

SECOND DIVISION

[G.R. No. 117652, April 27, 2000]

**ROLANDO APARENTE, SR. PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION, AND COCA-COLA BOTTLERS
PHILIPPINES, INC., RESPONDENTS.**

D E C I S I O N

DE LEON, JR., J.:

Before us is a petition for certiorari^[1] seeking to annul the Resolution dated September 19, 1994 of the National Labor Relations Commission (NLRC)^[2] which reversed the decision of the labor arbiter dated April 23, 1990 and found the dismissal of petitioner for violation of company rules and regulations as valid.

The pertinent facts are as follows:

Petitioner Rolando Aparante, Sr. was first employed by private respondent Coca-Cola Bottlers Phils., Inc. (CCBPI), General Santos City Plant as assistant mechanic in April 1970. He rose through the ranks to eventually hold the position of advertising foreman until his termination on May 12, 1988 for alleged violation of company rules and regulations.^[3] His monthly salary at the time of his termination was P5,600.00.^[4]

On November 9, 1987 at around 10:30 in the morning, petitioner drove private respondent's advertising truck with plate number LBV-970 to install a panel sign. While traversing Zenia St. Ext., Polomolok, South Cotabato, petitioner sideswiped Marilyn Tejero, a ten-year old girl. Petitioner brought Tejero to Heramil Clinic for first aid treatment. As the girl suffered a 2 cm. fracture on her skull which was attributed to the protruding bolt on the truck's door, she was subsequently transferred to the General Santos City Doctor's Hospital where she underwent surgical operation. She stayed in the hospital for about a month.^[5]

On November 14, 1987 or five days after the accident, petitioner reported the incident to private respondent. At about the same time, petitioner submitted himself to the police authorities at Polomolok, South Cotabato for investigation^[6] where it was discovered that petitioner had no driver's license at the time of the accident. In view thereof, FGU Insurance Corporation, an insurer of private respondent's vehicles, did not reimburse the latter for the expenses it incurred in connection with Tejero's hospitalization.^[7] Private respondent spent a total amount of P19,534.45, P17,988.48 of which was spent for hospitalization expenses while the remaining amount served as Tejero's living allowance during her confinement.

On November 26, 1987, private respondent conducted an investigation of the incident where petitioner was given the opportunity to explain his side and to defend

himself.

On May 12, 1988, private respondent dismissed petitioner from employment for having violated the company rules and regulations particularly Sec. 12 of Rule 005-85^[8] for blatant disregard of established control procedures resulting in company damages amounting to P19,534.45.^[9]

Aggrieved, petitioner instituted a case for illegal dismissal^[10] against private respondent before the Labor Arbiter. After the parties filed their respective position papers, the Labor Arbiter rendered a decision, the dispositive portion of which reads:

ACCORDINGLY, respondent Coca-Cola Bottlers Phil. Inc. (CCBPI) is hereby directed to reinstate complainant to his former or substantially equivalent position in General Santos City without loss of seniority rights and other privileges. Pursuant to RA 6715, the reinstatement of complainant is immediately executory upon the promulgation of this Decision.

The claim for backwages and damages is however DENIED for reasons aforecited.^[11]

Dissatisfied, both parties appealed to the NLRC which dismissed both appeals and affirmed the decision of the Labor Arbiter in a resolution dated June 27, 1994.

Private respondent filed a motion for reconsideration of the said resolution which was granted by the NLRC on September 19, 1994. In reversing its previous resolution, the NLRC ruled:

WHEREFORE, the Resolution of this Commission dated June 27, 1994 is reconsidered. Accordingly, the Resolution [affirming]^[12] the decision of Labor Arbiter below dated April 23, 1990 is vacated and set aside. In its stead, judgment is hereby rendered declaring the dismissal of complainant as one for just cause and effected after observance of due process. His dismissal, is, thus, Sustained [as valid and lawful. However, considering that complainant's violation of company rule is not reflective of his moral character plus his eighteen (18) long years of loyal and efficient service to the company, respondent company is ordered to pay complainant separation pay by way of financial assistance equivalent to one-half (1/2) month pay for every year of service.

Complainant's appeal is ordered Dismissed for lack of merit.^[13]

Hence, this petition.

Petitioner contends that the NLRC erred in holding that private respondent afforded him due process. He argues that when he was investigated for his involvement in the vehicular accident, it was simply for the offense of driving without a valid driver's license. He further asserts that had he been informed of the alleged damages incurred by private respondent, he could have presented evidence to prove otherwise. Thus, he would not have been terminated from service pursuant to Sec.

12 of Rule 005-85 of CCBPI's Code of Disciplinary Rules and Regulations which provides that:

A first, second and third offense is punishable only by a suspension of 6 days, 15 days, and 30 days, respectively. The penalty of "discharge" is imposed only after the fourth offense or when the damage caused upon private respondent is more than P5,000.00. (Underscoring supplied).

Petitioner's contention is baseless. He was fully aware that he was being investigated for his involvement in the vehicular accident that took place on November 9, 1987. The investigation was conducted because he figured in an accident in which he sideswiped Marilyn Tejero, and not for mere violation of traffic rules. It was also known to petitioner that as a result of the accident, the victim suffered a 2 cm. fracture on her skull which led to the latter's surgical operation and confinement in the hospital for which private respondent incurred expenses amounting to P19,534.45 which FGU Insurance Corporation refused to reimburse upon finding that petitioner was driving without a valid driver's license. Thus, being aware of all these circumstances and the imposable sanctions under private respondent's Code of Disciplinary Rules and Regulations, petitioner should have taken it upon himself to present evidence to lessen his culpability.

While the stenographic notes taken during the investigation of petitioner do not state that the amount of P19,534.45 was paid for the hospitalization of the victim and that the insurance company did not reimburse private respondent for its expenses, the Memorandum dated May 12, 1988 terminating petitioner's employment clearly states that:

xxx xxx xxx

You, therefore, have violated the Company Rules and Regulations, particularly Sec. 12 of Rule 005-85 for blatant disregard of established control procedures which resulted in Company damages amounting to Nineteen Thousand Five Hundred Thirty Four and 45/100 (P19,534.45).

xxx xxx xxx

If petitioner did not agree with the amount purporting to be the loss suffered by the company, he should have refuted the same before the labor arbiter. This omission creates an adverse inference that such uncontroverted evidence speaks of the truth.

[14] Not only did petitioner fail to contradict the same, he even impliedly admitted the amount of such expenses when he alleged in his position papers that:

xxx But for the paltry and measly sum of P19,534.45 (yes, the sum is paltry and measly considering the wealth of respondent), he got his walking papers! [15]

Entrenched is the rule that the essence of due process does not necessarily mean or require a hearing but simply a reasonable opportunity or a right to be heard or as applied to administrative proceedings, an opportunity to explain one's side. [16] In labor cases, the filing of position papers and supporting documents fulfill the