

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**HELPMATE, INC.,  
*Petitioner,***

***-versus-***

**G.R. No. 112323  
July 28, 1997**

**NATIONAL LABOR RELATIONS  
COMMISSION (*Fourth Division*),  
FELIPE CABARON, EMILIANO M.  
BELEÑA, JR., RAYMUNDO  
CAÑAZARES, HONORIO VIRTUCIO,  
EMMA ESPINA, ROSARIO TIZON, JR.,  
RENATO DABUAYAN, ROMULO  
MATILOS, RONELO BELEÑA, RENO  
GUALEN, HOMER DATANAGAN,  
ROMMEL ENCENZO, GERONIMO  
ONDONG, HORACE ANGANA,  
TEOFILO EMNACEN, ALFREDO  
PACAÑA, DOMINGO MARAÑAN,  
NERIO C. ONDONG and MARIO  
NUÑEZ,**

***Respondents.***

**X-----X**

## DECISION

**MENDOZA, J.:**

This is a Petition for Certiorari to annul the Decision of the National Labor Relations Commission (NLRC) dated September 30, 1993, insofar as it affirms the decision of the labor arbiter and grants private respondents' claims for separation pay, wage and ECOLA differential, 13<sup>th</sup> month pay and service incentive leave pay.

The facts are as follows: Petitioner Helpmate, Inc. is a corporation rendering janitorial and similar services to clients, among which was the Bureau of Internal Revenue. Private respondents are some of the janitors and messengers employed by it.

On March 24, 1986, private respondents, led by Felipe Cabaron, filed an amended complaint with the Regional Arbitration Branch of the NLRC in Cebu City against petitioner for illegal dismissal and payment of service incentive leave, separation pay, unpaid 13th - month pay since the start of employment, salary and ECOLA differential, attorney's fees and damages.<sup>[1]</sup>

The parties submitted their position papers, after which the case was heard. On January 10, 1990, Labor Arbiter Jose G. Gutierrez rendered a decision ordering petitioner corporation to pay private respondents' money claims. The dispositive portion of his decision reads:<sup>[2]</sup>

WHEREFORE, consistent with law, justice and equity and in accordance with the findings above stated, judgment is hereby rendered ordering the respondent to pay the following complainants their money claims:

- (A) Felipe C. Cabaron — Emergency allowance, 13<sup>th</sup> month pay, separation pay, and service incentive leave;

- (B) Mario Nuñez — Emergency allowance, salary differential, 13<sup>th</sup> month pay, and service incentive leave;
- (C) Emiliano Beleña, Jr. — Emergency allowance, salary differential, 13<sup>th</sup> month pay, and service incentive leave;
- (D) Emma Espina — Emergency allowance, salary differential, 13<sup>th</sup> month pay and service incentive leave;
- (E) Rosario Tizon, Jr. — Emergency allowance, salary differential, 13<sup>th</sup> month pay, and service incentive leave;
- (F) Renato Dabuayan — Emergency allowance, salary differential, 13<sup>th</sup> month pay, service incentive leave;
- (G) Romulo Matilos — Emergency allowance, and salary differentials;
- (H) Romelo Beleña — Emergency allowance, salary differentials, 13<sup>th</sup> month pay, and service incentive leave; and
- (I) Reno Gualen — Emergency allowance, salary differential and 13<sup>th</sup> month pay and 10% of the total monetary awards as attorney's fees.

All other claims are denied for lack of merit.

The Corporate Auditing Examiner is directed to compute the foregoing monetary awards which form part of this decision.

On appeal to the NLRC, however, the decision was set aside and the case was remanded to the labor arbiter for further proceedings in view of certain factual matters which had to be determined, to wit:<sup>[3]</sup>

We discovered that aside from being mere machine copies the said documents while appearing to be indeed executed or signed after the filing of this case (except that of Nerio Ondong, Rec. p. 70) the same are not duly authenticated before any Labor Arbiter or Notary Public; the complainants-appellees also failed to comment on these documents despite their manifestation and the directive by the Arbiter (Rec. p. 70) to submit additional documents; this therefore needs clarification, on the circumstances surrounding its execution in order that full faith and credence may be given the said documents and in order that a fair and just resolution can be rendered on the matter raised on appeal.

As regards the alternative defense that if ever any award be adjudged in favor of the complainants-appellees then it should be the principal employer, the Bureau of Internal Revenue that should be held liable in accordance with the Rules Implementing the various wage orders as cited by the appellants in their position paper (Rec. p. 47), the records do not contain any evidence to support this allegation like the contract of janitorial services or any other document.

In this very case vital issues of fact like the due execution of the release and quitclaims and the determination as to whether the BIR is liable as principal need to be clarified.

Petitioner corporation moved to implead the BIR as third-party respondent, alleging that in cases of contracts for janitorial and security services, the payment of the minimum wage and allowances was to be borne by the principal or client of the service contractor; that the BIR was the principal in this case; and that it was an indispensable party, which should be joined as a party in the action to avoid multiplicity of suits.<sup>[4]</sup>

The Regional Arbitration Branch of the NLRC granted petitioner's motion. In its answer, the BIR pointed out that the third-party complaint never mentioned the names of the employees who were assigned to the BIR during the existence of the contract for services, and that it was only a client of petitioner and, as such, it was not duty bound to answer for the claims of employees against their direct

employer, Helpmate, Inc.<sup>[5]</sup> The BIR also filed a motion to dismiss the third-party complaint which was opposed by the petitioner.

In its supplemental position paper filed on October 1, 1992, petitioner maintained that under Wage Orders, 3, 5 and 6, the BIR was liable for the payment of the increases in the minimum wage and living allowances, and under Arts. 106, 107 and 109 of the Labor Code, the BIR as principal or client, was liable to the employees because it is considered the direct employer. Petitioner cited our ruling in the case of Eagle Security Agency, Inc. vs. NLRC<sup>[6]</sup> in support of its contention.<sup>[7]</sup>

On October 22, 1992, Labor Arbiter Ernesto F. Carreon rendered a decision ordering petitioner to pay the money claims of Felipe Cabaron and Homer Datanagan. In addition, petitioner was ordered to pay solidarily with the BIR the claims of the following private respondents:

1. Rino Gualen

Wage differential	P4,992.00
ECOLA	3,536.00
13 <sup>th</sup> -Month Pay	702.00
Service Incentive Leave Pay	—
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	P9,230.00

2. Romulo Matelos

Wage differential	P11,280.00
ECOLA	5,729.30
13 <sup>th</sup> -Month Pay	1,482.00
Service Incentive Leave Pay	180.00
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	P18,671.30

3.	Renato Debuayan	
	Wage differential	P14,646.00
	ECOLA	8,365.70
	13 <sup>th</sup> -Month Pay	2,227.33
	Service Incentive Leave Pay	360.00
		-----
		P25,599.03
4.	Rosario Tizon	
	Wage differential	P14,646.00
	ECOLA	4,456.14
	13 <sup>th</sup> -Month Pay	2,227.33
	Service Incentive Leave Pay	360.00
		-----
		P21,689.47
5.	Ronilo Beleña	
	Wage differential	P12,341.50
	ECOLA	7,015.92
	13 <sup>th</sup> -Month Pay	2,629.89
	Service Incentive Leave Pay	460.00
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		P22,447.31
6.	Emiliano Beleña	
	Wage differential	P4,200.00
	ECOLA	1,873.20
	13 <sup>th</sup> -Month Pay	630.00
	Service Incentive Leave Pay	-
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		P6,703.20

7. Emma Espina

Wage differential	P3,196.00
ECOLA	2,312.00
13 <sup>th</sup> -Month Pay	408.00
Service Incentive Leave Pay	-
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	P5,916.00

Total Award of Complainants	P150,724.48
Add: 10% Attorney's Fees	15,072.45
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	P165,796.93
	=====

The case against the president of petitioner corporation, Renato Y. Kintanar, was dismissed for lack of merit.<sup>[8]</sup>

On appeal, the NLRC affirmed the decision in toto. Hence, this petition. Petitioner contends that the NLRC committed grave abuse of discretion:<sup>[9]</sup>

1. by granting the claim for money of respondent Homer Datanagan even if in the decision of Labor Arbiter Jose Gutierrez no award was made in his favor.
2. by disregarding petitioner's right to procedural due process.
3. by granting separation pay to Cabaron and compounding its error by fixing it at one month per year of service.
4. by awarding amounts more than were sought by private respondents in their position paper and decision of Labor Arbiter Gutierrez.
5. by holding the BIR only solidarily liable with petitioner when, under the law, as principal of the service contractor, the BIR should be solely liable.

We find the petition without merit.

First, petitioner draws attention to the fact that no award was made in favor of Homer Datanagan in the decision of Labor Arbiter Jose Gutierrez and contends that, although on appeal that decision was set aside by the NLRC, the fact is that Datanagan himself did not appeal. It was petitioner which appealed the decision of the labor arbiter and it was solely for its benefit that the case was remanded to the Arbitration Branch for the purpose of giving petitioner the opportunity to be heard on its defenses.

This contention is without basis. The decision was set aside including the denial, if such it was, of Datanagan's claim. It is not correct for petitioner to claim that on remand, it alone was entitled to be heard. The fact that the case was remanded for determination of many factual issues affecting all the parties meant that other issue could be considered. As the NLRC pointed out, "the decision of Labor Arbiter Gutierrez was set aside by this Commission, this being so there is no point anymore referring to the said decision."<sup>[10]</sup>

Petitioner complains that it was denied due process when the labor arbiter admitted private respondents' position paper and joint affidavit without affording it the right to cross-examine and when the matters taken up at the re-hearing was confined to those which the NLRC considered as vital issues of fact not extending to other disputed issues of fact, such as those regarding the amount of living allowances received by private respondent Cabaron and the reason for his dismissal. Petitioner contends that this should have been the subject of a full-blown hearing.

The contention has no merit. "The essence of due process is that a party be afforded reasonable opportunity to be heard and to submit any evidence he may have in support of his defense. In administrative proceedings such as the one at bench, due process simply means the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of."<sup>[11]</sup>

Petitioner was given reasonable opportunity to be heard and submit evidence in support of his defense. It submitted position papers and documentary evidence to prove BIR's liability. It had the similar

opportunity to submit evidence to support its defense with respect to the question of illegal dismissal, but petitioner did not do so. For this reason the labor arbiter held:

This charge of the complainant was never controverted by the respondents [Helpmate] by presenting proof showing the justification of the suspension and/or dismissal.

It has been stressed often enough that in termination cases a dismissed employee is not required to prove his innocence of the charges levelled against him by his employer. The burden of proving the just cause of dismissing the employee rests on the employer and his failure to do so would result in the finding that the dismissal is unjustified.<sup>[12]</sup>

His finding was affirmed by the NLRC which stated:

On the alleged failure by the Labor Arbiter to allow it to fully cross-examine the complainants, more specifically on Cabaron's claim for cost of living allowance and the reason for his dismissal, We find no sufficient basis to disturb or alter these findings of the Labor Arbiter. With respect to the claim for cost of living allowance, cross-examination of the complainant claimant is not even necessary as this could so easily be refuted by the presentation of respondents' payroll, voucher or any other form of receipt evidencing compliance with this obligation. Under the rules and applicable jurisprudence, employers are under obligation to keep employment records of their employees in the workplace. As to its opportunity to amplify on the reasons for Cabaron's dismissal, the Labor Arbiter correctly declared that it behooves on the respondent to establish the existence of a valid or just cause for terminating an employee, thus it can not use as justification for its failure to substantiate its defenses, the lack of opportunity to cross-examine the complainants. Well settled is the rule that in cases of illegal dismissal, "the burden of proof rests upon the employer to show that the dismissal of the employee was for a just cause, and failure to do so would necessarily mean that the dismissal is not justified."<sup>[13]</sup>

Petitioner's third and fourth contentions are likewise untenable. The labor arbiter found the private respondents to be entitled to more than the amount stated in their position paper. This finding, together with the prayer in private respondents' position paper asking for "such other reliefs as may be just and equitable in the premises,"<sup>[14]</sup> justifies the award given to private respondents. As stated by the NLRC in its decision:<sup>[15]</sup>

We likewise sustain the award of claims more than what was asked in the complainants' position paper. The point raised by the respondent basically, is that the Labor Arbiter should have confined or limited the award to the amount stated in the complainants' position paper.

It goes beyond the realm of the law. It is unfair and unjust to deny the complainants what is justly due in their favor as mandated by law simply because what is computed and asked by them is much lesser.

Petitioner's final contention, that the BIR is solely liable to the employees of Helpmate, Inc., has no basis in law. The case cited by petitioner itself supports the ruling of the NLRC that the principal (BIR) and the contractor (Helpmate) are jointly and severally liable to the private respondents. In the leading case of *Eagle Security Agency, Inc. vs. NLRC*, this Court through Mme. Justice Cortes held:

The Court finds that the NLRC acted correctly in ordering the two petitioners to jointly and severally pay the wage and allowance increases to the security guards.

Petitioners' solidary liability for the amounts due the security guards finds support in Articles 106, 107 and 109 of the Labor Code which state that:

ART. 106. Contractor or subcontractor. — Whenever an employer enters into a contract with another person for the performance of the former's work, the employees of the contractor and of the latter's subcontractor, if any, shall be paid in accordance with the provisions of this Code.

In the event that the contractor or subcontractor fails to pay the wages of his employees in accordance with this Code, the employer shall be jointly and severally liable with his contractor or subcontractor to such employees to the extent that he is liable to employees directly employed by him.

ART. 107. Indirect employer. — The provisions of the immediately preceding Article shall likewise apply to any person, partnership, association or corporation which, not being an employer, contracts with an independent contractor for the performance of any work, task, job or project.

ART. 109. Solidary liability. — The provisions of existing laws to the contrary notwithstanding, every employer or indirect employer shall be held responsible with his contractor or subcontractor for any violation of this Code. For purposes of determining the extent of the civil liability under this Chapter, they shall be considered as direct employers.

This joint and several liability of the contractor and the principal is mandated by the Labor Code to assure compliance of the provisions therein including the statutory minimum wage [Article 99, Labor Code]. The contractor is made liable by virtue of his status as direct employer. The principal, on the other hand, is made the indirect employer of the contractor's employees for purposes of paying the employees their wages should the contractor be unable to pay them. This joint and several liability facilitates, if not guarantees, payment of the workers performance of any work, task, job or project, thus giving the workers ample protection as mandated by the 1987 Constitution [See Article II Sec. 18 and Article XIII Sec. 3]."<sup>[16]</sup>

We affirm this rule today, as we hold that the NLRC correctly found the BIR and Helpmate, Inc. solidarily liable to private respondents for their money claims. While it is true that payment of the increases are “to be borne” by the principal or client (in this case, the BIR), we made it clear in that case that:

“To be borne”, however, does not mean that the principal, PTSI in this case, would directly pay the security guards the wage and allowance increases because there is no privity of contract between them. The security guards’ contractual relationship is with their immediate employer, EAGLE. As an employer, EAGLE is tasked, among others, with the payment of their wages [See Article VII Sec. 3 of the Contract for Security Services, supra and *Bautista vs. Inciong*, G.R No. 52824, March 16, 1988, 158 SCRA 665].

On the other hand, there existed a contractual agreement between PTSI and EAGLE wherein the former availed of the security services provided by the latter. In return, the security agency collects from its client payment for its security services. This payment covers the wages for the security guards and also expenses for their supervision and training, the guards bonds, firearms with ammunitions, uniforms and other equipments, accessories, tools, materials and supplies necessary for the maintenance of a security force.

Premises considered, the security guards’ immediate recourse for the payment of the increases is with their direct employer, EAGLE. However, in order for the security agency to comply with the new wage and allowance rates it has to pay the security guards, the Wage Orders made specific provision to amend existing contracts for security services by allowing the adjustment of the consideration paid by the principal to the security agency concerned. What the wage Orders require, therefore, is the amendment of the contract as to the consideration to cover the service contractor’s payment of the increases mandated. In the end, therefore, ultimate liability for the payment of the increases rests with the principal.

In view of the foregoing, the security guards should claim the amount of the increases from EAGLE. Under the Labor Code, in case the agency fails to pay them the amounts claimed, PTSI should be held solidarily liable with EAGLE [Articles 106, 107 and 109]. Should EAGLE pay, it can claim an adjustment from PTSI for an increase in consideration to cover the increases payable to the security guards.

However, in the instant case, the contract for security services had already expired without being amended consonant with the Wage Orders. It is also apparent from a reading of a record that EAGLE does not now demand from PTSI any adjustment in the contract price and its main concern is freeing itself from liability. Given these peculiar circumstances, if PTSI pays the security guards, it cannot claim reimbursement from EAGLE. But in case it is EAGLE that pays them, the latter can claim reimbursement from PTSI in lieu of an adjustment, considering that the contract, had expired and had not been renewed.<sup>[17]</sup>

**WHEREFORE**, petition is hereby **DISMISSED** and the decision of the National Labor Relations Commission is **AFFIRMED**.

**SO ORDERED.**

**Regalado, Romero, and Puno, JJ., concur.**  
**Torres, Jr., J., is on leave.**

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[1] Rollo, p. 21.

[2] Id., pp. 40-41.

[3] Id., pp. 45-46.

[4] Id., pp. 48-50.

[5] Id., p. 56.

[6] 173 SCRA 481-489.

[7] Rollo, pp. 58-62.

[8] Id., pp. 86-88.

[9] Id., pp. 1-19.

[10] Id., pp. 97-98.

[11] M. Ramirez Industries and/or Manny Ramirez vs. Secretary of Labor, et al., G.R. No. 89894. January 3, 1997.

[12] Rollo, p. 72.

- [13] Id., pp. 98-99.  
[14] Id., p. 30.  
[15] Id., pp. 99-100.  
[16] 173 SCRA 479, 484-485.  
[17] Ibid., pp. 486-487.

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