SUPREME COURT
SECOND DIVISION

UNION MOTOR CORPORATION,
***Petitioner*,**

-versus-

G.R. No. 159738
December 9, 2004

NATIONAL LABOR RELATIONS COMMISSION and ALEJANDRO A. ETIS,
***Respondents*.**
x----------x

D E C I S I O N

CALLEJO, SR., *J.*:

This is a Petition for Review on Certiorari filed by petitioner Union Motor Corporation of the April 10, 2003 Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 73602 which affirmed the decision of the National Labor Relations Commission (NLRC) holding that respondent Alejandro A. Etis was illegally dismissed from his employment.

On October 23, 1993, the respondent was hired by the petitioner as an automotive mechanic at the service department in the latter's Paco Branch. In 1994, he was transferred to the Caloocan City Branch, where his latest monthly salary was P6,330.00. During his

employment, he was awarded the "Top Technician" for the month of May in 1995 and Technician of the Year (1995). He also became a member of the Exclusive P40,000.00 Club and received the Model Employee Award in the same year.

On September 22, 1997, the respondent made a phone call to Rosita dela Cruz, the company nurse, and informed her that he had to take a sick leave as he had a painful and unbearable toothache. The next day, he again phoned Dela Cruz and told her that he could not report for work because he still had to consult a doctor. Finding that the respondent's ailment was due to a tooth inflammation, the doctor referred him to a dentist for further management.[2] Dr. Rodolfo Pamor, a dentist, then scheduled the respondent's tooth extraction on September 27, 1997, hoping that, by that time, the inflammation would have subsided. Upon instructions from the management, Mr. Dumagan, a company security guard, visited the respondent in his house on September 24, 1997 and confirmed that the latter was ill.

On September 27, 1997, Dr. Pamor rescheduled the respondent's tooth extraction on October 4, 1997 because the inflammation had not yet subsided and recommended that he rest. Thus, the respondent was not able to report for work due to the painful and unbearable toothache.

On October 2, 1997, the petitioner issued an Inter Office Memorandum[3] through Angelo B. Nicolas, the manager of its Human Resources Department, terminating the services of the respondent for having incurred more than five (5) consecutive absences without proper notification. The petitioner considered the consecutive absences of the respondent as abandonment of office under Section 6.1.1, Article III of the Company Rules.

On October 4, 1997, Dr. Pamor successfully extracted the respondent's tooth. As soon as he had recovered, the respondent reported for work, but was denied entry into the company's premises. He was also informed that his employment had already been terminated. The respondent sought help from the union which, in turn, included his grievance in the arbitration before the National Conciliation and Mediation Board (NCMB). Pending the resolution thereof, the respondent wrote to the petitioner asking for the

reconsideration of his dismissal,[4] which was denied. Sometime thereafter, the union's complaints were dismissed by the NCMB.

Left with no other recourse, the respondent filed, on May 18, 1999, a complaint for illegal dismissal before the arbitration branch of the NLRC against the petitioner and/or Benito Cua, docketed as NLRC-NCR Case No. 00-05-05691-99.[5]

The respondent alleged that he was dismissed from his employment without just and legal basis. For its part, the petitioner averred that his dismissal was justified by his ten (10) unauthorized absences. It posited that, under Article 282 of the Labor Code, an employee's gross and habitual neglect of his duties is a just cause for termination. It further alleged that the respondent's repetitive and habitual acts of being absent without notification constituted nothing less than abandonment, which is a form of neglect of duties.[6]

On October 19, 2000, the Labor Arbiter rendered a Decision dismissing the complaint. The Labor Arbiter ruled that the respondent's failure to report for work for ten (10) days without an approved leave of absence was equivalent to gross neglect of duty, and that his claim that he had been absent due to severe toothache leading to a tooth extraction was unsubstantiated. The Labor Arbiter stressed that "unnotarized medical certificates were self-serving and had no probative weight."

Aggrieved, the respondent appealed the decision to the NLRC, docketed as NLRC NCR CA No. 027002-01. He alleged therein that –

I

> THE HONORABLE LABOR ARBITER COMMITTED GRAVE ABUSE OF DISCRETION IN DISMISSING THE COMPLAINT.

II

> THERE ARE SERIOUS ERRORS IN THE FINDINGS OF FACTS WHICH WOULD CAUSE GRAVE OR IRREPARABLE DAMAGE OR INJURY TO HEREIN COMPLAINANT.[7]

On November 29, 2001, the NLRC issued a Resolution reversing the decision of the Labor Arbiter. The dispositive portion of the resolution reads:

> WHEREFORE, the assailed decision dated October 19, 2000 is SET ASIDE and REVERSED. Accordingly, the respondent-appellee is hereby ordered to immediately reinstate complainant to his former position without loss of seniority rights and other benefits and payment of his full backwages from the time of his actual dismissal up to the time of his reinstatement.
>
> All other claims are dismissed for lack of merit.[8]

The NLRC upheld the claim of the respondent that his successive absences due to severe toothache was known to management. It ruled that the medical certificates issued by the doctor and dentist who attended to the respondent substantiated the latter's medical problem. It also declared that the lack of notarization of the said certificates was not a valid justification for their rejection as evidence. The NLRC declared that the respondent's absence for ten (10) consecutive days could not be classified as gross and habitual neglect of duty under Article 282 of the Labor Code.

The NLRC resolved to deny the motion for reconsideration of the petitioner, per its Resolution[9] dated August 26, 2002.

> The petitioner, thereafter, filed a petition for certiorari under Rule 65 of the Rules of Court before the CA, docketed as CA-G.R. SP No. 73602. It raised the following issues:
>
> > Whether or not the public respondent gravely abused it[s] discretion, amounting to lack or excess of jurisdiction in reversing the decision of the labor arbiter a quo and finding that private respondent Alejandro A. Etis was illegally dismissed.
> >
> > Whether or not public respondent gravely abused its discretion in reinstating private respondent Alejandro A.

> Etis to his former position without loss of seniority rights and awarding him full backwages.[10]

In its Decision[11] dated April 10, 2003, the CA affirmed in toto the November 29, 2001 Resolution of the NLRC.

The CA agreed with the ruling of the NLRC that medical certificates need not be notarized in order to be admitted in evidence and accorded full probative weight. It held that the medical certificates which bore the names and licenses of the doctor and the dentist who attended to the respondent adequately substantiated the latter's illness, as well as the tooth extraction procedure performed on him by the dentist. The CA concluded that since the respondent's absences were substantiated, the petitioner's termination of his employment was without legal and factual basis.

The CA similarly pointed out that even if the ten-day absence of the respondent was unauthorized, the same was not equivalent to gross and habitual neglect of duty. The CA took into consideration the respondent's unblemished service, from 1993 up to the time of his dismissal, and the latter's proven dedication to his job evidenced by no less than the following awards: Top Technician of the Year (1995), Member of the Exclusive P40,000.00 Club, and Model Employee of the Year (1995).

The motion for reconsideration of the petitioner was denied by the appellate court. Hence, the petition at bar.

The petitioner raises the following issues for the Court's resolution:

I

WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN GIVING MUCH EVIDENTIARY WEIGHT TO THE MEDICAL CERTIFICATES SUBMITTED BY THE PRIVATE RESPONDENT.

II

> WHETHER OR NOT THE HONORABLE LABOR ARBITER COMMITTED A REVERSIBLE ERROR IN RULING THAT PRIVATE RESPONDENT WAS ILLEGALLY DISMISSED.[12]

As had been enunciated in numerous cases, the issues that can be delved with in a petition for review under Rule 45 are limited to questions of law. The Court is not tasked to calibrate and assess the probative weight of evidence adduced by the parties during trial all over again.[13] Well-established is the principle that findings of fact of quasi-judicial bodies, like the NLRC, are accorded with respect, even finality, if supported by substantial evidence.[14] However, if, as in this case, the findings of the Labor Arbiter clash with those of the NLRC and CA, this Court is compelled to go over the records of the case, as well as the submissions of the parties, and resolve the factual issues.

The petitioner avers that the respondent's absences were unauthorized, and that the latter failed to notify the petitioner in writing of such absences, the reasons therefor, and his (respondent's) whereabouts as prescribed by the company rules. The petitioner avers that its security guard caught the respondent at home, fit to work. The petitioner further asserts that it was justified in dismissing the respondent under Section 6.1.1, Article III of the Company Rules which reads:

> An employee who commits unauthorized absences continuously for five (5) consecutive working days without notice shall be considered as having abandoned his job and shall be terminated for cause with applicable laws.
>
> The petitioner contends that the respondent's dismissal was also justified under Article 282(b) of the Labor Code, which provides that an employer may dismiss an employee due to gross and habitual neglect of his duties.

The contention of the petitioner has no merit.

The NLRC ruled that the respondent notified the petitioner of his illness through the company nurse, and that the petitioner even

dispatched a security guard to the respondent's house to ascertain the reason of his absences, thus:

> The termination by respondent-appellee of complainant's service despite knowledge of complainant's ailment, as shown by the telephone calls made by the latter to the company nurse and the actual confirmation made by respondent's company guard, who personally visited complainant's residence, clearly establishes the illegality of complainant's dismissal. The documentary testimonies of the nurse, Miss Rosita dela Cruz, regarding complainant's telephone calls and the confirmation made by respondent's security guard, Mr. Dumagan, are evidentiary matters which are relevant and material and must be considered to the fullest by the Labor Arbiter a quo. These circumstantial facts were miserably set aside by the Labor Arbiter a quo wherein he concluded that complainant committed gross neglect of duty on alleged continued absences is to our mind, not fully substantiated and ought not be given credence by this Commission. Time and again, this Tribunal impresses that, in labor proceedings, in case of doubt, the doubt must be reasonably in favor of labor. Maybe doubts hang in this case but these doubts must be resolved in favor of labor as mandated by law and our jurisprudence. From the facts of this case, it is only but reasonable to conclude that complainant's service was, indeed, terminated without legal or valid cause. Where the law protects the right of employer to validly exercise management prerogative such as to terminate the services of an employee, such exercise must be with legal cause as enumerated in Article 282 of the Labor Code or by authorized cause as defined in Article 283 of the Labor Code.[15]

The CA affirmed the findings of facts of the NLRC.

We agree with the rulings of the NLRC and the CA. We note that the company rules do not require that the notice of an employee's absence and the reasons therefor be in writing and for such notice to be given to any specific office and/or employee of the petitioner. Hence, the notice may be verbal; it is enough then that an officer or employee of the petitioner, competent and responsible enough to

receive such notice for and in behalf of the petitioner, was informed of such absence and the corresponding reason.

The evidence on record shows that the respondent informed the petitioner of his illness through the company nurse. The security guard who was dispatched by the petitioner to verify the information received by the company nurse, confirmed the respondent's illness. We find and so hold that the respondent complied with the requisite of giving notice of his illness and the reason for his absences to the petitioner.

We reject the petitioner's contention that the medical certificates adduced in evidence by the respondent to prove (a) his illness, the nature and the duration of the procedures performed by the dentist on him; and (b) the period during which he was incapacitated to work are inadmissible in evidence and barren of probative weight simply because they were not notarized, and the medical certificate dated September 23, 1997 was not written on paper bearing the dentist's letterhead. Neither do we agree with the petitioner's argument that even assuming that the respondent was ill and had been advised by his dentist to rest, the same does not appear on the medical certificate dated September 23, 1997; hence, it behooved the respondent to report for work on September 23, 1997. The ruling of the Court in Maligsa vs. Atty. Cabanting[16] is not applicable in this case.

It bears stressing that the petitioner made the same arguments in the NLRC and the CA, and both tribunals ruled as follows:

> First, We concur with the ratiocination of respondent NLRC when it ruled that a medical certificate need not be notarized, to quote:
>
> > x x x. He was dismissed by reason of the fact that the Medical Certificate submitted by the complainant should not be given credence for not being notarized and that no affidavit was submitted by the nurse to prove that the complainant, indeed, called the respondent's office by telephone.

After full scrutiny and judicious evaluation of the records of this case, We find the appeal to be meritorious. Regrettably, the Labor Arbiter a quo clearly failed to appreciate complainant's pieces of evidence. Nowhere in our jurisprudence requires that all medical certificates be notarized to be accepted as a valid evidence. In this case, there is [neither] difficulty nor an obstacle to claim that the medical certificates presented by complainant are genuine and authentic. Indeed, the physician and the dentist who examined the complainant, aside from their respective letterheads, had written their respective license numbers below their names and signatures. These facts have not been impugned nor rebutted by respondent-appellee throughout the proceedings of his case. Common sense dictates that an ordinary worker does not need to have these medical certificates to be notarized for proper presentation to his company to prove his ailment; hence, the Labor Arbiter a quo, in cognizance with the liberality and the appreciation on the rules on evidence, must not negate the acceptance of these medical certificates as valid pieces of evidence.

We believe, as we ought to hold, that the medical certificates can prove clearly and convincingly the complainant's allegation that he consulted a physician because of tooth inflammation on September 23, 1997 and a dentist who later advised him to rest and, thus, clinically extended his tooth extraction due to severe pain and inflammation. Admittingly, it was only on October 4, 1997 that complainant's tooth was finally extracted.

From these disquisitions, it is clear that the absences of private respondent are justifiable.[17]

We agree with the NLRC and the appellate court. In light of the findings of facts of the NLRC and the CA, the petitioner cannot find solace in the ruling of this Court in Maligsa vs. Atty. Cabantnig.[18]

While the records do not reveal that the respondent filed the required leave of absence for the period during which he suffered from a toothache, he immediately reported for work upon recovery, armed with medical certificates to attest to the cause of his absence. The respondent could not have anticipated the cause of his illness, thus, to require prior approval would be unreasonable.[19] While it is true that

the petitioner had objected to the veracity of the medical certificates because of lack of notarization, it has been said that verification of documents is not necessary in order that the said documents could be considered as substantial evidence.[20] The medical certificates were properly signed by the physicians; hence, they bear all the earmarks of regularity in their issuance and are entitled to full probative weight.[21]

The petitioner, likewise, failed to prove the factual basis for its dismissal of the respondent on the ground of gross and habitual negligence under Article 282(b) of the Labor Code of the Philippines, or even under Section 6.1.1, Rule III of the Company Rules.

Dismissal is the ultimate penalty that can be meted to an employee. Thus, it must be based on just cause and must be supported by clear and convincing evidence.[22] To effect a valid dismissal, the law requires not only that there be just and valid cause for termination; it, likewise, enjoins the employer to afford the employee the opportunity to be heard and to defend himself.[23] Article 282 of the Labor Code enumerates the just causes for the termination of employment by the employer:

> ART. 282. TERMINATION BY EMPLOYER
>
> An employer may terminate an employment for any of the following causes:
>
> (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
>
> (b) Gross and habitual neglect by the employee of his duties.

To warrant removal from service, the negligence should not merely be gross but also habitual. Gross negligence implies a want or absence of or failure to exercise slight care or diligence, or the entire absence of care. It evinces a thoughtless disregard of consequences without exerting any effort to avoid them.[24] The petitioner has not sufficiently shown that the respondent had willfully disobeyed the

company rules and regulation. The petitioner also failed to prove that the respondent abandoned his job. The bare fact that the respondent incurred excusable and unavoidable absences does not amount to an abandonment of his employment.

The petitioner's claim of gross and habitual neglect of duty pales in comparison to the respondent's unblemished record. The respondent did not incur any intermittent absences. His only recorded absence was the consecutive ten-day unauthorized absence, albeit due to painful and unbearable toothache. The petitioner's claim that the respondent had manifested poor work attitude was belied by its own recognition of the respondent's dedication to his job as evidenced by the latter's awards: Top Technician of the Year (1995), Member of the Exclusive P40,000.00 Club, and Model Employee of the Year (1995).

IN LIGHT OF ALL THE FOREGOING, the petition is **DENIED DUE COURSE**. The Decision of the Court of Appeals in CA-G.R. SP No. 73602 is **AFFIRMED**.

SO ORDERED.

Puno, *(Chairman)*, Austria-Martinez, Tinga, and Chico-Nazario, *JJ.*, concur.

---

[1] Penned by Associate Justice Andres B. Reyes, Jr., with Associate Justices Eugenio S. Labitoria and Regalado E. Maambong, concurring.
[2] Rollo, p. 133.
[3] CA Rollo, p. 41.
[4] Rollo, p. 135.
[5] Id. at 148.
[6] CA Rollo, p. 35.
[7] Id. at 52.
[8] Id. at 22.
[9] Id. at 24.
[10] Id. at 7.
[11] Rollo, pp. 19-27.
[12] Id. at 9.
[13] Suprelines Transportation Company, Inc. and Manolet Lavides vs. ICC Leasing and Financing Corporation, 398 SCRA 508 (2003).
[14] San Miguel Corporation vs. MAERC Integrated Services, Inc., 405 SCRA 579 (2003).

[15] CA Rollo, pp. 21-22.
[16] 272 SCRA 408 (1997).
[17] Rollo, pp. 24-25.
[18] Supra.
[19] Stellar Industrial Services, Inc. vs. NLRC, 252 SCRA 323 (1996).
[20] Bambalan vs. Workmen's Compensation Commission, 153 SCRA 166 (1987).
[21] See note 19.
[22] Nagusara vs. NLRC, 290 SCRA 245 (1998).
[23] Santos vs. San Miguel Corporation, 399 SCRA 172 (2003).
[24] Philippine Aeolus Automotive United Corporation vs. NLRC, 331 SCRA 237 (2000).