

SECOND DIVISION

[G.R. No. 123636, March 31, 2000]

**JOSELITO LAGERA, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION (N L R C) AND PHILIPPINE
NATIONAL CONSTRUCTION CORPORATION, RESPONDENTS.**

R E S O L U T I O N

QUISUMBING, J.:

This petition for *certiorari* seeks to annul the decision of NLRC promulgated on October 18, 1995, in NLRC RB-IV-5-6683-94-C, which reversed the Labor Arbiter's finding that private respondent is guilty of illegal dismissal.

Petitioner was hired as security guard by private respondent on December 30, 1993. His employment was covered by a contract renewable monthly based upon his "passing the company standard."

On April 13, 1994, about 1:00 o'clock in the afternoon, the vehicle of private respondent carrying petitioner and four other security guards on board, swerved and crashed against a fence of the South Luzon Tollways in Bicutan, Taguig, Metro Manila, causing the passengers on board to suffer physical injuries. That same afternoon, private respondent's security officer conducted an investigation of the incident. All the guards involved including petitioner were summoned to give their story of the accident. Petitioner, however, refused to report anything he knew as he "will first think over the matter" (*Pagiisipan ko*).

After three days, petitioner was again summoned to shed light on the accident, but still he refused to cooperate as, according to him, he was not yet in his proper mind to do so (*Naguguluhan ako*).

On this score, the security officer gave petitioner a chance to explain why his employment should still be renewed despite his actuations, to which petitioner only replied, "*No comment ako diyan, sir.*" This prompted the security officer to recommend the non-renewal of petitioner's employment on the ground of failure to meet company standards. Petitioner was separated from the service effective May 1, 1994.

Aggrieved, petitioner filed before the Arbitration Branch of the NLRC, a complaint for illegal dismissal and non-payment of salary against private respondent.

On November 28, 1994, the Labor Arbiter handed down a decision finding private respondent guilty of illegal dismissal, the decretal portion of which states:

"WHEREFORE, in the light of the foregoing, judgment is hereby rendered, finding respondent PNCC guilty of illegal dismissal ordering said