

## THIRD DIVISION

[ G.R. No. 148105, July 22, 2004 ]

**FRANCISCO REYNO, PETITIONER, VS. MANILA ELECTRIC  
COMPANY, RESPONDENT.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

Before us is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision<sup>[1]</sup> dated January 17, 2001 and Resolution<sup>[2]</sup> dated May 3, 2001 of the Court of Appeals in CA-G.R. SP No. 53987, entitled "*Manila Electric Company vs. The Honorable National Labor Relations Commission (Second Division) and Francisco Reyno.*"

The facts as borne by the records are:

On August 1, 1969, Francisco P. Reyno, *petitioner*, was employed by the Manila Electric Company (MERALCO), *respondent*, where he eventually occupied the position of Assistant Squad Leader of Squad 12<sup>[3]</sup> at the Inspection Department. Petitioner and his team of inspectors were in charge of monitoring and inspecting electric meters installed at the premises of respondent's customers; ensuring the accuracy of the electric consumption recorded in these meters; and reporting and apprehending violators who use insidious schemes or devices to reduce their electric consumption deliberately.

Later, respondent implemented an incentive scheme aimed at encouraging its inspectors to perform their duties zealously. Under this incentive scheme, the inspector concerned shall be paid an additional 30-minute overtime pay for every submitted report of major violation/s committed by customers against respondent.

Sometime in July 1987, Roger Sacdalan, Senior Investigator of respondent's Special Presidential Committee (SPC), received several complaints against Gilbert Villapa, Leader of Squad 12, about an illegal connection at the Daig Kaku Restaurant.

Acting thereon, SPC conducted an investigation wherein members of Squad 12, namely, Tadeo Santiago, Carlos Cruz, July Capundan, Danilo Teodoro and Edwin Dancel were summoned to shed light on the matter. However, they failed to establish Villapa's involvement in such illegal connection. Instead, their declarations pointed to petitioner's irregular performance of his duties. In particular, Santiago and Cruz stated that during their field inspection of electric meters installed at two houses situated in Malibay, Pasay City, petitioner instructed them to prepare the following false reports: (1) that there was a two-line permanent jumper wire; and (2) that a wire (open potential link)<sup>[\*]</sup> was tapped thereon. Dancel and Capundan also stated that after their inspection of an electric meter at 1688 Rodriguez Street, Makati City, petitioner directed them to prepare a report indicating therein that the

electric meter involved has a loose potential link,\* instead of recommending a laboratory test. Petitioner also ordered them to report the presence of only one, instead of two, shunting wire or jumper in the electric meter installed at Eleuterio Medrano's house located on 8 J. Climaco Street, Makati City. It turned out that Medrano is petitioner's provincemate. Similarly, Teodoro, another squad member, stated that he was instructed by petitioner to report only one out of two shunted terminal jaws found in the electric meter of a repair shop situated on Palawan Street, Makati City. Teodoro also reported that during an inspection in Estrella, Pasay City, he saw petitioner tightening a potential link of the electric meter, when it should have been reported to respondent.

This prompted SPC, on September 14 and 21, 1987, to conduct clarificatory hearing. But the hearing set on September 14, 1987 was cancelled for failure of petitioner's counsel to appear despite notice. When the case was called for hearing as scheduled, his counsel again failed to appear. He then opted to proceed with the clarificatory hearing without the assistance of his counsel.

After evaluating the records on hand, the SPC found petitioner guilty of dishonesty, serious misconduct and willful breach of trust. Respondent then sent petitioner a notice terminating his services effective November 4, 1987.

Eventually, petitioner filed with the Labor Arbiter a complaint for illegal dismissal and payment of overtime pay, premium pay for holidays and rest days, damages and attorney's fees against respondent, docketed as NLRC NCR Case No. 00-02-01093-89.

In due course, the Labor Arbiter rendered a Decision dated August 2, 1993 dismissing petitioner's complaint. The Labor Arbiter held that respondent has valid reasons to terminate petitioner's employment and that he was given the fullest opportunity to be heard, thus:

"Verily, the above facts clearly established that complainant indeed violated the company's Code of Employee Discipline and committed serious misconduct in the performance of his duties and functions which acts are just causes for the dismissal of an employee (Art. 282 of the Labor Code). Complainant, as inspector was precisely tasked to safeguard the interest of the company and was expected to render truthful reports of violations committed by customers of respondent company. When complainant fabricated his reports to favor his friends and acquaintances and worse, to profit out of his irregularities, respondent MERALCO had reasons to terminate his employment. Similarly, respondent company has ample reason to distrust complainant which is another just and valid ground for his dismissal. (Art. 282 of the Labor Code; *Filipro, Inc. vs. NLRC*, G.R. Nos. L-70546, October 16, 1986 [145 SCRA 123, 131-132]).

On the third issue, we find the presence of due process prior to the dismissal of herein complainant. The facts and circumstances support this finding.

Firstly, complainant was informed of the charges against him and the nature of the irregularities he committed. (Exh. '7').

Secondly, there was investigation conducted and complainant participated in the process. In fact, his request for postponement of the investigation was granted and was reset to September 21, 1987 instead of September 14, 1987. Complainant's testimony before Mr. Sacdalan confirmed that he was given the full opportunity to explain his side. He (complainant) was able to raise his own version on every incident alluded to in the declaration against him and refute point by point the testimonies of members of Squad 12 (Exh. 7-C). These facts only prove that complainant was informed or he was able to examine the declarations of witnesses against him.

Furthermore, complainant's request for re-investigation was favorably acted upon by respondent wherein he was able to submit statements of three customers of the company (Exh. '11' and '12').

Based on the foregoing facts, it is abundantly clear that complainant was accorded the fullest opportunity to be heard.

x x x

WHEREFORE, PREMISES CONSIDERED, let the instant case be, as it is hereby ordered dismissed for lack of merit.

SO ORDERED."

On appeal by petitioner, the National Labor Relations Commission (NLRC) First Division promulgated a Decision dated August 18, 1994 reversing the Arbiter's Decision and ordering respondent to reinstate petitioner to his former position and pay him backwages, thus:

"WHEREFORE, the appealed decision is hereby set aside. Finding that the dismissal of complainant is not supported by any just cause, respondent is hereby directed to reinstate complainant to the position he held at the time of his dismissal, without loss of seniority rights and benefits, and to pay him backwages computed from the time his wages were withheld up to the time he is actually reinstated.

SO ORDERED."

Respondent then filed a motion for reconsideration. On January 11, 1995, the NLRC First Division rendered a Decision reconsidering its earlier Decision and dismissing petitioner's complaint for lack of merit, thus:

"WHEREFORE, our August 18, 1994 decision is reconsidered and set aside. The August 2, 1993 decision of Labor Arbiter Numeriano D. Villena is upheld and the complaint below (for illegal dismissal and related claims) is hereby dismissed for lack of merit.

SO ORDERED."

This time, it was petitioner who filed a motion for reconsideration. Meantime, he also filed a motion to inhibit the members of the First Division. Subsequently, the