

SECOND DIVISION

[G.R. No. 123184, January 22, 1999]

**SERAFIN QUEBEC, SR., PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION, PAMFILO POMBO, SR., AND ANTONIO
QUEBEC, RESPONDENTS.**

D E C I S I O N

BELLOSILLO, J.:

This petition for certiorari^[1] assails the 31 August 1995 decision of public respondent National Labor Relations Commission (NLRC) which reversed its own resolution of 27 February 1995 dismissing private respondents' appeal for lack of merit.

Petitioner Serafin Quebec Sr. was the owner of the *Canhagimet Express*, a transportation company plying Oras-Catbalogan (Samar) - the Bicol area - Metro Manila, and vice-versa, before the company was sold. *Canhagimet Express* was managed by Serafin Quebec Jr. until he was murdered on 1 September 1981.^[2] Petitioner Serafin Quebec Sr. was his father. Serafin Quebec III, obviously the son of Serafin Quebec Jr. and grandson of petitioner, briefly managed the company thereafter until he fled when he received serious threats to his life following the death of his father.

In September 1981 private respondent Antonio Quebec, brother of petitioner, was hired by the Company as inspector and liaison officer with the powers and duties of a supervisor/manager^[3] at a monthly salary of P5,000.00 but without any 13th month pay, overtime pay, service incentive leave pay (SILP) and night premium pay.^[4] Neither was he paid any separation pay when he was dismissed without any notice and hearing in 1991 by Paciencia Quebec, wife of petitioner, on suspicion of covering up the latter's womanizing activities.^[5]

Meanwhile on 5 November 1981 private respondent Pamfilo Pombo Sr., brother-in-law of petitioner by reason of his marriage to petitioner's sister Estelita Quebec, was hired as driver-mechanic and co-manager of Antonio in Catbalogan, Northern Samar, the Bicol Region and Manila, for a monthly salary of P4,000.00. He was dismissed without notice and hearing in October 1990 allegedly for his failure to help in the repair of Bus No. 152. Neither was he given any separation pay, overtime pay, 13th month pay nor service incentive leave pay.^[6] Consequently, private respondents Antonio Quebec and Pamfilo Pombo Sr. separately filed illegal dismissal cases against petitioner which were later consolidated under one Labor Arbiter.^[7]

In his 5 January 1994 decision,^[8] the Labor Arbiter dismissed the complaints against petitioner and found the dismissal of Antonio to be valid on the ground that

an employee could be terminated from employment for lack of confidence due to serious misconduct. The serious misconduct alluded to was the purported misappropriation of company funds by Antonio. The Labor Arbiter opined that such misconduct was proved by circumstantial evidence through Antonio's unsatisfactory answers on how he was able to afford a house and lot within a short time.

The Labor Arbiter also found valid the dismissal of Pamfilo Pombo as he was indisputably engaged in the shipment of rattan and stalagmites via the *Canhagimet* buses without paying the corresponding freightage.

Accordingly, private respondents appealed to the NLRC which initially dismissed the appeal for lack of merit in its 27 February 1995 resolution. However, on 31 August 1995 the NLRC set aside its earlier resolution and granted the motion for reconsideration by holding that private respondents Quebec and Pombo were illegally dismissed because (1) there was an employer-employee relationship between the parties; (2) petitioner did not submit any evidence, e.g., payrolls and vouchers, to rebut the allegations of unpaid money claims; and, (3) other than petitioner's bare denial of respondents' employment status in the *Canhagimet Express*, no evidence was submitted to refute respondents' claim that they were dismissed without due process. Thus, the NLRC ordered petitioner to pay private respondents the following amounts:^[9]

I. PAMPILO POMBO SR.

A.	Back wages: (Oct. 1990 to 31 Aug. 1995) 4 years and 10 months (P4,000.00 x 58 mos.)	= P232, 000.00
B.	Separation Pay: (5 Nov.1981 to Oct.1990) 9 years (4,000.00 x 9 yrs.)	= 36, 000.00
C.	Service Incentive Leave Pay: (19 Dec. 1989 to 18 Dec. 1992) 3 years and 5 days (P131.51 x 5 days x 3 yrs.)	= 1,972.65
D.	13th Month Pay: (19 Dec. 1989 to 18 Dec. 1992) 3 years (P 4,000.00 x 3 yrs.)	= <u>12,000.00</u>
TOTAL		
AWARD		---
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II. ANTONIO QUEBEC

A.	Back wages: (Nov. 1991 to 31 Aug. 1995) 3 yrs. and 9 mos. (P5,000.00 x 45 mos.)	= P 225,000.00
B.	Separation Pay: (1 Sept. 1981 to 30 Nov. 1991) 10 yrs. (P5,000.00 x 10 yrs.)	= 50,000.00
C.	Service Incentive Leave Pay: (19 Dec. 1989 to 18 Dec. 1992)	= 2,465.70

	3 yrs. and 5 days (P164.38 x 5 days x 3 yrs.)	
D.	13th Month Pay: (19 Dec. 1989 to 18 Dec. 1992)	
	3 yrs. (P5,000.00 x 3 yrs.)	= <u>15,000.00</u>
	TOTAL AWARD - - - - -	<u>P292,465.70</u>
OVER - ALL AWARD - - - - -	- - - - -	- - - - -
	- - - - -	<u>P574,438.35</u>

Petitioner, in seeking a reversal of the NLRC's appreciation of the facts, is now essentially raising questions of fact. In a long line of cases we have ruled that resort to judicial review of the decisions of the NLRC in a petition for certiorari under Rule 65 of the Rules of Court is confined only to issues of want or excess of jurisdiction and grave abuse of discretion on the part of the tribunal rendering them. It does not include an inquiry as to the correctness of the evaluation of evidence which served as the basis of the labor official or officer in determining his conclusion. Findings of fact of such administrative officers are generally given finality.^[10] In this regard, the finding of an employer-employee relationship between the private parties becomes indubitable when the Labor Arbiter and the NLRC are in agreement thereto. More importantly, this relationship was admitted before us by petitioner.^[11]

The remaining issue to be resolved then is whether private respondents were illegally dismissed. Although this is a factual question and should not be taken now for judicial review, an exception is to be made for the reason that the Labor Arbiter and the NLRC in this case are at odds on this point.^[12]

There were various reasons cited for the dismissal of Antonio Quebec, i.e., that he was covering up for the womanizing activities of petitioner, and that petitioner suspected him of misappropriating *Canhagimet* funds by the mere fact that he was unable to explain his wherewithal to buy a house and lot in a short time. Two reasons were also asseverated on Pamfilo's dismissal, i.e., his non-payment of freightage at the *Canhagimet* buses in transporting his rattan and stalagmites, and his inability to help in the repair of a bus. Both claims however were never substantiated by any evidence other than the barefaced allegations in the affidavits of petitioner and his witnesses.^[13]

When there is no showing of a clear, valid and legal cause for the termination of employment, the law considers the matter a case of illegal dismissal and the burden is on the employer to prove that the termination was for a valid or authorized cause.^[14] This burden of proof appropriately lies on the shoulders of the employer and not on the employee because a worker's job has some of the characteristics of property rights and is therefore within the constitutional mantle of protection. No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws.^[15]

Apropos thereto, Art. 277, par. (b), of the Labor Code mandates in explicit terms that the burden of proving the validity of the termination of employment rests on the employer. Failure to discharge this evidential burden would necessarily mean