

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**LORENDO QUINONES and EDGAR
IBARRIENTOS,**

Petitioners,

-versus-

**G.R. No. 105763
July 14, 1995**

**THE NATIONAL LABOR RELATIONS
COMMISSION, National Capital Region
(NLRC-NCR), First Division and
SUPERSTAR SECURITY AGENCY, INC.,
*Respondents.***

X-----X

DECISION

QUIASON, J.:

This is a Petition for *Certiorari* under Rule 65 of the Revised Rules of Court to reverse the Decision of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 00006 (NLRC NCR Case No. 00-12-05121-88 and NLRC NCR Case No. 00-01-00581-89).

Petitioners were security guards of the Superstar Security Agency, Inc. (SSAI) assigned to the Duty Free Shop at the Food Terminal Inc. (FTI) compound in Bicutan, Parañaque, Metro Manila.

After being charged with drinking liquor within the company premises, petitioners were put on temporary off-detail status.

On December 15, 1988, petitioners filed a complaint for illegal dismissal against SSAI (Rollo, p. 28).

In a letter dated January 3, 1989, SSAI informed petitioners that their services were being terminated as of that date for “serious misconduct in engaging in a drinking spree at company premises in FTI detachment on 2 November 1988 that resulted in the stabbing of one co-guard participant” (Rollo, p. 38).

In a decision dated January 11, 1990, the Labor Arbiter ruled that the dismissal of petitioners was illegal, and ordered their immediate reinstatement with full back wages. According to the Labor Arbiter, petitioners were invited by a co-guard to a birthday party on the evening of November 2, 1988. The group met at the FTI security office and proceeded to a nearby sari-sari store. It was only when they were at the said store that they began their drinking spree. All the guards in the group were then off-duty. During the course of the drinking spree, one of the guards was stabbed by a co-guard.

The NLRC, in a decision dated July 19, 1991, set aside the decision of the Labor Arbiter. NLRC ruled that the Labor Arbiter’s giving credence to the testimonies of petitioners must be reversed, in the light of the sworn statements of four other participants in the drinking session: namely, Alfredo Perez, Cesar San Andres, Catalino Barcena, Jr., and Joel Balanueco. The four positively identified petitioners as among those who drank liquor in front of the testimony of Pablito Pornasodoro, one the complainants before the Labor Arbiter, who testified that petitioners drank liquor while still within company premises.

The NLRC concluded that “with the admission that the three (3) complainants [two of whom are herein petitioners] engaged in a drinking session ‘at company premises on Nov. 2, 1988’ and against

the backdrop that such infraction is punishable by dismissal, we cannot but reverse the decision of the Labor Arbiter” (Rollo, p. 92).

In an order dated April 15, 1992, NLRC denied petitioners’ motion for reconsideration.

Hence, this petition for *certiorari*.

II

Petitioners aver that NLRC gravely abused its discretion when: (1) it set aside the factual findings of the Labor Arbiter; (2) it disregarded the testimonies of petitioners; and (3) it ruled that the proper sanction, granting that petitioners did commit the acts complained of, was dismissal (Rollo, pp. 16-17).

We find no grave abuse of discretion in NLRC’s evaluation of the evidence. Petitioners merely denied the charges against them. Denials are weak forms of defenses, particularly when they are not substantiated by clear and convincing evidence.

On the other hand, as pointed out by NLRC, four other participants in the drinking spree, including one of the complainants before the Labor Arbiter, positively identified petitioners as having drunk liquor in the company premises (Rollo, pp. 89-92). Petitioner Quinones himself admitted that after drinking liquor at the sari-sari store, they entered the company premises to wait for their co-guards at the FTI security office (Records, pp. 22-23). Petitioner Ibarrientos made a similar admission (Records, pp. 24-25).

Factual findings of NLRC are accorded not only respect but finality when supported by substantial evidence (Capitol Industrial Construction Groups vs. National Labor Relations Commission, 221 SCRA 469 [1993]).

However, we agree with petitioners that NLRC gravely abused its discretion when it imposed the penalty of dismissal on them.

Under the “Employees’/Guards’ Rules and Regulations Manual for Superstar Security Agency, Inc.” the offense of “drinking any alcoholic

beverages during office hours or within Agency/Client premises except on occasions and in locations authorized by management and/or reporting to work or performing work while under the influence of liquors (sic) or drugs” is punishable with suspension of one to 30 working days for the first offense depending on the gravity or the extenuating circumstances involved in the case, and with dismissal for the second offense (Rollo, p. 47).

Petitioners’ offense being the first, the penalty of suspension, and not dismissal, should have been imposed (Catalan vs. Genilo, 209 SCRA 544 [1992]; Foodmine, Incorporated (Kentucky Fried Chicken) vs. National Labor Relations Commission, 188 SCRA 748 [1990]; Philippine Telegraph and Telephone Corporation vs. National Labor Relations Commission, 183 SCRA 451 [1990]; Rubberworld (Phils.), Inc. vs. National Labor Relations Commission, 175 SCRA 450 [1989]).

We hold that a suspension of 30 days is the commensurate penalty. In arriving at the penalty of 30 days suspension, we noted that the drinking session degenerated into a brawl, resulting in the stabbing of one of the security guards. Petitioners and their co-guards are tasked with maintaining peace and order. That they themselves breached the peace must not go unsanctioned.

Petitioners are entitled to reinstatement with back wages from the end of the 30-day suspension (Visperas vs. Inciong, 119 SCRA 476 [1982]) up to three years (R.A. No. 6715 amending Art. 279 of the Labor Code of the Philippines; Maranaw Hotels and Resorts Corp. vs. Court of Appeals, 215 SCRA 501 [1992]). The 30-day suspension shall be reckoned from January 3, 1989, and not from the commencement of petitioners’ off-detail status, such off-detail not being equivalent to dismissal (Superstar Security Agency, Inc. vs. National Labor Relations Commission, 184 SCRA 74 [1990]).

WHEREFORE, the Petition is **GRANTED**. The Decision of the National Labor Relations Commission is **SET ASIDE**, and a new judgment is entered ordering the reinstatement of petitioners with back wages from the end of their 30-day suspension up to three years.

SO ORDERED.

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

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