

## THIRD DIVISION

[ G.R. No. 174585, October 19, 2007 ]

**FEDERICO M. LEDESMA, JR., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (NLRC-SECOND DIVISION) HONS. RAUL T. AQUINO, VICTORIANO R. CALAYCAY AND ANGELITA A. GACUTAN ARE THE COMMISSIONERS, PHILIPPINE NAUTICAL TRAINING INC., ATTY. HERNANI FABIA, RICKY TY, PABLO MANOLO, C. DE LEON AND TREENA CUEVA, RESPONDENTS.**

### DECISION

#### CHICO-NAZARIO, J.:

This a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court, filed by petitioner Federico Ledesma, Jr., seeking to reverse and set aside the Decision,<sup>[1]</sup> dated 28 May 2005, and the Resolution,<sup>[2]</sup> dated 7 September 2006, of the Court of Appeals in CA-G.R. SP No. 79724. The appellate court, in its assailed Decision and Resolution, affirmed the Decision dated 15 April 2003, and Resolution dated 9 June 2003, of the National Labor Relations Commission (NLRC), dismissing petitioner's complaint for illegal dismissal and ordering the private respondent Philippine National Training Institute (PNTI) to reinstate petitioner to his former position without loss of seniority rights.

The factual and procedural antecedents of the instant petition are as follows:

On 4 December 1998, petitioner was employed as a bus/service driver by the private respondent on probationary basis, as evidenced by his appointment.<sup>[3]</sup> As such, he was required to report at private respondent's training site in Dasmariñas, Cavite, under the direct supervision of its site administrator, Pablo Manolo de Leon (de Leon).<sup>[4]</sup>

On 11 November 2000, petitioner filed a complaint against de Leon for allegedly abusing his authority as site administrator by using the private respondent's vehicles and other facilities for personal ends. In the same complaint, petitioner also accused de Leon of immoral conduct allegedly carried out within the private respondent's premises. A copy of the complaint was duly received by private respondent's Chief Accountant, Nita Azarcon (Azarcon).<sup>[5]</sup>

On 27 November 2000, de Leon filed a written report against the petitioner addressed to private respondent's Vice-President for Administration, Ricky Ty (Ty), citing his suspected drug use.

In view of de Leon's report, private respondent's Human Resource Manager, Trina Cueva (HR Manager Cueva), on 29 November 2000, served a copy of a Notice to petitioner requiring him to explain within 24 hours why no disciplinary action should be imposed on him for allegedly violating Section 14, Article IV of the private

respondent's Code of Conduct.<sup>[6]</sup>

On 3 December 2000, petitioner filed a complaint for illegal dismissal against private respondent before the Labor Arbiter.

In his Position Paper,<sup>[7]</sup> petitioner averred that in view of the complaint he filed against de Leon for his abusive conduct as site administrator, the latter retaliated by falsely accusing petitioner as a drug user. VP for Administration Ty, however, instead of verifying the veracity of de Leon's report, readily believed his allegations and together with HR Manager Cueva, verbally dismissed petitioner from service on 29 November 2000.

Petitioner alleged that he was asked to report at private respondent's main office in España, Manila, on 29 November 2000. There, petitioner was served by HR Manager Cueva a copy of the Notice to Explain together with the copy of de Leon's report citing his suspected drug use. After he was made to receive the copies of the said notice and report, HR Manager Cueva went inside the office of VP for Administration Ty. After a while, HR Manager Cueva came out of the office with VP for Administration Ty. To petitioner's surprise, HR Manager Cueva took back the earlier Notice to Explain given to him and flatly declared that there was no more need for the petitioner to explain since his drug test result revealed that he was positive for drugs. When petitioner, however, asked for a copy of the said drug test result, HR Manager Cueva told him that it was with the company's president, but she would also later claim that the drug test result was already with the proper authorities at Camp Crame.<sup>[8]</sup>

Petitioner was then asked by HR Manager Cueva to sign a resignation letter and also remarked that whether or not petitioner would resign willingly, he was no longer considered an employee of private respondent. All these events transpired in the presence of VP for Administration Ty, who even convinced petitioner to just voluntarily resign with the assurance that he would still be given separation pay. Petitioner did not yet sign the resignation letter replying that he needed time to think over the offers. When petitioner went back to private respondent's training site in Dasmariñas, Cavite, to get his bicycle, he was no longer allowed by the guard to enter the premises.<sup>[9]</sup>

On the following day, petitioner immediately went to St. Dominic Medical Center for a drug test and he was found negative for any drug substance. With his drug result on hand, petitioner went back to private respondent's main office in Manila to talk to VP for Administration Ty and HR Manager Cueva and to show to them his drug test result. Petitioner then told VP for Administration Ty and HR Manager Cueva that since his drug test proved that he was not guilty of the drug use charge against him, he decided to continue to work for the private respondent.<sup>[10]</sup>

On 2 December 2000, petitioner reported for work but he was no longer allowed to enter the training site for he was allegedly banned therefrom according to the guard on duty. This incident prompted the petitioner to file the complaint for illegal dismissal against the private respondent before the Labor Arbiter.

For its part, private respondent countered that petitioner was never dismissed from employment but merely served a Notice to Explain why no disciplinary action should

be filed against him in view of his superior's report that he was suspected of using illegal drugs. Instead of filing an answer to the said notice, however, petitioner prematurely lodged a complaint for illegal dismissal against private respondent before the Labor Arbiter.<sup>[11]</sup>

Private respondent likewise denied petitioner's allegations that it banned the latter from entering private respondent's premises. Rather, it was petitioner who failed or refused to report to work after he was made to explain his alleged drug use. Indeed, on 3 December 2000, petitioner was able to claim at the training site his salary for the period of 16-30 November 2000, as evidenced by a copy of the pay voucher bearing petitioner's signature. Petitioner's accusation that he was no longer allowed to enter the training site was further belied by the fact that he was able to claim his 13th month pay thereat on 9 December 2000, supported by a copy of the pay voucher signed by petitioner.<sup>[12]</sup>

On 26 July 2002, the Labor Arbiter rendered a Decision,<sup>[13]</sup> in favor of the petitioner declaring illegal his separation from employment. The Labor Arbiter, however, did not order petitioner's reinstatement for the same was no longer practical, and only directed private respondent to pay petitioner backwages. The dispositive portion of the Labor Arbiter's Decision reads:

WHEREFORE, premises considered, the dismissal of the [petitioner] is herein declared to be illegal. [Private respondent] is directed to pay the complainant backwages and separation pay in the total amount of One Hundred Eighty Four Thousand Eight Hundred Sixty One Pesos and Fifty Three Centavos (P184, 861.53).<sup>[14]</sup>

Both parties questioned the Labor Arbiter's Decision before the NLRC. Petitioner assailed the portion of the Labor Arbiter's Decision denying his prayer for reinstatement, and arguing that the doctrine of strained relations is applied only to confidential employees and his position as a driver was not covered by such prohibition.<sup>[15]</sup> On the other hand, private respondent controverted the Labor Arbiter's finding that petitioner was illegally dismissed from employment, and insisted that petitioner was never dismissed from his job but failed to report to work after he was asked to explain regarding his suspected drug use.<sup>[16]</sup>

On 15 April 2003, the NLRC granted the appeal raised by both parties and reversed the Labor Arbiter's Decision.<sup>[17]</sup> The NLRC declared that petitioner failed to establish the fact of dismissal for his claim that he was banned from entering the training site was rendered impossible by the fact that he was able to subsequently claim his salary and 13th month pay. Petitioner's claim for reinstatement was, however, granted by the NLRC. The decretal part of the NLRC Decision reads:

WHEREFORE, premises considered, the decision under review is, hereby REVERSED and SET ASIDE, and another entered, DISMISSING the complaint for lack of merit.

[Petitioner] is however, ordered REINSTATED to his former position without loss of seniority rights, but WITHOUT BACKWAGES.<sup>[18]</sup>

The Motion for Reconsideration filed by petitioner was likewise denied by the NLRC in its Resolution dated 29 August 2003.<sup>[19]</sup>

The Court of Appeals dismissed petitioner's Petition for *Certiorari* under Rule 65 of the Revised Rules of Court, and affirmed the NLRC Decision giving more credence to private respondent's stance that petitioner was not dismissed from employment, as it is more in accord with the evidence on record and the attendant circumstances of the instant case.<sup>[20]</sup> Similarly ill-fated was petitioner's Motion for Reconsideration, which was denied by the Court of Appeals in its Resolution issued on 7 September 2006.<sup>[21]</sup>

Hence, this instant Petition for Review on *Certiorari*<sup>[22]</sup> under Rule 45 of the Revised Rules of Court, filed by petitioner assailing the foregoing Court of Appeals Decision and Resolution on the following grounds:

I.

WHETHER, THE HON. COURT OF APPEALS COMMITTED A MISAPPREHENSION OF FACTS, AND THE ASSAILED DECISION IS NOT SUPPORTED BY THE EVIDENCE ON RECORD. PETITIONER'S DISMISSAL WAS ESTABLISHED BY THE UNCONTRADICTED EVIDENCES ON RECORD, WHICH WERE MISAPPRECIATED BY PUBLIC RESPONDENT NLRC, AND HAD THESE BEEN CONSIDERED THE INEVITABLE CONCLUSION WOULD BE THE AFFIRMATION OF THE LABOR ARBITER'S DECISION FINDING ILLEGAL DISMISSAL

II.

WHETHER, THE HON. COURT OF APPEALS SUBVERTED DUE PROCESS OF LAW WHEN IT DID NOT CONSIDER THE EVIDENCE ON RECORD SHOWING THAT THERE WAS NO JUST CAUSE FOR DISMISSAL AS PETITIONER IS NOT A DRUG USER AND THERE IS NO EVIDENCE TO SUPPORT THIS GROUND FOR DISMISSAL.

III.

WHETHER, THE HON. COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN NOT FINDING THAT RESPONDENTS SUBVERTED PETITIONER'S RIGHT TO DUE PROCESS OF THE LAW.<sup>[23]</sup>

Before we delve into the merits of this case, it is best to stress that the issues raised by petitioner in this instant petition are factual in nature which is not within the office of a Petition for Review.<sup>[24]</sup> The *raison d'être* for this rule is that, this Court is not a trier of facts and does not routinely undertake the re-examination of the evidence presented by the contending parties for the factual findings of the labor officials who have acquired expertise in their own fields are accorded not only respect but even finality, and are binding upon this Court.<sup>[25]</sup>

However, when the findings of the Labor Arbiter contradict those of the NLRC, departure from the general rule is warranted, and this Court must of necessity make an infinitesimal scrutiny and examine the records all over again including the