

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

JOSE A. IBARRIENTOS,
Petitioner,

-versus-

**G.R. No. 75277
July 31, 1989**

**NATIONAL LABOR RELATIONS
COMMISSION, HON. LABOR ARBITER
BIENVENIDO V. HERMOGENES &
INTERCONTINENTAL
BROADCASTING CORPORATION
(IBC),**

Respondents.

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D E C I S I O N

GRÑO-AQUINO, J.:

The petitioner was a driver of one of the service vehicles of the respondent International Broadcasting Corporation (or IBC), receiving a salary of P1,162 per month exclusive of allowances.

Prior to March 31, 1983, he was found guilty of having circulated fake meal tickets in the company, acts of dishonesty which should have caused his dismissal, but heeding his and his union's pleas for

clemency, the IBC decided to simply suspend him for thirty (30) days effective April 4, 1983 or up to May 4, 1983 (p. 88, Rollo).

However, even before he could begin to serve his penalty of suspension, he again committed an infraction of company rules on March 31, 1983 when, according to the report of the Motorpool Dispatcher, Reynaldo Demetillo, at eight o'clock in the morning of March 31, 1983, Maundy Thursday, Ibarrientos took out the company's service vehicle, without Demetillo's permission, and was out all day. He returned the motor vehicle at 7:15 P.M. When he was asked by Demetillo why he used the vehicle, he replied that he went to Marikina "for a personal trip in visiting his relative and had some drinking spree the whole day there." He resented Demetillo's questioning him about his trip. "He burst into anger," "was shouting mad with indecent words" and "made a motion to assault" Demetillo and challenged him to a fistfight." Fortunately, the guard at the exit gate intervened. Later in the evening, after the studio's sign-off time, he refused to drive home the company nurse, Mrs. Purificacion Cotoner. The Security Manager volunteered to have the nurse brought home by a security driver using another vehicle. Furthermore, although he was supposed to be on overtime duty up to 6:00 A.M. the next day, he took off that same evening on his motorcycle, so that Demetillo was "forced to stay for possible emergency operations within the Networks" that night (pp. 86-87, Rollo).

Demetillo's report was corroborated by the Shift Security Supervisor, Joven L. Pantoja (p. 87, Rollo).

The petitioner was ordered to submit a written explanation of the following charges against him:

1. Abandonment of work.
2. Unauthorized use of company vehicle.
3. Drunkenness while on duty.
4. Insubordination.
5. Challenging his Superior to a fistfight.

After he had given his explanation, he was discharged on May 24, 1983. He filed a complaint for illegal dismissal.

The Labor Arbiter, after hearing the parties, found: “that there exist valid causes to impose the penalty of dismissal on complainant . . . We also notice that persons having personal knowledge of the different charges raised by respondent against complainant testified and affirmed the contents of their sworn testimony. The causes of dismissal must have been seen by the labor union to (sic) which complainant is a member, as valid that it elected not to be heard on the matter anymore.” (p. 30, Rollo.)

The dispositive portion of the Labor Arbiter’s decision reads:

“Premises considered, judgment is hereby rendered dismissing the charge of illegal dismissal for lack of merit. As regards the money claims, respondent is hereby ordered to pay complainant his earned and worked for salary of P2,046.60 and overtime pay of P2,046.60 for March 1983, after deducting the advances received from the Company and the loan from the provident fund.” (p. 31, Rollo.)

However, on appeal by both parties to the NLRC, the monetary awards to Ibarrientos were set aside, but his dismissal was upheld (p. 32, Rollo).

After deliberating on the petition, the issues and arguments raised by the parties, We find no grave abuse of discretion in the NLRC’s decision dismissing the complaint and setting aside the monetary award to the petitioner, for there were just causes for his dismissal and that finding was supported by substantial evidence.

The petitioner was accorded due process. He was notified of the charges against him and given an opportunity to explain them in writing. Only after he had submitted his explanation (evidently unsatisfactory from the point of view of his employer) did the IBC decide to terminate his services.

His money claims for unpaid salary of P2,046.60 and overtime pay of P2,046.60 for March 1983 were properly dismissed for he admitted that his last monthly salary was only P1,162.00, not P2,046.60. His salary and overtime pay for March 1983 amounted to P2,324.00 only. Since he was indebted to the company for P1,879.90 which it

advanced to pay his income tax, and he had borrowed P1,021.40 from the provident fund (total: P2,901.30), there is nothing due him from the company. On the contrary, he still owes the company P577.30.

WHEREFORE, the Petition for *Certiorari* is **DISMISSED** for lack of merit. Costs against the petitioner.

SO ORDERED.

Narvasa, Cruz, Gancayco and Medialdea, JJ., concur.