SUPREME COURT
THIRD DIVISION

BENEDICTO CAÑETE and EDGAR ISABIDA,
***Petitioners*,**

-versus-

G.R. No. 131467
April 21, 1999

NATIONAL LABOR RELATIONS COMMISSION and ABRAHAM ABAJO,
***Respondents*.**
x----------x

D E C I S I O N

PANGANIBAN, *J.*:

If, through their own fault or inaction, parties fail to fully air their side before the labor arbiter, the remand of their case for further proceedings is not justified. With substantial justice as goal, the labor arbiters are given wide latitude in conducting proceedings before them. Subject to the requirements of due process, they may decide the cases on the basis of pleadings, documents and evidence filed before them by the parties. A formal or trial-type hearing is not always necessary.

The Case

Before us is a Petition for Certiorari under Rule 65 of the Rules of Court assailing the July 31, 1997 Resolution of the National Labor Relations Commission (NLRC),[1] the dispositive portion of which reads:

> "WHEREFORE, the decision appealed from is vacated and set aside, and a new one entered remanding this case to the Arbitration Branch of Origin for further proceeding."[2]

Likewise challenged in this petition is the September 25, 1997 Resolution of the NLRC denying petitioners' motion for reconsideration.

The dispositive portion of the labor arbiter's Decision,[3] which was set aside by the NLRC, reads:

> "WHEREFORE, in view of the foregoing consideration, judgment is hereby rendered in the above-entitled case:
>
> (1) Declaring Benedicto Cañete and Edgar Isabida to have been illegally dismissed, and ordering respondent Abraham Abajo to pay them backwages and separation pay as hereinafter specified; and
>
> (2) Also ordering respondent Abraham Abajo to pay Benedicto Cañete and Edgar Isabida wage differentials, 13th month pay and holiday pay, as set forth below together with backwages and separation pay, viz:
>
> Benedicto Cañete
>
> | | |
> |---|---|
> | Backwages | P6,971.18 |
> | Separation Pay | 6,337.44 |
> | Wage Differentials | 21,149.66 |
> | 13th Month Pay | 4,257.49 |
> | Holiday Pay | 1,140.10 |
> | | ———— |

	Total P40,155.87
	========

Edgar Isabida

Backwages	P6,971.18
Separation Pay	12,674.88
Wage Differentials	21,149.66
13th Month Pay	4,257.49
Holiday Pay	1,440.10

	Total P46,493.31
	========

SO ORDERED."[4]

The Facts

The antecedent facts are summarized by the NLRC as follows:

> "Respondent Abraham Abajo is the owner of a rubber tree farm, located at New Bohol Kidapawan, Cotabato, with an area of about 49,643 square meters (or 4.9 hectares) planted with about 1,800 rubber trees, 20% of which are dried up or no longer available for tapping.
>
> "The complainants were formerly employed in the rubber farm of respondent. The lengths of their employment are strongly disputed by the parties. Complainant Cañete claims that he started his employment in May 1993, and complainant Isabida on January 7, 1989, that they worked from 6:00 a.m. to 12:00 noon or six (6) hours daily; and that they were paid at the daily wage rates of P30.00 in 1994 and P33.00 in 1996.
>
> "On November 26, 1996, complainants contend that they were verbally told by respondent to stop working and that their employment was terminated effective November 29, 1996. They claim that the respondent did not inform them of the reason for their intended dismissal. Hence, they charged respondent for illegal dismissal with money claims.

"Respondent, on the other hand, alleges that complainant Cañete was employed as his tapper only on June 1, 1995 and his salary was P1,000.00 a month and not P33.00 as alleged by him. Cañete tapped half of the rubber plantation or about 900 rubber trees every 15 days each month, working at an average of five (5) hours per day or 2 ½ daily per month, after which Cañete was free and worked in other rubber plantations. Respondent further contends that Cañete also worked as rubber tapper of Bacus rubber plantation with a ten-(10) hectare area.

"The complainant Cañete does not deny having worked with Bacus rubber plantation but explains that he only did so after he was terminated by respondent and only on temporary basis.

"With respect to complainant Isabida, respondent avers that the former started working as his tapper on September 21 up to November 26, 1996 and not on January 7, 1989 as alleged by Isabida, and his salary was also P1,000.00 a month and not P33.00 a day. Isabida also tapped the other half of respondent's rubber trees every 15 days and worked an average of five (5) hours daily for the period. After his work, he too was free to work at other rubber tree plantations, maintains respondent.

"On the charge of dismissal, respondent asserts that complainants were dismissed for valid causes. He avers that they were guilty of insubordination as both did not obey the manner and procedure as instructed by the former of tapping the rubber trees they were respectively assigned for 15 days each month. Respondent also charges them with negligence because they left uncollected rubber cup lumps in the tapping area which were stolen by thieves. Moreover, respondent alleges that complainants were often absent from their jobs without prior permission from the former.

"Further, respondents contend that when they were advised to stop working on account of their deficient work performance, the complainants immediately filed a complaint with the Department of Labor and Employment Regional Office. The respondent tried to settle this case but no settlement could be arrived at because complainants were demanding huge

amounts which the former could not well afford. The complainants also refused to return to work when they were offered by respondent and they instead insisted on their claims, finally argues the respondent.

x x x[5]

The Ruling of the NLRC

In debunking the labor arbiter's findings, NLRC ruled as follows:

> "After a careful review of the records of this case, we find the Executive Labor Arbiter to have misappreciated the facts and the evidence on record. The findings of the Labor Arbiter that complainants were illegally dismissed on the premise that they were terminated without any reason or valid cause on the sole basis of the allegation of complainants, is not truly reflective of the facts and circumstances.
>
> "It is improbable that an employer like herein respondent at his admitted age of about 78 years and unlettered at that would simply dismiss complainants without any reason at all. If the Labor Arbiter entertained doubts on the averments of respondent, it would have been more in accord with prudence and the principle of fair play that a clarificatory hearing of this case should at least be conducted in view of the seriously disputed issues.
>
> "Under the facts and circumstances, we are not prepared to render a definitive finding on whether or not complainants were in fact illegally dismissed. Considering the size and number of rubber trees in respondent's farm, we could not readily accept the contention of complainants that they performed tapping jobs thereat for about six (6) hours and continuously for the period of one (1) month each.
>
> "So far, what appears well established in the records is that this labor dispute arose from the misunderstanding between the parties on the manner and procedure of tapping the rubber trees of respondent. The later blamed complainants for the

drying up of some rubbers due to the failure of the complainants to follow the tapping procedure, while complainants blamed it on improper management. As to who in fact was telling the truth, we fail to find any sufficient evidence on record.

"There is also serious dispute over the length of service of complainants that has to be further threshed out.

"With respect to the monetary awards, we find necessity to further remand the same for being merely based on a straight method of computation which is too arbitrary and unfair to the respondent. There should be concrete evidence on the number of working hours and the regularity of the tapping activity as basis for computation.

"Under the rules, the Labor Arbiter is tasked to avail himself of all reasonable means to ascertain the facts in each controversy speedily and objectively, and this includes whenever necessary and practicable the conduct of ocular inspection of the premises, subpoena of relevant documentary evidence, examination of well-informed persons or witness, if any. (See Sections 4 and 7, Rule V, NLRC New Rules of Procedure).

x x x."[6]

Hence, this petition.[7]

The Issues

Petitioners submit the following issues for resolution:

"I

Whether or not the NLRC was correct to remand the case to the labor arbiter for the reception of further evidence because the evidence for the respondent is grossly insufficient to sustain a favorable decision and respondent's counsel failed to vigorously defend his case at the arbiter's level.

II

Whether or not there is something wrong with the position-paper procedure in labor cases.

III

Whether or not it is always necessary to hold hearings at the labor arbiter's level."[8]

Essentially, the petitioners contend that the NLRC acted with grave abuse of discretion, when it vacated and set aside the Decision of the labor arbiter and remanded the case to the latter for further proceedings.[9]

The Court's Ruling

The petition is meritorious.

Main Issue:

No Basis for Remand

In remanding the case for "further proceedings," the NLRC held that the labor arbiter "misappreciated the facts and the evidence on record." The NLRC also observed (1) that it was "not prepared to render a definitive finding on whether or not complainants were in fact illegally dismissed" and (2) that "there was also a dispute over the lengths of service of complainants." In its final statement, it observed that "the labor arbiter is tasked to avail himself of all reasonable means to ascertain the facts in each case and this task includes whenever necessary and practicable the conduct of ocular inspection of the premises, subpoena of relevant documentary evidence, or examination of well-informed persons or witnesses, if any."

We disagree with the NLRC. The remand of the case for the reception of evidence has no legal or factual basis.

Article 221 of the Labor Code categorically declares that "rules of evidence prevailing in courts of law or equity shall not be controlling."

Subject to the requirements of due process,[10] proceedings before the labor arbiter are generally non-litigious, because the technical rules and procedures of ordinary courts of law do not strictly apply. Thus, a formal or trial-type hearing is not always essential. This is evident from the rules of procedure of the NLRC, which provides:

> "SECTION 4. Determination of Necessity of Hearing. — Immediately after the submission by the parties of their position papers/memoranda, the Labor Arbiter shall motu propio determine whether there is a need for a formal trial or hearing. At this stage, he may at his discretion and for the purpose of making such determination ask clarificatory questions to further elicit facts or information including but not limited to the subpoena of relevant documentary evidence, if any, from any party or witness.
>
> "SECTION 5. Period to Decide Cases. — x x x. (b) If the Labor Arbiter finds no necessity for further hearing after the parties have submitted their position papers and supporting documents, he shall issue an order to that effect and shall inform the parties, stating the reasons therefor."[11]

It is clear that the labor arbiter enjoys wide discretion in determining whether there is a need for a formal hearing in a given case. After all, as has been stated, he or she may use all reasonable means to ascertain the facts of each case without regard to technicalities. The case may be decided on the basis of the pleadings and other documentary evidence presented by the parties.[12] In the absence of any palpable error, arbitrariness or partiality, the method adopted by the labor arbiter to decide a case must be respected by the NLRC.[13]

In the present case, we find no such error or arbitrariness on the part of the labor arbiter. Due process was accorded both parties, and the Decision of the labor arbiter was supported by the evidence on record.

Due Process Observed

Petitioners Cañete and Isabida, as well as Private Respondent Abajo, were summoned to a preliminary conference, but the parties could not agree to an amicable settlement. Hence, they were required to

submit their respective position papers as well as supporting documents. They all complied. Thereafter, they were likewise ordered to file their comments and submit additional evidence. Petitioners, but not private respondent, complied again. In this light, we hold that the latter was not deprived of due process of law, the essence of which is simply an opportunity to be heard.[14] It must be stressed that all the parties in this case were given equal opportunities to air their respective positions before the labor arbiter. That private respondent failed to fully air his position by his own inaction or negligence does not constitute deprivation of due process.

Labor Arbiter's Findings Supported by the Records

The burden of proving that the termination of employment was for a valid cause rests on the employer, and failure to discharge this burden implies that the dismissal was not justified and thus illegal.[15] Private respondent admitted that he had employed petitioners, but disputed the duration and the terms of their employment. To prove the length of their service, the underpayment of their wages and their illegal dismissal, Petitioners Cañete and Isabida presented the affidavits of Cresencio Jalapon, barangay captain of the locality where Abajo's rubber tree farm was located; and Danilo Satera, a former employee of private respondent. To refute petitioners' claims, Abajo submitted the Joint Affidavit of Ernesto Abajo Sr. and Alfredo Abajo.

On the basis of these pieces of evidence, Labor Arbiter Plagata concluded that petitioners were illegally dismissed, viz.:

> "In dismissal cases, the burden of proving just cause for dismissal is put on the shoulders of the employer. In the instant case, the respondent, as employer, has miserably failed to discharge such duty. While charging the complainants with gross insubordination, negligence and habitual absenteeism, the only evidence on record thereon are respondent's sole, self-serving and unsubstantiated statements in his position paper. Even his witnesses Ernesto Abajo, Jr. and Alfredo Abajo state nothing of the said charges (Respondent's Position Paper Exh. II) Clearly therefore the respondent has not duly established the existence of just cause for dismissing complainants."[16]

Private Respondent Abajo insists before this Court that the dismissal of petitioners was due to a just cause; that is, they were guilty of insubordination, negligence and habitual absenteeism. He argues that they were responsible for the loss of his farm tools;[17] and that they did not follow his instructions, as a result of which 20 percent of his rubber trees dried up. However, the records are bereft of any proof to substantiate such claims. In support of his position paper[18] before the labor arbiter, private respondent submitted Ernesto and Alfredo Abajo's Joint Affidavit only, consisting of the following three paragraphs:

> "That we know the persons of BENEDICTO CAÑETE AND EDGAR J. ISABIDA were the tanners of ABRAHAM ABAJO with a salary of P1,000.00 a month for a period of 15 days a month at an average of five hours a day or when it is done daily at 2.5 hours;
>
> "That we know that BENEDICTO S. CAÑETE is also the tanner of the Bacus Plantation with an area of 10 hectares, more or less, situated at New Bohol, Kidapawan, Cotabato and that EDGAR J. ISABIDA has other types of work or sidelines in our barangay like the harvesting of coconuts, etc.;
>
> "That we are executing this affidavit in order to attest to the truth of all the foregoing allegations;
>
> x x x."[19]

Evidently, the foregoing affidavit is woefully inadequate to establish the validity of the dismissal. The labor arbiter gave private respondent an opportunity to rectify this error when he ordered both parties to submit additional evidence. However, he opted not to avail himself of the chance. He cannot now complain of deprivation of due process.[20]

On the other hand, the following circumstances duly supported by the evidence on record justify Labor Arbiter Plagata's Decision. First, Private Respondent Abajo admits that Petitioners Cañete and Isabida were his employees; second, he was not able to substantiate his allegation that the dismissal of these employees was for a just cause;

third, he did not assail the credibility of Cresencio Jalapon and Danilo Satera or question the veracity of their statements; and fourth, even if we concede to his contention that he paid each of the petitioners P1,000 a month, the same was still below the minimum wage requirement.

Clearly, the NLRC cannot fault the labor arbiter for basing his Decision on the evidence before him. Remanding the case for further proceedings serves no useful purpose, for the parties have been given ample opportunity to present their respective claims and defenses. If private respondent failed to fully air his side, the fault rests solely on him, not on the labor arbiter.

In reinstating the labor arbiter's Decision, we also affirm the grant of separation pay to petitioners.[21] Because petitioners expressly prayed for this award,[22] they effectively foreclosed reinstatement as a relief.[23] Thus, the labor arbiter correctly awarded separation pay in lieu of reinstatement.[24]

We also hold that back wages should be computed from the date of dismissal up to the finality of this Decision, without any deductions or conditions, in consonance with Bustamante vs. NLRC,[25] in which we ruled:

> "The clear legislative intent of the amendment in Rep. Act No. 6715 is to give more benefits to workers than was previously given them under the Mercury Drug rule or the 'deduction of earnings elsewhere' rule. Thus, a closer adherence to the legislative policy behind Rep. Act No. 6715 points to 'full backwages' as meaning exactly that, i.e., without deducting from backwages the earnings derived elsewhere by the concerned employee during the period of his illegal dismissal."

WHEREFORE, the petition is hereby **GRANTED**. The assailed Resolutions of the NLRC are **ANNULLED** and **SET ASIDE**, and the Decision of Labor Arbiter Rhett Julius J. Plagata is hereby **REINSTATED** with the **MODIFICATION** that the back wages should be computed from the date of illegal dismissal up to the finality of this Decision. No costs.

SO ORDERED.

Romero, Vitug, Purisima and Gonzaga-Reyes, *JJ.*, concur.

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[1] Fifth Division, composed of Presiding Commissioner Musib M. Buat, ponente, and Commissioners Oscar N. Abella and Leon G. Gonzaga Jr., both of whom concurred.
[2] Rollo, p. 98.
[3] Written by Executive Labor Arbiter Rhett Julius J. Plagata.
[4] Rollo, pp. 68-69.
[5] Rollo, pp. 92-94.
[6] Rollo, pp. 96-98.
[7] This case was deemed submitted for resolution on November 27, 1998, upon the receipt of the public respondent's Memorandum. Petitioners' Memorandum was received earlier, on October 7, 1998. The private respondent's Memorandum, signed by Atty. Fernando D. Cubero, was posted on September 8, 1998.
[8] Memorandum for Petitioners, pp. 7-8; rollo, pp. 115-116. This was signed by Attys. Araceli A. Rubin, Amelia Garchitorena and Teresita S. de Guzman of the Public Attorney's Office.
[9] See also public respondent's Memorandum, p. 7; rollo, p. 213. This was signed by Assistant Solicitor General Cecilio D. Estoesta and Solicitor Antonio D. Marigomen.
[10] Ang Tibay vs. CIR, 69 Phil 635, February 27, 1940.
[11] Rule V, The New Rules of Procedure of the NLRC.
[12] Fernandez et al. vs. NLRC et al., GR No. 105892, January 28, 1998; PMI Colleges vs. NLRC, 277 SCRA 462, August 15, 1997; PAL vs. NLRC, 258 SCRA 242, July 5, 1996.
[13] Taberrah vs. NLRC, 276 SCRA 431, July 29, 1997; Palomado vs. NLRC, 257 SCRA 680, June 28, 1996; Coca Cola Salesforce Union vs. NLRC, 243 SCRA 680, April 21, 1995.
[14] Roces vs. Aportadera, 243 SCRA 108, March 31, 1995; Rubenecia vs. Civil Service Commission, 244 SCRA 640, May 31, 1995.
[15] Dela Cruz vs. NLRC, 268 SCRA 458, February 17, 1997; Reformist Union of R.B. Liner, Inc. vs. NLRC, 266 SCRA 713, January 27, 1997; Nazal vs. NLRC, 274 SCRA 350, June 19, 1997, Magnolia Corp. vs. NLRC, 250 SCRA 332, November 24, 1995.
[16] Rollo, p. 64.
[17] Private respondent's Memorandum, pp. 6-7; rollo, pp. 172-173.
[18] Rollo, pp. 47-51.
[19] Rollo, p. 52.
[20] Rollo, p. 61.
[21] Labor Arbiter's Decision, p. 5; rollo, p. 65.
[22] Petition for Certiorari, p. 30; rollo, p. 32.

[23] Capili vs. NLRC, 270 SCRA 488, March 26, 1997.
[24] Pepsi Cola Distributors of the Philippines, Inc. vs. National Labor Relations Commission, 247 SCRA 386, 397, August 15, 1995; and L.T. Datu and Co. vs. National Labor Relations Commission, 253 SCRA 440, 453, February 9, 1996.
[25] 265 SCRA 61, November 28, 1996, per Padilla, J.