

SECOND DIVISION

[G.R. No. 152325, August 28, 2008]

**MONICCA B. EGOY, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION, THE BUSINESS STAR CORPORATION,
AND GABRIEL MAÑALAC, RESPONDENTS.**

D E C I S I O N

BRION, J.:

The petitioner Monicca B. Egoy (*petitioner*) comes to this Court *via* the present petition^[1] to assail the decision of the Court of Appeals (CA) promulgated on March 30, 2001.^[2] The CA decision affirmed the decision^[3] of the National Labor Relations Commission (NLRC) promulgated on September 30, 1998, and its resolution^[4] issued on February 21, 2002 denying the petitioner's motion for reconsideration. The NLRC ruling in turn reversed the decision^[5] dated April 8, 1997 of the Labor Arbiter awarding the petitioner separation pay (in lieu of reinstatement), backwages, and attorney's fees.

THE ANTECEDENT FACTS

The petitioner worked for the respondent Business Star Corporation (*respondent*) who owns and operates a daily business newspaper. On May 4, 1994, the paper was running a story on the bidding of the National Steel Corporation (NSC) and the respondent's managing editor, Lazaro Medina Jr., instructed the petitioner to cover the bidding and to report on the results for the next day's issue of the respondent's paper. The petitioner failed to send the required report, either by phone or fax, and the managing editor had to close the front page of the paper at past 7:00 p.m. of May 4, 1994 without any story on the NSC bidding.

On May 10, 1994, the respondent's news editor, Marie Carol Lucas, through a memorandum,^[6] directed the petitioner to explain: (1) her failure to submit a news story on the results of the NSC bidding; and (2) her absence without official leave (AWOL) from May 5 to May 9.

The petitioner submitted the required explanation (dated May 11, 1994) on May 15, 1994.^[7] She disagreed with the "false accusation" that she abandoned her post and stated that she was at the Metro Club in Makati to cover the NSC bidding at 1:00 p.m. of May 4, 1994; she called up the office before 3:00 p.m. to advise the desk to wait for the results of the bidding, and every hour thereafter to keep her office informed of the developments; she made her last call at 6:30 p.m.; she went to the office at past 7:00 p.m., tired and hungry, to have her story edited by Mr. Medina, but Mr. Medina was no longer in the office when she arrived at 8:00 p.m.; thus, she did not abandon her job; it was Mr. Medina who abandoned her story as the paper closed as early as 7:30 p.m.

On her three-day absence, the petitioner explained that she "actually planned to file a sick leave, meaning I will not report for office the next day and ask my brother to call up the desk," but the news leaked out that she would be spending the weekend with her family in Hongkong, so she was forced to junk her previous plan.

In a memorandum dated June 15, 1994, the respondent, through Vice President for Administration Miguel G. Belmonte, terminated the petitioner's services for being on AWOL from May 5 to 9, 1994 and for breach of trust by reason of her intention "to mislead the office into believing you were sick when in fact you were to be vacationing in Hongkong."^[8] The petitioner responded to her dismissal by filing a complaint for illegal dismissal with prayer for reinstatement, backwages and attorney's fees.^[9]

At the arbitration proceedings, the petitioner submitted the explanation she made relating to *her failure to submit a news story on the NSC bidding, the accusation that she had been AWOL, and her abandonment of post.*

The respondent, for its part, cited the petitioner's AWOL on May 5 to 9 to justify its action. It also faulted the petitioner for its newspaper's failure to report on the results of the NSC May 4, 1994 bidding. It claimed that nothing was heard of from petitioner on that day regarding the NSC bidding - no call to the editorial desk, no advise to the office on her whereabouts -compelling the managing editor to close the front page at past 7:00 p.m. Company investigation revealed that the petitioner went to the office on May 4, 1994 at past 8:00 p.m., not to submit her news item on the NSC bidding, but to get her loan from the accounting department for her trip to Hongkong on the following day. She did not report for work on May 5, 1994 and the following days as she went on a vacation trip to Hongkong.

The respondent also charged the petitioner with defiance of a lawful order and grave disrespect and discourtesy to her superior, Carol Lucas, who had asked her to explain in writing within 24 hours her failure to submit a news story on the NSC bidding.^[10] While the petitioner did submit a report, it came only after 4 days and was submitted to Mr. Gabriel Mañalac, the respondent's publisher and editor-in-chief, instead of to Carol Lucas. The respondent also called attention to the petitioner's "faulty news stories" that resulted in disclaimers from affected parties. A second incident of AWOL was also charged, this time for June 12, 13 and 15, 1994. Based on what the company viewed as a series of unprofessional conduct and on account of the NSC bidding incident, Mañalac asked the petitioner to resign. Her retort was a refusal.

In a decision dated August, 1997, the Labor Arbiter found that the petitioner was illegally dismissed, but ruled out reinstatement because of the parties' strained relationship.^[11] He awarded the petitioner separation pay, backwages and attorney's fees. The Labor Arbiter held that the respondent erred in dismissing the petitioner on the grounds indicated in the termination/dismissal memo.^[12] The Arbiter relied on the petitioner's submission that she could not have been AWOL from May 5 to 9, 1994 since May 7 to 9, 1994 were non-working days (May 7 was a Saturday and May 8 a Sunday, while May 9 was a holiday - barangay election day). The Labor Arbiter particularly noted her argument asking how she could have intended to falsify any information or mislead respondent on the reason for her

absence when she did not file a leave of absence for May 5 and 6.

The respondent appealed^[13] to the NLRC whose decision,^[14] promulgated on September 30, 1998, reversed the Labor Arbiter's ruling. The NLRC ruled that the Labor Arbiter erred when he limited "his evaluation of the reasonableness of complainant's dismissal to a consideration only of the grounds stated in the notice of dismissal." It pointed out that the show-cause letter to the petitioner clearly asked her to explain why no disciplinary action should be taken against her for her failure to submit a news story on the NSC bidding.^[15] In both her written explanation to the company and in the pleadings before the Labor Arbiter, she explained her failure to submit the news story and her absence. To the NLRC, "the complainant's failure to submit the news story in question, compounded by her AWOL (absence without official leave) in the succeeding days and underhanded attempt to shift the blame to Medina x x x constitute a valid ground for loss of confidence, which justified her dismissal."^[16]

The petitioner sought relief from the Court of Appeals through a petition for *certiorari*. In the decision promulgated on March 30, 2001 - now the subject of the present petition for review - the CA dismissed the petition with the following finding:
^[17]

Petitioner was rightfully dismissed because of her unprofessional conduct and breach of trust. She failed to meet a deadline. She went to Hongkong without as much informing the central desk about it. She failed to submit her explanation within the time specified. She was on AWOL. And she showed acts of insubordination and disrespect to her superiors. Taken together, the concurrence of events have snowballed into her employer's loss of confidence in her which is a ground for dismissal. Verily, petitioner's dismissal was fully justified. *Certiorari* does not lie."

The petitioner moved for the reconsideration of the decision, but the CA denied her motion in a resolution promulgated on February 21, 2002.^[18]

THE PETITION

The petition cites the following errors:^[19]

1. The Court of Appeals gravely erred in deciding that petitioner was not illegally dismissed based on grounds not stated in the notice of termination.
2. On the assumption that the Court of Appeals can go beyond the grounds stated in the notice of termination, the Court's appreciation and conclusion that the petitioner was not illegally dismissed is based on a misapprehension of facts.
3. The Court of Appeals gravely erred in giving weight to the factual findings of the NLRC when it is the Labor Arbiter who conducted the trial and had the opportunity to personally examine the evidence and the witnesses.

The petitioner then went on to state the reasons why the assailed decision should be reversed and set aside. She filed a Reply^[20] (to the respondent's Comment) and a Memorandum.^[21]

The petitioner posits that the present case highlights a basic and novel question of law - *whether a court, in analyzing and deciding an illegal dismissal case, is limited to the ground or grounds stated in the notice of termination*. She contends that the court should so limit itself. The petitioner further submits that the respondent failed to comply with the conditions laid down under Book V, Rule XXIII, Section 2, Pars. (a), (b) and (c) of the Labor Code's Implementing Rules and Regulations because only a written notice of termination of employment effective immediately was given to her. She adds that even if the observance of due process is not the issue in this case, the respondent's notice is nevertheless vital in determining the ground or grounds relied upon in terminating her employment. In this regard, she calls attention to the "plain wording" of the notice served on her which plainly cites her failure to report for duty on May 5-9, 1994 without official leave as the reason for her dismissal, not the breach of trust that the respondent cites.^[22] She contends that even the Labor Arbiter concluded that "no amount of hair-splitting about complainant's assigned news story on the NSC bidding will change the fact that she was dismissed from her job effective June 15, 1994 on the ground/s indicated in the notice of termination x x x."^[23]

The petitioner faults both the NLRC and the Court of Appeals for accepting the non-submission of the news story and the alleged "underhanded" attempt of the petitioner to shift the blame to Medina as additional grounds for the termination of her employment; she notes that the Court of Appeals went farther by citing her failure to meet the deadline as basis for the respondents' loss of confidence; her trip to Hongkong without notifying the central desk; her failure to submit explanation within the specified time; her AWOL; her acts of insubordination and her disrespect to her superiors; and even the respondent's unwarranted claims that she was responsible for news stories that were not entirely accurate and that resulted in disclaimers.

Even assuming that the CA can validly go beyond the grounds stated in the notice of termination, the petitioner further maintains that the court misappreciated the undisputed facts of the case, leading to its erroneous conclusions. She likewise belies the other factual findings of the CA - largely the same factual issues passed upon at the Labor Arbiter and NLRC levels. Finally, the petitioner assails the undue weight given by the CA to the factual findings of the NLRC. She contends that considering the conflicting evidence presented during the hearings, the Labor Arbiter was in a better position than the NLRC and the Court of Appeals to determine which evidence should be considered in resolving the case; in the absence of any showing of abuse, the Labor Arbiter's appreciation of the evidence should be respected.

THE CASE FOR RESPONDENT BUSINESS STAR

The respondent, in a Memorandum^[24] dated January 27, 2003, submits that the CA committed no error: (1) in ruling that petitioner was not illegally dismissed; (2) in the appreciation of the facts of the case; and (3) in giving weight to the factual findings of the NLRC. It maintains that it terminated the employment of petitioner for her unprofessionalism, willful violation of company rules and regulations, grave

disrespect and discourtesy to her immediate superiors equivalent to a breach of trust which constitutes a just cause for dismissal under Article 282 of the Labor Code.

As the petitioner did, the respondent largely dwelt on the appreciation of the facts of the case, starting from the petitioner's failure to submit her report on the NSC bidding, her subsequent AWOL and insubordination.

The respondent questions the petitioner's objection based on the two-notice rule under Book V, Rule XIV, Sec. 2 of the Implementing Rules and Regulations of the Labor Code,^[25] arguing that the petition cannot raise this issue for the first time on appeal; in any case, it posits that the petitioner was fully given her day in court and her right to due process was never suppressed nor denied.

On the factual findings of the CA, the respondent submits that the appellate court correctly appreciated the facts of the case for they were based on the pleadings, documents and evidence submitted to the Labor Arbiter and the NLRC. It further contends that neither did the CA commit an error when it gave weight to the finding of the NLRC over those of the Labor Arbiter.

THE COURT'S RULING

The petitioner presents to this Court what she defines as a basic and novel question of law which, to her, constitutes the main issue in this case - whether a court, in analyzing and deciding a dismissal case, is limited to the ground or grounds stated in the notice of termination given to the employee.^[26] She contends that the Court of Appeals should have limited itself to the ground or grounds stated in the notice; the CA's error in this regard is an abuse of discretion correctible by *certiorari*. **In the context of the present petition, the direct question that the petitioner poses is: Does the NLRC's and the CA's consideration of the NSC bidding and other related incidents not specifically mentioned in the notice of termination taint their decisions with illegality for their use of irrelevant considerations?**

Separately from the above issue, the petitioner submits that the appellate court erred in its appreciation of the facts of the case and in giving weight to the findings of the NLRC. This question - essentially one of fact - is outside the purview of a Rule 45 petition.^[27] Nevertheless, we shall look at the factual issues but only to the extent of considering the submission that the CA went beyond the termination notice in upholding the petitioner's dismissal.

We see no merit in the petition as our discussions below will show.

Our examination of the developments in the parties' relationship shows that it began to sour when the petitioner failed to file her report on the NSC bidding on May 4, 1994. As a result, the respondent changed its managing editor and at the same time asked the petitioner to explain why she failed to submit her report. The order to explain also asked her about her unauthorized absence on the days subsequent to the NSC bidding. The petitioner did submit her explanation, though her compliance came late. There were questions raised, too, on the manner she submitted her explanation. Ultimately, the respondent decided to terminate the petitioner's