

## THIRD DIVISION

[ G.R. No. 183196, August 19, 2009 ]

**CHONA ESTACIO AND LEOPOLDO MANLICLIC, PETITIONERS, VS.  
PAMPANGA I ELECTRIC COOPERATIVE, INC., AND LOLIANO E.  
ALLAS, RESPONDENTS.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

This is a Petition for Review on *Certiorari* under Rule 45 of the 1997 Rules of Civil Procedure assailing the Decision<sup>[1]</sup> of the Court of Appeals dated 29 May 2008 in CA-G.R. SP No. 93971, which annulled and set aside the Decision dated 30 June 2005 and Resolution dated 24 January 2006 of the National Labor Relations Commission (NLRC) in NLRC-NCR Case No. 040757-04. The NLRC found that petitioners Chona Estacio (Estacio) and Leopoldo Manliclic (Manliclic) were illegally dismissed by respondents Pampanga I Electric Cooperative, Inc. (PELCO I) and Engineer Loliano E. Allas (Engr. Allas), and ordered the reinstatement of petitioners and payment of their backwages. The NLRC reversed the Decision dated 30 April 2004 of the Labor Arbiter in NLRC Case No. RAB-III-03-5517-03 dismissing petitioners' Complaint for illegal dismissal against respondents for lack of merit.

The facts of the case as culled from the records are as follows:

Respondent PELCO I is an electric cooperative duly organized, incorporated, and registered pursuant to Presidential Decree No. 269.<sup>[2]</sup> Respondent Engr. Allas is the General Manager of respondent PELCO I.<sup>[3]</sup>

Petitioner Estacio had been employed at respondent PELCO I as a bill custodian since 1977, while petitioner Manliclic had been working for respondent PELCO I as a bill collector since June 1992.<sup>[4]</sup>

On 22 August 2002, Nelia D. Lorenzo (Lorenzo), the Internal Auditor of respondent PELCO I, submitted her "Audit Findings at the San Luis Area Office" to respondent Engr. Allas, pertinent portions of which state:

Evaluation of the results of physical inventory of bills through reconciliation of records such as aging schedule of consumer accounts receivable balance, collection reports and other related documents revealed 87 bills amounting to One Hundred Twenty Six Thousand Seven Hundred Fifty and 93/100 (P126,750.93) remained unremitted as of August 20, 2002.

Accounting of which includes the accountability of Ms. Estacio amounting

to One Hundred Twenty Three Thousand Eight Hundred Seven and 14/100 (P123,807.14) representing 86 bills.<sup>[5]</sup>

Respondent Engr. Allas issued a Memorandum dated 6 September 2002 to petitioner Estacio informing her of the audit findings, and directing her to explain in writing, within 72 hours upon receipt thereof, why no disciplinary action should be imposed upon her for Gross Negligence of Duty under Section 6.6 of Board Policy No. 01-04 dated 23 July 2001.

In her written explanation, petitioner Estacio averred that she had no control over and should not be held answerable for the failure of the bill collectors at the San Luis Area Office to remit their daily collections. Petitioner Estacio also asserted that according to her revised job description as a bill custodian, she merely had to ascertain on a daily basis the total bills collected and uncollected by collectors. Any failure on her part to update the bill custodian records by the time the audit was conducted on 9 August 2002 was due to the abnormal weather conditions during July 2002, resulting in the flooding of San Luis and Candaba, Pampanga. Such negligence could not be categorized as gross in character as would warrant the imposition of disciplinary action against her.<sup>[6]</sup>

Unsatisfied with petitioner Estacio's explanation, respondent Engr. Allas issued a Memorandum<sup>[7]</sup> dated 26 September 2002 charging Estacio with gross negligence of duty. A formal investigation/hearing then ensued, during which petitioner Estacio was duly represented by counsel. The investigating committee, in the report it submitted to respondent Engr. Allas on 23 October 2002, found petitioner Estacio guilty of dishonesty and gross negligence of duty under Section 6.4<sup>[8]</sup> and Section 6.6,<sup>[9]</sup> respectively, of Board Policy No. 01-04 dated 23 July 2001; and recommended her dismissal from service with forfeiture of benefits.<sup>[10]</sup>

On 25 October 2002, respondent Engr. Allas rendered a Decision which adopted the recommendation of the investigation committee dismissing petitioner Estacio from service, with forfeiture of her benefits, effective 28 October 2002; with the modification deleting the charge of dishonesty.<sup>[11]</sup> Petitioner Estacio sought a reconsideration of the said decision but it was denied by respondent Engr. Allas.

In the same "Audit Findings at the San Luis Area Office" submitted to respondent Engineer Allas on 22 August 2002, Internal Auditor Lorenzo reported that petitioner Manliclic, a bill collector, failed to remit to respondent PELCO I management his collection amounting to P4,813.11, as of 20 August 2002. Respondent Engr. Allas issued a Memorandum dated 6 September 2002 directing petitioner Manliclic to explain in writing, within 48 hours from receipt thereof, why no disciplinary action should be taken against him for committing offenses against respondent PELCO I properties,<sup>[12]</sup> under Section 2.1 of Board Policy No. 01-04 dated 23 July 2001.

On 11 September 2002, petitioner Manliclic submitted his written explanation<sup>[13]</sup> admitting that he used the amount of P4,813.11 from his collection to cover pressing family obligations and requesting two months to pay the same. With this admission, respondent Engr. Allas issued another Memorandum<sup>[14]</sup> dated 28 September 2002 dismissing petitioner Manliclic from service effective 1 October 2002, with forfeiture

of benefits. Petitioner Manliclic sought reconsideration<sup>[15]</sup> of his dismissal, but was rebuffed by respondent Engr. Allas in the latter's letter<sup>[16]</sup> dated 10 October 2002, which reads:

Your letter of reconsideration detailed in full the manner by which the amount of P4,813.11 was misappropriated. You admitted having lend (sic) to Joselito Ocampo the sum of P3,719.75 and this is supported by the affidavit of admission of said Mr. Joselito Ocampo which was duly notarized by Notary Public, Juan Manalastas. Thus, said affidavit is taken by management as gospel truth.

This affidavit does not however exculpate you from the offense of misappropriation, defined and penalized under Section 2, paragraph 2.1 ON COOP FUNDS (2.1.2, 2.1.3 & 2.1.4) of the Board Policy No. 27-96 and Administrative Policy No. 10-89.

If we may inform you the money you collected are held in trust by you so that you have to remit the same to the cooperative (San Luis Area Office) at the proper time.

You should not take the liberty of lending them to any co-employee because you have to account for them to the last centavo at the end of the collection day.

In view of the foregoing, it is sad to say that your letter of reconsideration is hereby denied.<sup>[17]</sup>

From respondent Engr. Allas' actions on their administrative case, petitioners Estacio and Manliclic separately filed with the Board of Directors of respondent PELCO I their memoranda of appeal.<sup>[18]</sup> The Board of Directors of respondent PELCO I subsequently passed two resolutions, with essentially the same contents, *i.e.*, Resolutions No. 38<sup>[19]</sup> dated 15 November 2002 and No. 39,<sup>[20]</sup> dated 25 November 2002, respectively. In said Resolutions, the Board of Directors of respondent PELCO I reinstated petitioners to their positions without loss of seniority, and ordered respondent Engr. Allas to pay in full the salaries and other incentives accruing to petitioners after deducting the first 15 days of their suspension.

Notwithstanding the approval of Resolutions No. 38 and No. 39, respondent Engr. Allas refused to reinstate petitioners and proceeded to dismiss them from service. Addressing the Board of Directors of respondent PELCO I, respondent Engr. Allas stated in his letter dated 29 November 2002<sup>[21]</sup>:

The act of reducing their penalties is a gross abuse of authority and commission of acts inimical to the interest of the cooperative and the public at large because you have no authority to do so since Board Policy No. 01-04 of PELCO I clearly provides the penalty of dismissal for the offenses they were found guilty. Your honors' authority to act is governed by the rules as provided in the aforesaid Board Policy. Going beyond that

is abuse of authority instead of protecting the interest of the cooperative you protected the employees who through their acts depleted the earnings and funds of the cooperative.

In a letter dated 9 December 2002 by Regional Director Alberto A. Guiang of the National Electrification Administration (NEA) to the Board of Directors of respondent PELCO I, he wrote:

THE BOARD OF DIRECTORS  
Pampanga I Electric Cooperative, Inc. (PELCO I)  
Mexico, Pampanga

Gentlemen:

This has reference to your Board Resolution No. 38 and 39 series of 2002, granting the letters of appeal of Ms. Chona Estacio and Mr. Leopoldo Manliclic for reinstatement of their positions to the PELCO I workforce.

While we appreciate your concern to the coop operation, we wish to call your attention to the NEA Guidelines dated 27 January 1995, specifying the delineation of Roles of EC Board of Directors and General Managers, and on Memorandum No. 35. Accordingly, the Board is not vested with the authority to hire and fire nor rehire employees. The General Manager is the only authorized official for this matter, while the Board has to formulate policies nor guidelines only for the GM to implement.

This office carefully reviewed the facts surrounding the issues raised by the concerned parties, and we found that due process was undertaken after rendering the decision by the General Manager on this matter, and should be enforced. This is healthy move of eradicating dishonesty and inefficiency among the employees. Thus, the disapproval of the above resolutions.

Thank you.

Very truly yours,

(SGD)ALBERTO A.  
GUIANG<sup>[22]</sup>

NEA through Regional Director Alberto A. Guiang issued another letter to the Board of Directors of respondent PELCO I dated 10 December 2002 stating that it was disapproving Resolution No. 39 issued by the Board of Directors of respondent PELCO I granting the letter of appeal of petitioners.<sup>[23]</sup>

The foregoing events prompted petitioners to file with the NLRC, Regional Arbitration Board (RAB)-III, City of San Fernando, Pampanga, their Complaints<sup>[24]</sup>

against respondents for illegal dismissal and payment of backwages, 13<sup>th</sup> month pay, and other benefits. The Complaints were docketed as NLRC Case No. RAB-III-03-5517-03.

In a Decision dated 30 April 2004, the Labor Arbiter ruled in favor of respondents, for the following reasons:

Respondents under their onus were required to show that [herein petitioners] were dismissed for cause.

As to [petitioner] Chona Estacio respondents contended that she was guilty of gross negligence of duty under sec. 6.6.6. of its Employee's Code of Discipline (Board Policy 01-04). Respondents have shown that [petitioner] Estacio failed to carry out her duties and responsibilities as a bill custodian per the latter's job description more particularly no. 2 and no. 3 of her detailed duties, namely:

"2. Maintains an accurate record of all Official Electric Bill Receipts (OERB) issued to and returned by collectors, and sees to it that the same are properly signed or initialed by the collector as clearance to any accountability;

"3. Accounts and ascertains on a daily basis the total bills collected and uncollected by collectors and those bills paid in the office by consumers through the maintenance of bill route control and related record" (Annex "1" of respondents' Reply).

It was likewise shown that this infraction carries the penalty of dismissal. Record also showed that the requirements of procedural due process was afforded the [petitioner] before she was finally separated.

In the case of [petitioner] Manliclic, respondents were able to show with the admission of the former that sec. 2, subsection 2.1, pars. 2.1.2 to 2.1.4 of Board Policy No. 01-04 were violated by [petitioner]. The same violations carry the penalty of dismissal. The procedural requirements of notice and hearing were likewise afforded [petitioner] Manliclic before he was finally terminated.

In view of the above, we hold that there is no illegal dismissal.<sup>[25]</sup>

In the end, the Labor Arbiter decreed:

WHEREFORE, premises considered, judgment is hereby rendered dismissing instant complaint for illegal dismissal for lack of merit.

However, respondents are held liable and ordered to pay [petitioners] the