SUPREME COURT
SECOND DIVISION

GOLDEN THREAD KNITTING INDUSTRIES, INC., GEORGE NG and WILFREDO BICO,
***Petitioners*,**

-versus-

G.R. No. 119157
March 11, 1999

NATIONAL LABOR RELATIONS COMMISSION, GEORGE MACASPAC, MARY ANN MACASPAC, ROMULO ALBASIN, MELCHOR CACHUCHA, GILBERT RIVERA and FLORA BALBINO,
***Respondents*.**
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D E C I S I O N

BELLOSILLO, *J.*:

From 16 July to 2 September 1992 four (4) separate complaints were filed against petitioners Golden Thread Knitting Industries, Inc., George Ng and Wilfredo Bico by their employees: the first, on 16 July 1992 for unfair labor practice, illegal dismissal, overtime pay, premium pay, holiday pay and illegal rotation by Gilbert Rivera, Mary Ann Macaspac, Deogracias Balingit, Lolita Geraldez, Mila Santos,

Perlita Matias, Lourdes Barranco, Melchor Cachucha, Romulo Albasin, Lani Agudo, Rosalie Cachucha, Cristina Balingit, Rossie Rejuso, Carmen Balingit, George Macaspac, Flora Balbino, Ma. Luisa Balbino, Angelina Albasin, Vilma Ballesteros, Evelyn Carlos and Letty Bejamonde; the second, on 22 July 1992, for unfair labor practice, illegal dismissal, reduction of working days, fabrication/frame-up of union member and union busting, by Flora Balbino, Mary Ann Macaspac, Rossie Rejuso, Rosalie Cachucha Lolita Geraldez, Angelina Albasin, Ma. Luisa Balbino, Vilma Ballesteros and Carmen Balingit; the third, on 24 August 1992, for unfair labor practice and withholding of wages filed by Deogracias Balingit; and the fourth, on 2 September 1992, for unfair labor practice and illegal dismissal, by Gilbert Rivera and Mary Ann Macaspac. Thereafter, the four (4) complaints had to be, as they in fact were, consolidated.

During the pendency of these cases, Lolita Geraldez, Perlita Matias, Mila Santos and Angelina Albasin moved that they be dropped as complainants in view of their subsequent resignation/separation from employment.

The complainants alleged that in the first week of May 1992 they organized a labor union. On 22 May 1992 Cristina Balingit, wife of the union Chairman, was dismissed from employment as sewer. In the last week of May union Chairman Deogracias Balingit himself was suspended from work as knitting operator. On 1 June 1992 petitioners shortened the number of working days of the union officers and members from six (6) to three (3) days a week.

On 1 July 1992 the union filed a petition for certification election.

On 6 July 1992 union members Romulo Albasin, Melchor Cachucha and George Macaspac, who worked as printers, were barred from entering the company premises. On 5 August 1992 Flora Balbino was suspended, then on the same day terminated from her job as sewer. On 14 August 1992 union Vice Chairman Gilbert Rivera, as artist, was dismissed from employment together with union Secretary Mary Ann Macaspac. On 10 September 1992 Mila Santos was suspended. The complainants thus considered the foregoing acts as retaliatory measures of petitioners on account of the former having established a union.

Petitioners contended that they resorted to rotation of work, which affected practically all employees, because of the low demand for their towels and shirts. Petitioners also avowed that they validly dismissed five (5) of the complainants, namely, Romulo Albasin, George Macaspac, Gilbert Rivera, Mary Ann Macaspac and Flora Balbino. According to petitioners, Romulo Albasin and George Macaspac slashed several bundles of towels on 3 July 1992, while the positions of Gilbert Rivera and Mary Ann Macaspac became redundant. Flora Balbino threatened the Personnel Manager and violated company rules by removing her time card from the rack, while Melchor Cachucha was not dismissed but abandoned his employment on 7 July 1992.

On 17 March 1993 the Labor Arbiter partly ruled in favor of the complainants. On the issue of unfair labor practice, he opined that the reduction of working days and suspension or dismissal of union officers or members were not shown to have been done in retaliation to the complainants' act of organizing a union. He noted that those events transpired before petitioners came to know about the existence of the union which was in the later part of July 1992 when they received the notice of hearing on the petition for certification election. Moreover, he was convinced that the reduction of working days which was company wide was brought about by the low demand for the company's products.

With respect to the dismissals of Romulo Albasin, George Macaspac, Gilbert Rivera, Mary Ann Macaspac and Flora Balbino, the Labor Arbiter upheld petitioners on the validity thereof except that Gilbert Rivera and Mary Ann Macaspac should be paid separation pay of one-half (½) month for every year of service or P4,602.00 each. On the other hand, Flora Balbino should be paid her two (2) days' salary of P236.00 that was withheld from her. As for Melchor Cachucha, the Labor Arbiter sustained petitioners' contention that he was guilty of abandonment.

Regarding the claims of Deogracias and Cristina Balingit, the Labor Arbiter found that these were barred by their previous separate complaints, one of which was pending appeal while the other was

already dismissed. The rest of the claims was dismissed for lack of merit.[1]

Public respondent National Labor Relations Commission evaluated the evidence in a different manner. Except for the dismissal of the charge of unfair labor practice and the award of unpaid wages to Flora Balbino, the rest of the Labor Arbiter's ruling was set aside on 22 November 1994. According to the NLRC George Macaspac, Mary Ann Macaspac, Romulo Albasin, Melchor Cachucha, Gilbert Rivera and Flora Balbino were illegally dismissed so that petitioners were directed to immediately reinstate them with full back wages and other benefits.

Furthermore, the NLRC found merit in the claim for holiday pay for 1990, 1991 and 1992 and thus ordered petitioners to give complainants their pay for ten (10) regular holidays for each year. Finally, it required petitioners to pay attorney's fees equivalent to ten (10%) percent of the total monetary awards.[2]

Petitioners maintain that valid causes exist for the termination of the five (5) complainants earlier mentioned. Romulo Albasin and George Macaspac were caught by security guards M. Abelgas and E. Antonio slashing with razor blades several bundles of towels in the warehouse at about 12:30 o'clock in the afternoon of 3 July 1992. The incident, which constituted serious misconduct, was witnessed by another employee, Jose Arnel Mejia. Gilbert Rivera and Mary Ann Macaspac were terminated on 14 August 1992 due to redundancy, i.e., the Design Section where they worked as artists became overmanned when the volume of work was drastically reduced. Flora Balbino was guilty of serious misconduct by hurling invectives at petitioner Bico and threatening him in front of several workers, and taking her time card off the rack on 5 August 1992.

In the case of Melchor Cachucha, petitioners insist that he unjustifiably left his employment on 7 July 1992 and refused to return to work despite notice sent through his wife, who was also employed by petitioner company, through a memorandum dated 22 July 1992[3] and personal notification by another employee, Nilo Wales.[4] Petitioners insist that private respondents are not entitled to holiday

pay on the basis of bare allegations and without specifying the unpaid holidays.

Clearly, there are only two (2) issues that confront this Court: (1) whether respondent NLRC committed grave abuse of discretion in ordering petitioners to reinstate private respondents Romulo Albasin, George Macaspac, Gilbert Rivera, Mary Ann Macaspac, Flora Balbino and Melchor Cachucha; and, (2) whether these private respondents are entitled to holiday pay.

The factual findings of administrative bodies, being considered experts in their field, are binding on this Court. But this is a general rule which holds true only when established exceptions do not obtain. One of these exceptions is where the findings of the Labor Arbiter and the NLRC are contrary to each other, as in the present case. Thus, there is a necessity to review the records to determine which conclusions are more conformable to the evidentiary facts.[5]

With regard to George Macaspac and Romulo Albasin, security guards M. Abelgas and E. Antonio submitted an incident report to the Manager of petitioner company regarding the destruction of several bundles of towels by Macaspac and Albasin with the use of razor blades.[6] In fact, on 20 July 1992 petitioner Bico as Supervisor of petitioner company filed a complaint for malicious mischief against them the property destroyed being worth P3,800.00.[7] In this connection, another employee of petitioners, Jose Arnel Mejia, executed a sworn statement on the same day before the State Prosecutor regarding the incident —

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03. T: Ano naman ang iyong titistiguhan na nakita mo?

S: Nakita ko po na hinihiwa ng dalawang kasamahan ko sa trabaho iyong nakarolliong tuwalya at ito ay kanilang ikinalat at iyong nakabalot na plastic sa mga nakarollio ay kanilang pinagsisira.

04. T: Sino naman itong dalawang kasamahan mo na sumira sa mga karolliong tuwalya?

S: Sila ay sina R(O)M(U)LO ALBASIN at GEORGE MACASPAC, na pawang mga kasamahan ko sa trabaho.

05. T: Kailan at saan naman nangyari ang mga bagay na ito?

S: Noon pong ika-3 ng (H)ul(y)o 1992, mga bandang alas 12:00 ng tanghali, doon po sa warehouse ng Golden Thread (K)nitting (I)ndustries, sa no. 270 Tangka St., Malinta, Valenzuela, Metro Manila.

06. T: Nakita mo ba n(a)ng kasalukuyan nilang sinisira iyong mga tuwalya?

S: Opo, nakita ko dahil sabay-sabay kaming lumabas at isa lamang ang aming dinadaanan.

07. T: Kasama mo ba si(l)a sa isang department?

S: Opo, at lunch break na po iyon at maglalabasan kami para kumain at pagdaan nila doon sa mga nakakamadang tuwalya ay ginulo nila iyong mga kamada at pinaghihiwa nila.

08. T: Alam mo ba ang dahilan at kung bakit ginawa nila ang bagay na iyon?

S: Nagalit po siguro sila dahil inalis ni Manager iyong pinaskil nilang karatula tungkol sa labor.[8]

On 5 November 1992 Mejia executed another affidavit substantially reiterating his prior narrations.[9]

On 6 August 1992 Macaspac and Albasin executed a counter-affidavit denying the accusation against them. They claim that they were having lunch outside the company premises during the time and date of the alleged incident.[10] Their denial and alibi were substantiated by the joint affidavits of Mary Ann Macaspac, Perlita Matias, Lolita Geraldez, Melchor Cachucha and Ma. Luisa Balbino.[11]

NLRC did not find lawful cause for the dismissal of Macaspac and Albasin since —

> Records show that respondents failed to give the aforenamed complainants an opportunity to be heard. There was no investigation conducted, calling the attention of the aforenamed complainants (to) the charge imputed against them and requiring them to explain and/or answer the same. Respondents' lone witness in the person of Jose Arnel Mejia was not presented for confrontation by the said complainants. Thus, with the vehement denial of the complainants, together with their own witnesses (pp. 157-163, Records), We find the charge imputed against them of questionable veracity.[12]

The ruling is correct. We find that petitioners were unable to substantiate the charge of serious misconduct against Macaspac and Albasin. The incident report of the two (2) security guards was on its face categorical on the culpability of subject respondents, yet it is perplexing that the report was not utilized as supporting evidence in the criminal proceedings. The affidavit of petitioner Bico sworn to before the State Prosecutor only mentioned that —

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03. T: Ano ang dahilan at naririto ka sa aming tang(g)apan at nagbibigay ng salaysay?

S: Dahil sa ako po ang napag(-)utusan ng aming Manager upang maghain ng reklamo laban doon sa dalawang trabahador n(a) sumira sa produktong tuwalya.

09. T: Papaano mo naman nalaman na sila ang nagsira ng mga produktong tuwalya?

S: Nagpunta po sa akin iyong lady guard at sinabi niya na iyong mga nakarolliong tuwalya na nakaka(l)at ay mga (h)iniwa at sira. (A)ng ginawa ko ay pumunta ako doon sa lugar ng mga tuwalya at nakita ko na sira nga ang mga tuwalya, pinagtanong ko kung sino ang nakakita na

> sumira sa mga tuwalya at doon ay mayroon umamin sa akin at sinabi na sila R(o)m(u)lo Albasin at George Macaspac ang sumira.[13]

As previously stated, the incident report was addressed to the Manager of the company. Considering that it was the Manager who instructed petitioner Bico to lodge the criminal complaint, and if the report was submitted after the incident, then there was no reason for it not to form part of the evidence in the criminal proceedings. As it is, we can gather from the narration of petitioner Bico that the person who revealed to him the identities of the culprits was not one of the security guards but Mejia who supplied the supporting affidavit. These circumstances inevitably lead us to the conclusion that the incident report was merely concocted by petitioners in view of the filing of the labor cases against them.

The narration of Mejia regarding the alleged slashing incident is obviously another fabrication. In answer to the query, "Nakita mo ba n(an)g kasalukuyan nilang sinisira iyong mga tuwalya?" Mejia replied, "Opo, nakita ko dahil sabay-sabay kaming lumabas at isa lamang ang aming dinadaanan." Indeed, it is hard to believe that Macaspac and Albasin destroyed company properties in Mejia's full view who did not appear to be with them in the controversy. Often, misdeeds are committed either in the presence of an ally, if nobody is around to blow the whistle, or when darkness has adequately shrouded the surroundings. Moreover, it has not been shown that Macaspac and Albasin were such feckless individuals who would resort to destruction of company properties in total disregard of its dire consequences. On the contrary, they were union members fighting for their rights as employees. Even the reason advanced by Mejia for their misconduct banks on speculation. Further still, it does not appear that the criminal case filed by petitioner Bico primarily on the strength of the affidavit of Mejia ever prospered at the prosecutor's level.

Macaspac and Albasin were likewise denied procedural due process. As correctly observed by respondent NLRC, petitioners failed to afford Macaspac and Albasin the benefit of hearing and investigation before termination. It is also our observation that neither did petitioners comply with the requirement on notices. An established

rule of long standing is that to effect a completely valid and unassailable dismissal, an employer must show not only sufficient ground therefor but must also prove that procedural due process has been observed by giving the employee two (2) notices: one, of the intention to dismiss, indicating therein his acts or omissions complained against, and two, notice of the decision to dismiss.[14] Macaspac and Albasin were summarily eased out of employment when they were refused entry into the company premises three (3) days after allegedly slashing the bundles of towels or on 6 July 1992.

As regards Gilbert Rivera and Mary Ann Macaspac, petitioners claim that they were constrained to trim down the number of their artists in the Design Section from five (5) to two (2) as a consequence of the drastic reduction of their volume of work, and Rivera and Macaspac were among the three (3) employees dismissed for redundancy.

Rivera and Macaspac assail the alleged redundancy as the events that transpired prior to their termination proved otherwise. According to Rivera, on 27 July 1992 he was dismissed on account allegedly of poor revenues and was in fact offered separation pay, which he refused. He further said that the following day he was dismissed, he sent a letter to petitioners Ng and Bico protesting his dismissal, claiming that he had not done anything wrong to them nor to the company.[15] Further still, Rivera claimed that on 4 August 1992 he was advised by petitioner Ng to report for work immediately,[16] although upon his return he was again offered separation pay but opted instead to continue working.

On her part, Macaspac claims that she was also offered separation pay on the same ground but she also rejected the offer. Both Rivera and Macaspac requested evidence of the company's financial setback but petitioners failed to furnish them any. Rivera's working days were further reduced from three (3) to two (2) days a week.[17] Insisting on the redundancy of the positions of Rivera and Macaspac, petitioners finally dismissed them on 14 August 1992.

The circumstances recounted by Rivera and Macaspac were considered by the NLRC to have cast serious doubt on the validity and propriety of their termination. Moreover, the NLRC found that their

dismissal was not reported by petitioners to the Department of Labor and Employment (DOLE) as required by law.

Again, we agree with respondent NLRC. The characterization of an employee's services as no longer necessary or sustainable, and therefore properly terminable, is an exercise of business judgment on the part of the employer. The wisdom or soundness of such characterization or decision is not subject to discretionary review on the part of the Labor Arbiter nor the NLRC provided, of course, that violation of law or arbitrary or malicious action is not shown.[18] In the instant case, we question petitioners' exercise of management prerogative because it was not shown that Rivera and Macaspac's positions were indeed unnecessary, much less was petitioners' claim supported by any evidence. It is not enough for a company to merely declare that it has become overmanned. It must produce adequate proof that such is the actual situation in order to justify the dismissal of the affected employees for redundancy.[19]

Furthermore, we have laid down the principle that in selecting the employees to be dismissed, a fair and reasonable criteria must be used, such as but not limited to: (a) less preferred status (e.g., temporary employee), (b) efficiency, and (c) seniority.[20] The records disclose that no criterion whatsoever was adopted by petitioners in dismissing Rivera and Macaspac. Another procedural lapse committed by petitioners is the lack of written notice to the DOLE required under Art. 283 of the Labor Code.[21] The purpose of such notice is to ascertain the verity of the cause of termination of employment.[22]

Quite related to the alleged drastic reduction of their volume of work, petitioners further contended in the proceedings below that they resorted to rotation of employees due to the low demand for their products. But respondent NLRC was not persuaded since other than petitioners' bare contention, they miserably failed to support it with concrete evidenced.[23]

On the part of Flora Balbino, petitioner Bico submitted a certification dates 5 August 1992 stating that on that day he explained to Flora Balbino the company memorandum on her 3-day suspension on the ground that she repeatedly slowed down her production. He told her

to sign the memorandum which, according to Bico, obviously infuriated her thus prompting her to hurl invectives at him in the presence of many persons inside his office. She even threatened him, "Humanda ka sa darating na araw ipatitiklo kita." The certification was attested to by five (5) witnesses.[24]

Security guard Abelgas submitted a written report regarding Balbino's act of stealing the time card in her name after bad mouthing petitioner Bico and refusing to sign the memorandum on her suspension.[25] Another employee submitted her own report corroborating Balbino's act of removing her time card from the rack.[26]

Balbino's story is completely different. According to her, she was dismissed outright by Bico on the same date she asked for a memorandum on her suspension. She was however silent on the other charge that she stole the time card in her name.

The NLRC lent full credence to the version of Balbino. Here, we disagree. As between the uncorroborated account of Balbino and the narration of petitioner Bico, which was attested to by witnesses and substantiated by other employees, we accord weight to the latter. The utterances by an employee of obscene, insulting or offensive words against a superior justify his dismissal for gross misconduct. The scornful attitude is also destructive of his co-employees' morale.[27] However, the dismissal will not be upheld where it appears, as in this case, that the employee's act of disrespect was provoked by the employer.[28] It may be recalled that Balbino was suspended because she allegedly continually slowed down in her production. Yet, as found by the NLRC, to which we agree, petitioners failed to show that there was an established quota for production as a point of reference to determine whether an employee was performing below or above the quota to warrant the charge.[29] What surfaces from our assessment of the evidence of petitioners is that Balbino hurled invectives at petitioner Bico because she was provoked by the baseless suspension imposed on her. The penalty of dismissal must be commensurate with the act, conduct or omission imputed to the employee.[30] Under the circumstances, we believe that dismissal was a harsh penalty; one (1) week suspension would have sufficed.

Balbino might have taken the time card in her name but the Court considers this act as a mere emotional outburst and an offshoot of her suspension. Anyway, no material damage was demonstrated to have been suffered by petitioners on account thereof. A time card shows the actual number of hours and days in a certain period performed by an employee such that the loss thereof will surely pose a problem. But not so in the case of Balbino since only her work performed on 31 July and 3 August 1992 was unpaid. These circumstances on non-payment were uncontroverted by petitioners, rightfully entitling Balbino to an award therefor which the NLRC determined to be P236.00. Also worth mentioning is the fact that Balbino was denied procedural due process when she was summarily dismissed.[31]

Insofar as Melchor Cachucha is concerned, petitioners insist that he abandoned his work on 7 July 1992 and refused to return despite notice sent through his wife, through a memorandum dated 22 July 1992, and personal notification by co-employee Nilo Wales. But disputing the charge, Cachucha claimed that together with Macaspac and Albasin, he was prevented by the company security guards from reporting for work on 6 July 1992.

The NLRC sustained Cachucha that he did not abandon his work considering that he seasonably filed a complaint for illegal dismissal against petitioners on 16 July 1992 and positively disavowed any notice to return to work allegedly sent to him by petitioners.

The NLRC is correct. For abandonment to exist, it is essential that (1) the employee must have failed to report for work or must have been absent without valid or justifiable reason; and, (2) there must have been a clear intention to sever the employer-employee relationship manifested by some overt acts.[32] The circumstance that Cachucha lost no time on filing a complaint for illegal dismissal against petitioners on 16 July 1992 is incompatible with the charge of abandonment[33] and confirms in fact that he was refused entry into the company premises on 6 July 1992.

Petitioners' allegation that they informed Cachucha's wife that Cachucha must report to work immediately is unsubstantiated and self-serving. The alleged notification through the memorandum of 22 July 1992 has not been shown to have been received by Cachucha. On

the other hand, the affidavit of Wales stating that on 23 July 1992 he relayed to Cachucha the directive to return to work which the latter turned down for lack of interest does not inspire belief. If Wales' narrations were true, then Cachucha would have simply abided by the directive and moved for the dismissal of his complaint which was filed earlier. After all, it was precisely reinstatement that he was seeking.[34]

Dismissal is the ultimate penalty that can be meted to an employee. It must therefore be based on a clear and not on an ambiguous or ambivalent ground.[35] From our assessment of the records, we find that petitioners exercised their authority to dismiss without due regard to the pertinent exacting provisions of the Labor Code. The right to terminate should be utilized with extreme caution because its immediate effect is to put an end to an employee's present means of livelihood while its distant effect, upon a subsequent finding of illegal dismissal, is just as pernicious to the employer who will most likely be required to reinstate the subject employee and grant him full back wages and other benefits.[36]

The award of compensation for ten (10) regular holidays for 1990, 1991 and 1992 by the NLRC is proper. The dismissed workers distinctly set forth in their Position Paper that they were not remunerated for ten (10) regular holidays for the years 1990, 1991 and 1992. 37 This claim stands undisputed.

WHEREFORE, the Resolution of public respondent National Labor Relations Commission of 22 November 1994 directing petitioners GOLDEN THREAD KNITTING INDUSTRIES, INC., GEORGE NG and WILFREDO BICO to immediately reinstate private respondents George Macaspac, Mary Ann Macaspac, Romulo Albasin, Melchor Cachucha, Gilbert Rivera and Flora Balbino to their former positions without loss of seniority rights and other privileges and with full back wages, inclusive of allowances, and to their other benefits or their monetary equivalent computed from the time of their dismissal up to actual reinstatement is **AFFIRMED** but with modification as regards private respondent Balbino whose date of termination should be 12 August 1992, taking into account her one (1) week suspension. All the rest of the dispositive portion, particularly the order to petitioners to pay private respondents for ten (10) regular holidays for 1990, 1991

and 1992; to pay private respondent Balbino her wages for two (2) days amounting to P236.00; and, to pay private respondents attorney's fees equivalent to ten per cent (10%) of the total monetary awards, is likewise **AFFIRMED**. Costs against petitioners.

SO ORDERED.

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

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[1] Decision penned by Labor Arbiter Manuel P. Asuncion; Rollo, p. 119.
[2] Resolution penned by Presiding Commissioner Raul T. Aquino with the concurrence of Commissioners Victoriano R. Calaycay and Rogelio I. Rayala; id., pp. 34-36.
[3] Annex "4" of petitioners' position paper; id., p. 91.
[4] Annex "5" of petitioners' position paper; id., p. 93.
[5] Tanala vs. NLRC, G.R. No. 116588, 24 January 1996, 252 SCRA 314; Jimenez vs. NLRC, G.R. No. 116960, 2 April 1996, 256 SCRA 84, and Madlos vs. NLRC, G.R. No. 115365, 4 March 1996, 254 SCRA 248.
[6] Annex "3-E" of petitioners' Position Paper; Rollo, p. 89.
[7] Annex "3-A" of petitioners' Position Paper; id., p. 85.
[8] Annex "3-B" of petitioners' Position Paper; id., p. 86.
[9] Annex "2" of petitioners' Position Paper; id., p. 83.
[10] NLRC Records, Vol. I, pp. 157-159.
[11] Id., pp. 160-163.
[12] Rollo, p. 29.
[13] See Note 7.
[14] Cocoland Development Corporation vs. NLRC, G. R. No. 98458, 17 July 1996, 259 SCRA 51.
[15] Annex "U" of respondent' position paper; NLRC Records, Vol. I, p. 135.
[16] Annex "V" of respondents' position paper; id., p. 136.
[17] Annex "X" of respondents' position paper; id., p. 138.
[18] Wiltshire File Co., Inc. vs. NLRC, G. R. No. 82249, 7 February 1991, 193 SCRA 665.
[19] Salonga vs. NLRC, G. R. No. 118120, 23 February 1996, 254 SCRA 111; Guerrero vs. NLRC, G. R. No. 119842, 30 August 1996, 261 SCRA 301; San Miguel Jeepney Service vs. NLRC, G. R. No. 92772, 28 November 1996, 265 SCRA 35.
[20] Asiaworld Publishing House, Inc. vs. Ople, G. R. No. 56398, 23 July 1987, 152 SCRA 219 cited in Capitol Wireless, Inc. vs. Confesor, G. R. No. 117174, 13 November 1996, 264 SCRA 68.
[21] Sebuguero vs. NLRC, G. R. No. 115394, 27 September 1995, 248 SCRA 532.
[22] International Hardware, Inc. vs. NLRC, G. R. No. 80770, 10 August 1989, 176 SCRA 256.

[23] Rollo, p. 28.
[24] Annex "12" of petitioners' Position Paper; Rollo, p. 99.
[25] Annex "10" of petitioners' Position Paper; id., p. 97.
[26] Annex "11" of petitioners' Position Paper; id., p. 98.
[27] Asian Design and Manufacturing Corporation vs. Hon. Deputy Minister of Labor, G. R. No. 70552, 23 May 1986, 142 SCRA 79.
[28] 35 Am. Jur. 480 cited by Cesario A. Azucena, The Labor Code With Comments and Cases, Vol. II, 1996 Ed., p. 663.
[29] Rollo, p. 31.
[30] Caltex Refinery Employees Association vs. NLRC, G. R. No. 102993, 14 July 1995, 246 SCRA 271; Pepsi Cola Distributors of the Philippines, Inc. vs. NLRC, G. R. No. 100686, 15 August 1995, 247 SCRA 386.
[31] Wenphil Corporation vs. NLRC, G. R. No. 80587, 8 February 1989, 170 SCRA 69.
[32] Philippine Advertising Counselors, Inc. vs. NLRC, G. R. No. 120008, 18 October 1996, 263 SCRA 395.
[33] Ranara vs. NLRC, G. R. No. 100969, 14 August 1992, 212 SCRA 631; Batangas Laguna Tayabas Bus Company vs. NLRC, G. R. No. 101858, 21 August 1992, 212 SCRA 792.
[34] NLRC Records, Vol. I, p. 85.
[35] Pantranco North Express, Inc. vs. NLRC, G. R. No. 114333, 24 January 1996, 252 SCRA 237.
[36] Article 279 of the Labor Code as amended by R.A. 6715.
[37] NLRC Records, Vol. I, p. 86.