

SECOND DIVISION

[G.R. No. 187605, April 13, 2010]

**TECHNOL EIGHT PHILIPPINES CORPORATION, PETITIONER, VS.
NATIONAL LABOR RELATIONS COMMISSION AND DENNIS
AMULAR, RESPONDENTS.**

D E C I S I O N

BRION, J.:

For resolution is the present Petition for Review on *Certiorari*^[1] addressing the decision^[2] and resolution^[3] of the Court of Appeals (CA) of November 18, 2008 and April 17, 2009, respectively, in CA-G.R. SP No. 100406.^[4]

THE ANTECEDENTS

The facts are summarized below.

The petitioner Technol Eight Philippines Corporation (*Technol*), located at 127 East Main Avenue, Laguna Technopark, Biñan, Laguna, manufactures metal parts and motor vehicle components. It hired the respondent Dennis Amular (*Amular*) in March 1998 and assigned him to Technol's Shearing Line, together with Clarence P. Ducay (*Ducay*). Rafael Mendoza (*Mendoza*) was the line's team leader.

On April 16, 2002 at about 5:30 p.m., Mendoza went to the Surf City Internet Café in Balibago, Sta. Rosa, Laguna. As Mendoza was leaving the establishment, he was confronted by Amular and Ducay who engaged him in a heated argument regarding their work in the shearing line, particularly Mendoza's report to Avelino S. De Leon, Jr. (*De Leon*), Technol's Production Control and Delivery (*PCD*) assistant supervisor, about Amular's and Ducay's questionable behavior at work. The heated argument resulted in a fistfight that required the intervention of the barangay *tanods* in the area.

Upon learning of the incident, Technol's management sent to Amular and Ducay a notice of preventive suspension/notice of discharge dated May 18, 2002^[5] advising them that their fistfight with Mendoza violated Section 1-k of Technol's Human Resource Department (*HRD*) Manual. The two were given forty-eight (48) hours to explain why no disciplinary action should be taken against them for the incident. They were placed under preventive suspension for thirty (30) days, from May 19, 2002 to June 17, 2002 for Ducay, and May 21, 2002 to June 20, 2002 for Amular. Amular submitted a written statement on May 20, 2002.^[6]

Thereafter, Amular received a notice dated June 8, 2002^[7] informing him that Technol management will conduct an administrative hearing on June 14, 2002. He was also given two (2) days to respond in writing to the statements attached to and

supporting the notice. A day before the hearing or on June 13, 2002, Amular filed a complaint for illegal suspension/constructive dismissal with a prayer for separation pay, backwages and several money claims, against Technol. Amular failed to attend the administrative hearing. On July 4, 2002, Technol sent him a notice of dismissal.
[8]

Before the Labor Arbiter, Amular alleged that in the afternoon of April 16, 2002, while he and his co-employee Ducay were walking around the shopping mall in Balibago, Sta. Rosa, Laguna, they "*incidentally*" saw Mendoza with whom they wanted to discuss some personal matters. When they approached Mendoza, the latter raised his voice and asked what they wanted from him; Amular asked Mendoza what the problem was because Mendoza appeared to be always angry at him (Amular). Mendoza instead challenged Amular and Ducay to a fistfight and then punched Amular who punched Mendoza in return. Thereafter, a full-blown fistfight ensued until the barangay *tanods* in the area pacified the three.

Amular further alleged that he was asked by his immediate supervisor to submit a report on the incident, which he did on April 18, 2002.^[9] Subsequently, Amular, Mendoza and Ducay were called by Technol management to talk to each other and to settle their differences; they agreed and settled their misunderstanding.

THE COMPULSORY ARBITRATION DECISIONS

On November 18, 2003, Executive Labor Arbiter Salvador V. Reyes rendered a decision^[10] finding that Amular's preventive suspension and subsequent dismissal were illegal. He ruled that Amular's preventive suspension was based solely on unsubscribed written statements executed by Mendoza, Rogelio R. Garces and Mary Ann Palma (subscribed only on August 8, 2002) and that Mendoza, Amular and Ducay had settled their differences even before Amular was placed under preventive suspension. With respect to Amular's dismissal, the Arbiter held that Technol failed to afford him procedural due process since he was not able to present his side because he had filed a case before the National Labor Relations Commission (NLRC) at the time he was called to a hearing; Technol also failed to substantiate its allegations against Amular; the fistfight occurred around 200 to 300 meters away from the work area and it happened after office hours. Arbiter Reyes awarded Amular separation pay (since he did not want to be reinstated), backwages, 13th month pay, service incentive leave pay and attorney's fees in the total amount of P158,987.70.

Technol appealed to the NLRC. In its decision promulgated on March 30, 2005,^[11] the NLRC affirmed the labor arbiter's ruling. It found that Amular was unfairly treated and subjected to discrimination because he was the only one served with the notice to explain and placed under preventive suspension; his co-employee Ducay who was also involved in the incident was not. Technol moved for reconsideration, but the NLRC denied the motion in a resolution rendered on May 30, 2007.^[12] Technol thereafter sought relief from the CA through a petition for *certiorari* under Rule 65 of the Rules of Court.^[13]

THE CA DECISION

In its decision promulgated on November 18, 2008, the CA found no grave abuse of

discretion on the part of the NLRC when it affirmed the labor arbiter's ruling that Amular was illegally dismissed. While the appellate court noted that Amular was dismissed on the ground of serious misconduct, a just cause for employee dismissal under the Labor Code,^[14] it opined that Technol failed to comply with the jurisprudential guidelines that misconduct warranting a dismissal: (1) must be serious; (2) must relate to the performance of the employees duties; and (3) must show that the employee has become unfit to continue working for the employer.^[15]

The appellate court pointed out that the mauling incident occurred outside the company premises and after office hours; it did not in any manner disrupt company operations nor pose a threat to the safety or peace of mind of Technol workers; neither did it cause substantial prejudice to the company. It explained that although it was not condoning Amular's misconduct, it found that "*the penalty of dismissal imposed by Technol on Amular was too harsh and evidently disproportionate to the act committed.*"^[16] The CA denied the motion for reconsideration Technol subsequently filed;^[17] hence, the present petition.^[18]

THE PETITION

Technol posits that the CA gravely erred in ruling that Amular was illegally dismissed, contending that Amular was discharged for violation of Section 1-k of its HRD Manual which penalizes the commission of a crime against a co-employee. It submits that Section 1-k of the HRD Manual is a reasonable company rule issued pursuant to its management prerogative. It maintains that the case should have been examined from the perspective of whether the company rule is reasonable and not on the basis of where and when the act was committed, or even whether it caused damage to the company. It adds that the manual does not distinguish whether the crime was committed inside or outside work premises or during or after office hours. It insists that if the rule were otherwise, any employee who wishes to harm a co-employee can just wait until the co-employee is outside the company premises to inflict harm upon him, and later argue that the crime was committed outside work premises and after office hours. It submits that the matter assumes special and utmost significance in this case because Amular inflicted physical injuries on a supervisor. In any event, Technol argues that even if the misconduct was committed outside company premises, the perpetrator can still be disciplined as long as the offense was work-related, citing *Oania v. NLRC*^[19] and *Tanala v. NLRC*^[20] in support of its position.

Technol bewails the CA's appreciation of the implication of Amular's misconduct in the workplace, especially the court's observation that it did not cause damage to the company because it did not disrupt company operation, that it did not create a hostile environment inside the company, and that the fight was "*nipped in the bud by the timely intervention of those who saw the incident.*"^[21] Technol insists that it had to order Amular's dismissal in order to uphold the integrity of the company rules and to avoid the erosion of discipline among its employees. Also, it disputes the CA's conclusion that the fact that Amular's liability should be mitigated because the fight "*was nipped in the bud.*" It submits that Mendoza had already sustained grave injuries when the mauling was stopped.

Further, Technol maintains that the CA gravely erred in going beyond the issues submitted to it, since the NLRC decision only declared Amular's dismissal illegal on

the ground that he was the only one subjected to disciplinary action and that the company merely relied on the written statements of Amular's co-employees.

On the rejection by the CA of the statements of Amular's co-employees regarding the incident, Technol contends that the statements of the witnesses, together with Amular's admission, constitute substantial evidence of guilt. It points out that the statement of Mendoza on the matter submitted during the company investigation and before the labor arbiter was not a "*stand alone*" statement; Mendoza's statement was corroborated by the statements of Rogelio R. Garces and Mary Ann Palma, verified under oath in the reply^[22] it submitted to the arbiter. The statements were all in their handwriting, indicating that they were not *pro forma* or prepared on command; a medical certificate^[23] and a barangay report^[24] were likewise submitted.

Technol likewise disputes the NLRC's conclusion that Amular was discriminated against and unfairly treated because he was the only one preventively suspended after the mauling incident. It maintains that from the records of the case and as admitted by Amular himself in his position paper,^[25] his co-employee Ducay was also preventively suspended.^[26] That Mendoza was not similarly placed under preventive suspension was considered by Technol as an exercise of its management prerogative, since the circumstances surrounding the incident indicated the existence of a reasonable threat to the safety of Amular's co-employees and that Mendoza appeared to be the victim of Amular's and Ducay's assault.

THE CASE FOR AMULAR

In his Comment filed on August 12, 2009,^[27] Amular asks that the petition be dismissed for "*utter lack of merit*." He admits that the mauling incident happened, but claims however that on April 18, 2002, the Technol's management called Mendoza, Ducay, and him to a meeting, asked them to explain their sides and thereafter requested them to settle their differences; without hesitation, they agreed to settle and even shook hands afterwards. He was therefore surprised that on May 18, 2002, he received a memorandum from Technol's HRD charging him and his co-employee Ducay for the incident. Without waiting for an explanation, Technol's management placed him under preventive suspension, but not Ducay. Adding insult to injury, when Amular followed up his case while on preventive suspension, he was advised by the HRD manager to simply resign and accept management's offer of P22,000.00, which offer was reiterated during the mandatory conference before the labor arbiter.

Amular particularly laments that his employment was terminated while the constructive dismissal case he filed against the company was still pending. He posits that his employment was terminated first before he was informed of the accusations leveled against him - an indication of bad faith on the part of Technol.

Amular asks: if it were true that the mauling incident was a serious offense under company policy, why did it take Technol a month to give him notice to explain the mauling incident? He submits that the memorandum asking him to explain was a mere afterthought; he was dismissed without giving him the benefit to be informed of the true nature of his offense, thus denying him his right to be heard.

Finally, Amular questions the propriety of the present petition contending that it only raises questions of fact, in contravention of the rule that only questions of law may be raised in a petition for review on *certiorari*.^[28] He points out that the findings of facts of the labor tribunals and the CA are all the same and therefore must be given respect, if not finality.^[29]

THE RULING OF THE COURT

The Procedural Issue

We find no procedural impediment to the petition. An objective reading of the petition reveals that Technol largely assails the correctness of the conclusions drawn by the CA from the set of facts it considered. The question therefore is one of law and not of fact, as we ruled in *Cucueco v. Court of Appeals*.^[30] Thus, while there is no dispute that a fight occurred between Amular and Ducay, on the one hand, and Mendoza, on the other, the CA concluded that although Amular committed a misconduct, it failed to satisfy jurisprudential standards to qualify as a just cause for dismissal - the conclusion that Technol now challenges. We see no legal problem, too, in wading into the factual records, as the tribunals below clearly failed to properly consider the evidence on record. This is grave abuse of discretion on the part of the labor tribunals that the CA failed to appreciate.

The Merits of the Case

The CA misappreciated the true nature of Amular's involvement in the mauling incident. Although it acknowledged that Amular committed a misconduct, it did not consider the misconduct as work-related and reflective of Amular's unfitness to continue working for Technol. The appellate court's benign treatment of Amular's offense was based largely on its observation that the incident happened outside the company premises and after working hours; did not cause a disruption of work operations; and did not result in a hostile environment in the company. Significantly, it did not condone Amular's infraction, but it considered that Amular's dismissal was a harsh penalty that is disproportionate with his offense. It found support for this liberal view from the pronouncement of the Court in *Almira v. B.F. Goodrich Philippines, Inc.*,^[31] that "*where a penalty less punitive would suffice, whatever missteps may be committed by labor ought not to be visited with a consequence so severe.*"

The record of the case, however, gives us a different picture. Contrary to the CA's perception, we find a work-connection in Amular's and Ducay's assault on Mendoza. As the CA itself noted,^[32] the underlying reason why Amular and Ducay confronted Mendoza was to question him about his report to De Leon - Technol's PCD assistant supervisor - regarding the duo's questionable work behavior. The motivation behind the confrontation, as we see it, was rooted on workplace dynamics as Mendoza, Amular and Ducay interacted with one another in the performance of their duties.

The incident revealed a disturbing strain in Amular's and Ducay's characters - the urge to get even for a perceived wrong done to them and, judging from the circumstances, regardless of the place and time. The incident could very well have happened inside company premises had the two employees found time to confront