

## SECOND DIVISION

[ **G.R. No. 101825, April 02, 1996** ]

**TIERRA INTERNATIONAL CONSTRUCTION CORPORATION,  
PERINIJMONENCO, CHERRY LYNN S. RICAFRENTE AND KENNETH  
BUTT, PETITIONERS, VS. NATIONAL LABOR RELATIONS  
COMMISSION, PHILIPPINE OVERSEAS EMPLOYMENT  
ADMINISTRATION, MANUEL S. CRUZ, RAYMUNDO G. NEPA AND  
ROLANDO F. CARINO, RESPONDENTS.**

### D E C I S I O N

**MENDOZA, J.:**

This is a petition for certiorari to set aside the decision of the National Labor Relations Commission (Second Division) dated February 22, 1991, finding private respondents to have been illegally dismissed, reversing for this purpose the contrary decision of the Labor Arbiter, as well as the resolution of the NLRC denying reconsideration.

The facts are as follows:

Private respondents Manuel S. Cruz, Raymundo G. Nepa and Rolando F. Cariño were recruited by petitioner Tierra International Construction Corporation to work as transit mixer, truck driver, and batch plant operator, respectively, in a construction project at Diego Garcia, British Indian Ocean Territory. The contract of employment was for a period of twelve months at the following rates of salary per month:

<b>Name</b>	<u>Salary</u>	<u>Date Hired</u>
<b>Manuel S. Cruz</b>	US\$375.00	12-01-88
<b>Raymundo G. Nepa</b>	US\$375.00	11-23-88
<b>Rolando F. Cariño</b>	US\$500.00	11-20-88

Private respondents had barely started work in the foreign assignment when they had a disagreement with the plant supervisor, Engineer Terrance Filby. What exactly they had been ordered to do which they refused to execute - whether to dig and excavate canals and to haul bags of cement, cement pipes, heavy plumbing equipments and large electric cables, as they claimed, or only to do household chores consisting of keeping the work place clean, as the company alleges - is the question in this case. The fact is that private respondents refused to work as ordered and for this, they were dismissed on January 28, 1989 and sent back to the Philippines.

The company offered to pay the final fees representing their salaries from December 26, 1988 to January 28, 1989, but private respondents demanded as well the payment of their salaries corresponding to the balance of their employment

contracts. Private respondents made their formal demand on petitioners on February 27, 1989, claiming that, in violation of their contract of employment, they had been required to perform work not related to the jobs for which they had been hired. As their demand was denied, private respondents filed on March 20, 1989 a complaint for illegal dismissal with the POEA. They sought recovery of unpaid salaries and salaries corresponding to the unexpired portion of their employment contracts.

Private respondents alleged that they had been required by the company to dig and excavate canals and to haul bags of cement and cement pipes, heavy plumbing equipment and electric cables which was outside the work for which they had been recruited and that because they refused to carry out their supervisor's order, they were dismissed and immediately sent back to the Philippines.

Petitioners denied the allegations of private respondents and claimed that the latter's dismissal was for cause. Petitioners claimed that, on January 27, 1989, private respondents were merely requested by the plant supervisor, Terrance Filby, to do housekeeping job since they were idle for the rest of the day. Because private respondents did not do what they had been ordered to do, they were confronted by Filby. This led to an altercation between Filby and private respondents. When brought before the project manager, private respondents allegedly said that they refused to execute Filby's order because it involved doing the menial job of cleaning up the mess. They allegedly said in the vernacular, "*Nakakahiya naman yatang magpulot kami ng basura.*"<sup>[1]</sup> According to petitioners, because private respondents were unyielding, they were given three options: (1) apologize to their supervisors; (2) go back to work; or (3) repatriation.<sup>[2]</sup> Private respondents refused to go back to work and instead asked to be repatriated. Accordingly, they were sent home on January 28, 1989.

The POEA dismissed private respondents' claim that they had been required to do work other than that for which they had been hired. The POEA said no evidence had been presented to support this allegation. But finding that private respondents had not been paid their salaries, it ordered petitioners as follows:

WHEREFORE, in view of the foregoing, respondents are hereby ordered, jointly and severally, to pay complainants the following, in Philippine Currency at the prevailing rate of exchange at the time of payment:

Manuel S. Cruz - FIVE HUNDRED FIFTY ONE & 34/ 100 (US\$551.34) US DOLLARS - representing salaries for the period December 26, 1988 to January 28, 1989;

Raymundo G. Nepa - FIVE HUNDRED FIFTY NINE and 46/100 US DOLLARS (US\$559.46) - representing salaries for the period December 26, 1988 to January 28, 1989;

Rolando F. Cariño - SEVEN HUNDRED SIXTY SIX and 48/100 (US\$766.48) US DOLLARS - representing salaries for the period December 26, 1988 to January 28, 1989.

Private respondents appealed to the NLRC. In its decision rendered on February 22,