 23 May 1994 conference CMP, instead of complying with the order requiring it to submit its position paper, moved for another postponement which was denied. It was only on 13 June 1994, after the case was submitted for resolution, that CMP finally presented its position paper. Having been given ample opportunity to put forth its case, CMP has only itself to blame or, better still, its counsel who was then present, for its failure to do so within the extended period.

A party before the Labor Arbiter which had a chance to present its side during a period of more than one (1) month, and despite repeated extensions of time given to enable it to present its position paper still failed to meet its final deadline, cannot claim denial of due process^[14] if subsequently the Labor Arbiter disregarded its position paper belatedly filed.

Moreover, CMP had all the chances to ventilate its arguments in its appeal to the NLRC where, in fact, it submitted a memorandum, presented its position paper and supporting documents allegedly ignored by the Labor Arbiter, as well as a motion for reconsideration — which documents were considered by that Labor Tribunal in the course of resolving the case.^[15] Consequently, the alleged defect in the proceedings before the Labor Arbiter, if there be any, was deemed cured.

The fact that the NLRC in its decision made no reference to the position paper and evidence of petitioner does not mean that they were not considered. It is simply that the NLRC agreed with the Labor Arbiter's findings and conclusions and found nothing substantial in petitioner's position paper and documentary evidence to warrant a reversal of those findings and conclusions.

The essence of due process is simply an opportunity to be heard or, as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling complained of.^[16] Where, as in this case, the party has had ample opportunity to present its side of the controversy not only before the Labor Arbiter but also the NLRC on appeal, it cannot thereafter interpose lack of due process for what the fundamental law abhors is simply the absolute absence of opportunity to be heard.

Finally, while it may be true that in labor cases stringent rules of procedure may be dispensed with in the interest of justice, it does not mean that a party litigant is at liberty to completely disregard or ignore the rules, particularly those relating to the periods for filing of pleadings. In this connection, if we are to sustain petitioner's argument that it was denied due process when its position paper and documentary evidence were not considered by the Labor Arbiter in deciding the case, we will in effect put a premium on the undesirable

practice of filing position papers late and only after the case has already been submitted for decision.

WHEREFORE, the petition is **DISMISSED**. The Decision of the National Labor Relations Commission dated 26 October 1995 affirming with modifications the Decision of the Labor Arbiter and ordering petitioner CMP FEDERAL SECURITY AGENCY, INC., to pay private respondents FERNANDO CARANTO, RESTY REMITTERE, REYNALDO ROSALES, ANTONIO TAPAR, NARCISO CLARO, SIONY MANOS, BALDO VIODOR and DAWAY WAHAB wage differentials, 13th month pay, holiday pay and service incentive leave pay as earlier quoted in this Decision, and its Resolution of 29 November 1995 denying petitioner's Motion for Reconsideration, are **AFFIRMED**. Costs against petitioner.

SO ORDERED.

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

[1] Penned by Presiding Commissioner Lourdes C. Javier, with Commissioners Ireneo B. Bernardo and Joaquin A. Tanodra, concurring.

[2] The dates of employment and salary rates of respondents were as follows:

	<i>NAME</i>	<i>DATES OF EMPLOYMENT</i>	<i>SALARY</i>
1.	Fernando Caranto	Jan.-Jul. 1991	P104.00
		Aug. 1991-Jan. 1992	106.00
		March 1994-May 1994	18.00
2.	Resty Remittere	Jun. 1989	64.00
		Jul. 1989-Aug. 1990	89.00
		Sept. 1990-Sept. 1992	106.00
		Aug. 1993-Sept. 1993	118.00
		Oct. 1993 up to present	118.00
3.	Reynaldo Rosales	May-Nov. 1989	89.00
		Dec. 1988-1991	89.00
		Jan. 1992-1994	106.00
		Feb. 1994	118.00
4.	Antonio Tapar	Oct. 1989-Sept. 1990	89.00
		May 1991-Sept. 1991	106.00
		Sept. 1991-May 1993	118.00
		Jun. 1993-Jan. 1994	106.00
5.	Claro Narciso	Sept. 1992-Mar. 1994	106.00
		Mar. 1994 up to present	118.00
6.	Siony Manos	Apr. 1989-Aug. 1990	89.00

		Aug. 1990-Apr. 1991	106.00
		May 1991-Aug. 1991	118.00
		Sept. 1993 up to present	106.00
7.	Baldo Viodor	May 1989-Mar. 1991	104.00
		Mar. 1991-1992	106.00
		Aug. 1992 up to present	102.00
8.	Daway Wahab	Apr. 1989-Nov. 1989	50.00
		Dec. 1989-May 1990	89.00
		May 1990-Dec. 1990 on forced leave	
		Apr. 1994 up to present	106.00

[3] Records, pp. 2-11.

[4] Id., p. 15.

[*] Copied verbatim from documents obtained directly from the Supreme Court.

[5] *Agoy vs. NLRC*, G.R. No. 112096, 30 January 1996, 252 SCRA 588, 594-595.

[6] NLRC Decision, p. 9; Rollo, p. 26.

[7] Art. 277, Labor Code as amended.

[8] See Note 5.

[9] G.R. Nos. 105758-59, 21 February 1994, 230 SCRA 153.

[10] *Remerco Garments Manufacturing vs. Minister of Labor*, G.R. Nos. 56176-77, 28 February 1985, 135 SCRA 167.

[11] See *De Ysasi III vs. National Labor Relations Commission*, G.R. No. 104599, 11 March 1994, 231 SCRA 173, 183.

[12] *Adamson vs. Adamson, Inc. vs. Amores*, G.R. No. 58292, 23 July 1987, 152 SCRA 237, 250.

[13] *Coca Cola Bottlers Philippines, Inc. vs. National Labor Relations Commission*, G.R. No. 78787, 18 December 1989, 180 SCRA 195.

[14] *Almoite vs. Pacific Architects & Engineers, Inc.*, G.R. No. 73680, 10 July 1986, 142 SCRA 623.

[15] *Llora Motors, Inc. vs. Franklin Drilon*, G.R. No. 82895, 7 November 1989, 179 SCRA 175.

[16] *Philippine Phosphate Fertilizer Corp. vs. Torres*, G.R. No. 98050, 17 March 1994, 231 SCRA 335, citing *PLDT vs. National Labor Relations Commission*, G.R. No. 71499, 19 July 1989, 175 SCRA 437.