SUPREME COURT
FIRST DIVISION

CASIANO A. NAVARRO III,
***Petitioner*,**

-versus-

G.R. No. 101875
July 14, 1995

HON. ISRAEL D. DAMASCO, in his capacity as VOLUNTARY ARBITRATOR, and BUSCO SUGAR MILLING CO., INC.,
***Respondents*.**
x----------x

D E C I S I O N

QUIASON, *J.*:

This is a petition for certiorari to reverse the Decision dated August 16, 1991 of the Voluntary Arbitrator, respondent Israel D. Damasco, declaring as valid the separation from employment of petitioner.

We dismiss the petition.

I

Petitioner was employed as typist of private respondent at its plant in Quezon, Bukidnon.

At about 5:00 P.M. of November 27, 1990, petitioner went to visit Mercy Baylas, a co-employee, at the ladies' dormitory inside the compound of private respondent. Upon seeing petitioner, Baylas hid behind the divider at the reception room. Rosemarie Basa and Isabel Beleno, co-boarders of Baylas, told petitioner that Baylas was not at the dormitory and advised him to stop courting her because she had no feelings towards him. Afterwards, the two left leaving petitioner alone in the room. When he peeped behind the divider, he saw Baylas, who stood up without answering his greetings and ran towards her room. He followed, and after taking hold of her left hand, pulled her towards him. The force caused her to fall on the floor. He then placed himself on top of her. She resisted and futility struggled to free herself from his grasp. Sonia Armada, the dormitory housekeeper, responded to Baylas' shouts for help. Armada saw petitioner embracing and kissing Baylas. She tried to separate petitioner from Baylas but to no avail. So she went outside and asked Basa and Beleno to help Baylas. She also asked the help of Edmundo Subong.

Basa and Beleno tried to pull petitioner away from Baylas, but it was Subong who was able to free Baylas from petitioner.

According to the medical report issued by Dr. Letecia P. Maraat, Baylas complained of pains on her shoulder and left foot.

On December 5, 1990, petitioner was informed of the complaint against him and was placed under preventive suspension. Nolito S. Densing, Jr. was instructed to investigate the incident. In his report dated December 26, 1990, Densing recommended that the maximum penalty be meted out against petitioner. On January 5, 1991, petitioner was dismissed from the service for having violated paragraph 3.B (Conduct and Behavior) of the Code of Employee Discipline, which provides:

> "1. Inflicting or attempting to inflict bodily injury, in any form, on fellow employee, with a penalty of dismissal.
>
> 2. Immoral conduct within company premises, regardless of whether or not committed during working time, punishable by

reprimand to dismissal, depending on the prejudice caused by such act to the company.

3. Improper conduct and acts of gross discourtesy or disrespect to fellow employees at any time within the company premises, punishable by reprimand to dismissal, depending on the gravity of the offense.

4. Knowingly giving false or untruthful statements or concealing material facts in an investigation conducted by authorized representative of the company, punishable by dismissal" (Rollo, pp. 47-48).

On March 18, 1991, the President of the Mindanao Sugar Workers Union, for and in behalf of petitioner, and Jaime J. Javier, Personnel Officer of private respondent, agreed to submit the case of petitioner to voluntary arbitration.

At the initial conference on March 27, 1991, petitioner, represented by his counsel, agreed to limit the issues to be submitted to the Voluntary Arbitrator to the following :

"1. Whether or not the grievance procedure in the CBA for bringing a case before the Voluntary Arbitrator had been followed;

2. Whether petitioner's dismissal was legal; and

3. Who was the complainant insofar as the grievance procedure under the CBA was concerned" (Rollo, p. 147).

The parties also agreed to submit the case for decision based on their position papers.

On August 16, 1991, a decision was rendered by the Voluntary Arbitrator dismissing petitioner from his employment and holding that private respondent did not violate the provisions of the grievance procedure under the Collective Bargaining Agreement. Not satisfied with the decision, petitioner filed the instant petition.

II

According to petitioner's version, Baylas was his girlfriend, whom he visited at the ladies' dormitory in the afternoon of November 27, 1990. At the dormitory, petitioner saw Rosemarie Basa who told him that Baylas was not around. To prove that Basa was lying, he peeped behind the divider and saw Baylas hiding there. When Baylas ran towards her room, petitioner followed her. While running, Baylas lest her balance and fell down. However, petitioner got hold of her to prevent her from hitting the floor and to help her to her feet. He denied having kissed and embraced her. He admitted that Subong arrived and pulled him away from Baylas. He also admitted that he voluntarily surrendered to the security guards.

III

Petitioner contends that the grievance procedure provided for in the Collective Bargaining Agreement was not followed; hence, the Voluntary Arbitrator exceeded his authority when he took cognizance of the labor case.

Section 2, Article X of the Collective Bargaining Agreement specifies the instances when the grievance machinery may be availed of, thus:

> "Any protest or misunderstanding concerning any ruling, practice or working conditions in the Company, or any dispute arising as to the meaning, application or claim of violation of any provision of this Agreement or any complaint that any employee may have against the COMPANY shall constitute a grievance" (Rollo, p. 27).

The instant case is not a grievance that must be submitted to the grievance machinery. What are subject of the grievance procedure for adjustment and resolution are grievances arising from the interpretation or implementation of the collective bargaining agreement (Labor Code of the Philippines, as amended by R. A. No. 6715, Art. 260).

The acts of petitioner involved a violation of the Code of Employee Discipline, particularly the provision penalizing the immoral conduct

of employees. Consequently, there was no justification for petitioner to invoke the grievance machinery provisions of the Collective Bargaining Agreement (Auxilio, Jr. vs. National Labor Relations Commission, 188 SCRA 263 [1990]).

The case of petitioner was submitted to voluntary arbitration by agreement of the president of the labor union to which petitioner belongs, and his employer, through its personnel officer. Petitioner himself voluntarily submitted to the jurisdiction of the Voluntary Arbitrator when he, through his counsel, filed his position paper with the Voluntary Arbitrator and even submitted additional documentary evidence. In addition thereto, during the initial conference on March 27, 1991, the parties manifested that they were not questioning the authority of the Voluntary Arbitrator.

It is the policy of the State to promote voluntary arbitration as a mode of settling labor disputes (Manguiat, Mechanisms of Voluntary Arbitration in Labor Disputes 2-6 [1978]).

Petitioner claims that he was denied due process of law because no hearing was held and he was not given an opportunity to cross-examine the witnesses.

We held in Stayfast Philippines Corp. vs. National Labor Relation Commission, 218 SCRA 596 (1993) that:

> "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 a reconsideration of the action or ruling complained of."
>
> "A formal or trial-type hearing is not at all times and in all instances essential. The requirements are satisfied where the parties are afforded fair and reasonable opportunity to explain their side of the controversy at hand. What is frowned upon is the absolute lack of notice and hearing." (at p. 601).

Concerning the allegation that petitioner was not allowed to cross-examine the witnesses, the record shows that the parties had agreed not to cross-examine their witnesses anymore.

Petitioner alleges that the quarrel between Baylas and him was a purely private affair. We do not agree with this contention. It will be noted that not only did the incident happen within the company premises, i.e. the ladies' dormitory which was located inside the plant site, but both of them are employees of private respondent. Management would then be at the mercy of its employees if it cannot enforce discipline within company premises solely because the quarrel is purely a personal matter. The harassment of an employee by a co-employee within the company premises even after office hours is a work-related matter considering that the peace of the company is thereby affected. The Code of Employee Discipline is very clear that immoral conduct "within the company premises regardless of whether or not [it is] committed during working time" is punishable.

The pretext of petitioner that he was merely helping Baylas is belied by the eyewitnesses. Petitioner admitted that it took Subong to pull him away from Baylas. His alleged act of chivalry is nothing more than a chance to gratify his amorous feelings.

WHEREFORE, the Decision of the respondent Voluntary Arbitrator is **AFFIRMED**.

SO ORDERED.

Padilla, Davide, Jr. and Kapunan, *JJ.*, concur.
Bellosillo, *J.*, is on leave.