

FIRST DIVISION

[G.R. NO. 166177, December 18, 2006]

**HERBERT WILLIAMS, PETITIONER, COURT OF APPEALS,
NATIONAL LABOR RELATIONS COMMISSION, (SECOND
DIVISION), AND DAYS HOTEL PHILS., INC., OMNISOURCE
MANAGEMENT INC., AND REYNALDO CONCEPCION,
RESPONDENTS**

D E C I S I O N

CHICO-NAZARIO, J.:

This case is a Petition for Review under Rule 45 of the 1997 Revised Rules of Civil Procedure seeking to set aside the Court of Appeals Decision,^[1] dated 31 August 2004, in CA-G.R. SP No. 73421 entitled, *Herbert Williams v. National Labor Relations Commission (2nd Division), and Days Hotel Philippines Inc., Omnisource Management Inc., and Reynaldo Concepcion* and its Resolution,^[2] dated 23 November 2004, which annulled the Decision and Resolution of the National Labor Relations Commission (NLRC), dated 26 March 2002^[3] and 30 May 2002,^[4] respectively, thereby reinstating with modification the Labor Arbiter's Decision,^[5] dated 1 June 2001 as to the amount of backwages awarded to herein petitioner.

The antecedent facts of the case are as follows:

Herein petitioner Herbert Williams is an Indian national and an experienced hotelier with 25 years of extensive working knowledge of hotel and restaurant management in senior positions. He was enticed by private respondent Reynaldo Concepcion (Concepcion) into joining Days Hotel Philippines Inc., as Executive Vice-President and Chief Operating Officer (EVP-COO). He worked as such from 24 May 1999 up to the time of his dismissal on 21 September 1999.

Herein respondents are Days Hotel Philippines, Inc. (Days Hotel), a domestic corporation engaged in hotel business; Omnisource Management, Inc. (Omnisource), likewise a domestic corporation, which operates the chain of hotels of respondent Days Hotel; and Concepcion, the chairperson of the board of directors of both corporations.

Petitioner was summoned to the office of respondent Concepcion on 7 September 1999, and allegedly verbally dismissed by the latter in the presence of Lettie Delarmente (Delarmente), respondent corporations' Vice-President for Human Resources, and Matthew Reeves, Sales and Marketing Manager, for having purportedly uttered derogatory remarks against the person of respondent Concepcion. Petitioner claimed that respondent Concepcion screamed at him and told him to "get out," "you're fired," "I don't need you anymore," and afterwards slammed the door.^[6]

On 8 September 1999, petitioner received a letter^[7] from Delarmente asking, on behalf of the Board of Directors of respondent Days Hotel, for an explanation within 48 hours why he should not be given disciplinary action. Said letter also informed him of his preventive suspension. Petitioner sent a reply to the said letter on 10 September 1999.

On 17 September 1999, a notice^[8] of termination of employment on the ground of loss of trust and confidence was issued to petitioner. Petitioner's termination of employment was made effective on 21 September 1999.

Consequently, on 11 November 1999, petitioner lodged with the Labor Arbiter a Complaint for Illegal Dismissal and Non-Payment of Benefits with Claim for Moral and Exemplary Damages and Attorney's Fee against herein respondents.

As a defense against the Complaint filed by petitioner, respondents asserted that the dismissal of the petitioner was due to a valid cause, i.e., loss of trust and confidence. They contended that contrary to company policy, petitioner meddled in the negotiation process with a prospective client, a function that lies exclusively with respondent Concepcion as Chairperson and Chief Executive Officer; that petitioner even uttered unpleasant comments against respondent Concepcion; and that during petitioner's stint with Days Hotel, he was not able to contribute any significant improvement to the operation of their hotels.

On 1 June 2001, Labor Arbiter Isabel G. Panganiban-Ortiguerra rendered a Decision in favor of herein petitioner. The decretal portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring respondent Days Hotel Inc., Omnisource Management Inc., and Reynaldo A. Concepcion guilty of illegal dismissal, and they are hereby ordered as follows:

1. To pay [petitioner] **backwages** reckoned from his dismissal up to the date of this [D]ecision in the amount of P2,033,000.00;
2. To pay [petitioner] **separation pay** in an amount equivalent to one half month pay for every year of service reckoned from the time he was employed up to the time he will actually be paid his separation pay in accordance with the doctrine of imputed service, which as of this date is in the amount of P100,000.00;
3. To pay **money claims** of [petitioner] in the amount of P751,286.00;
4. To pay **moral and exemplary damages** in the amount of P500,000.00; and
5. To pay [petitioner] attorney's fee in an amount equivalent to 10% of whatever he may receive by virtue of this [D]ecision.^[9]

Respondents appealed the Labor Arbiter's Decision to the NLRC. On 26 March 2002, the NLRC reversed the aforesaid Decision and sustained the dismissal of petitioner. The dispositive portion thereof reads as follows:

WHEREFORE, all the foregoing duly considered, the decision appealed from is hereby REVERSED and SET ASIDE and a new one entered

DISMISSING the [C]omplaint for lack of merit.^[10]

The NLRC ratiocinated:

To begin with, there has been no denial emanating from the [petitioner] as to the utterances made by him to third persons concerning the management style, i.e. work habits or decision making processes of [respondent] Mr. Reynaldo Concepcion. All that is heard from him is that his statements were without malice and taken out of context.

x x x x

Thus, with the bare answer of the [petitioner] to the charges, there was no need to secure and present the affidavits of either [respondent] Mr. Concepcion or Mr. Matthew Reeves, the latter being the person whom the [petitioner] dissuaded from joining the companies headed by [respondent] Mr. Concepcion.

x x x x

x x x. We can conceive of no justifiable reason why the [petitioner] should utter the remarks attributed to him to [sic] Ms. Cristy Bollos, President of Maria Plaza Suites and with whom the respondents were negotiating. By his actuation, [petitioner] has recklessly placed in disrepute the character and person of [respondent] Mr. Reynaldo Concepcion. x x x. By making known to other persons his misgivings about his immediate superior, [petitioner] has acted in a manner contrary to and inimical to the best interests of the hotel. Hence, it is Our view that the respondents were justified in discontinuing the services of the [petitioner].^[11]

On 10 May 2002, petitioner filed a Motion for Reconsideration of the afore-quoted Decision. On 30 May 2002, the NLRC issued a Resolution denying petitioner's Motion for Reconsideration.

Petitioner filed a Petition for *Certiorari* before the Court of Appeals on 18 October 2002. On 31 August 2004, the appellate court rendered a Decision reinstating the Labor Arbiter's Decision declaring that petitioner has been illegally dismissed but modifying the same by limiting the award of backwages to P50,000.00, and separation/termination pay to a fixed amount of P100,000.00. The decretal portion of said Decision states that:

WHEREFORE, the petition is **GRANTED**. The assailed Decision and Resolution of the NLRC are **ANNULLED**. The Labor Arbiter's Decision is hereby **REINSTATED** with **MODIFICATION** as follows:

(a). The award of backwages in the amount of P2,033,000.00 is DELETED and in lieu thereof, petitioner should be paid his unpaid salary in the amount of P50,000.00;

(b). The separation/termination pay payable to petitioner shall be in the fixed amount of P100,000.000 pursuant to the employment contract;

(c). The monetary value of petitioner's vacation, sick and rest/recreation