

## SECOND DIVISION

[ G.R. No. 190216, August 16, 2010 ]

**ARNOLD F. ANIB, PETITIONER, VS. COCA-COLA BOTTLERS  
PHILS., INC. AND/OR RHOGIE FELICIANO RESPONDENTS.**

### R E S O L U T I O N

**NACHURA, J.:**

For resolution is the petition for review on *certiorari* filed by petitioner, Arnold F. Anib, assailing the Court of Appeals (CA) Resolution<sup>[1]</sup> dated March 18, 2009 and Minute Resolution dated April 29, 2009.

On March 3, 1993, petitioner was employed as helper by respondent, Coca-Cola Bottlers Philippines, Inc. Later on, he was assigned to supervise respondent's mini warehouse in Ayala St., Makati City.

On March 20, 2005, a national inventory of the contents of the warehouse was conducted, and the result tallied with the number reflected in the Daily Stock Situation Report (DSSR) that was prepared by petitioner.

On April 23, 2005, the warehouse was padlocked by its owner due to respondent's failure to pay rentals. The DSSR for that day reflected that there were 1,455 cases left in the warehouse. On May 17, 2010, the warehouse was reopened, as respondent was able to settle its obligations with the owner. A spot count was conducted by petitioner, together with Rollie Latosa (Logistics Coordinator), a representative from the third party logistics service provider (referred to as the 3PL), and the assigned salesman. They discovered that there was a shortage in the stocks with a value equivalent of P361,061.00.

On May 24, 2005, petitioner was notified in writing of the shortage and was required to explain why he should not be found guilty of violating the Code of Disciplinary Rules and Regulations. Petitioner asked for time to explain the shortage as his wife was sick at that time.

Meantime, the stocks at the warehouse were re-inventoried. This time, the re-inventory revealed a shortage of 1,412 cases amounting to P404,807.00.

On June 3, 2005, respondents sent petitioner a Notice of Investigation and Grounding, advising him that an investigation will be conducted. A hearing was conducted on June 27, 2005, during which petitioner claimed that he did not know how the shortage came about and that he simply adopted the beginning inventory and the delivery of the 3PL. He said he was not certain if the stocks mentioned in the April 23, 2005 DSSR actually entered the warehouse.

Respondent conducted further investigation and discovered other irregularities

allegedly committed by petitioner. Respondent claimed that stocks were withdrawn from the warehouse and delivered to other outlets during the time that the warehouse was supposedly padlocked. Petitioner purportedly issued a receipt for an amount less than what was actually paid by the outlet, and he applied the overpayment to his other shortages. For these violations, petitioner was again made to explain. He then admitted the discrepancy in the receipt and requested that the shortage be deducted from his salary.

On December 28, 2005, petitioner received a Notice of Termination. He then filed a complaint for illegal dismissal against respondent.

On March 31, 2008, the Labor Arbiter rendered a decision sustaining petitioner's dismissal, thus:

WHEREFORE, judgment is hereby made finding the complainant to have been validly dismissed from employment but, as discussed above, ordering the respondent company to pay him a separation pay computed at a half month's pay for every year of service.

Other claims are DISMISSED for lack of merit.

SO ORDERED.<sup>[2]</sup>

Petitioner then elevated the case to the National Labor Relations Commission (NLRC).

On September 22, 2008, the NLRC reversed the Labor Arbiter's Decision, finding that there was no basis for petitioner's dismissal. The NLRC said that the alleged discrepancy in the stocks can be settled by reconciling the account and by investigating all the persons involved, not only petitioner. It opined that the investigation was conducted not for the purpose of ferreting out the truth but to pin down petitioner and find justification for his termination. The dispositive portion of the NLRC decision reads:

WHEREFORE, the foregoing premises considered, the instant appeal is hereby GRANTED. The Decision appealed from is REVERSED and SET ASIDE, and a new one is issued declaring COCA-COLA BOTTLERS PHILIPPINES, INC. guilty of illegal dismissal.

Respondent-appellee is ordered to pay Arnold Anib the following:

1. full backwages computed from the time he was dismissed up to finality of this resolution;
2. separation pay in lieu of reinstatement; and
3. attorney's fees equivalent to 10% of the award.

The complaint for damages and other monetary claims are DISMISSED for lack of merit.

SO ORDERED.<sup>[3]</sup>