365 Phil. 137

[G.R. No. 117221, April 13, 1999]

IBM PHILIPPINES, INC., VIRGILIO L. PEÑA, AND VICTOR V. REYES, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND ANGEL D. ISRAEL, RESPONDENTS.

D E C I S I O N

MENDOZA, J.:

This is a petition for *certiorari* to set aside the decision,[1] dated April 15, 1994, of the National Labor Relations Commission (NLRC) finding private respondent to have been illegally dismissed and ordering his reinstatement and the payment of his wages from August 1991 until he is reinstated.

Petitioner IBM Philippines, Inc. (IBM) is a domestic corporation engaged in the business of selling computers and computer services. Petitioners Virgilio L. Peña and Victor V. Reyes were ranking officers of IBM during the period pertinent to this case.

On April 1, 1975, private respondent Angel D. Israel commenced employment with IBM as Office Products Customer Engineer. For the next sixteen (16) years, he occupied two other positions in the company,[2] received numerous awards,[3] and represented the company in various seminars and conferences in and out of the country.[4]

On February 1, 1990, private respondent was assigned to the team supervised by petitioner Reyes.

On June 27, 1991, petitioner Reyes handed a letter to private respondent informing the latter that his employment in the company was to be terminated effective July 31, 1991 on the ground of habitual tardiness and absenteeism. The letter states, thus:

June 27, 1991

Mr. Angel D. Israel

Present

Dear Angel,

This refers to our previous discussion regarding your habitual absences and tardiness the last of which was on June 26, 1991.

Your records will attest to the fact that on several occasions, your attention has been called to your habitual tardiness and non-observance of standing office procedures regarding attendance. Despite several opportunities given to you, you cannot seem to reform your ways and attitude on the matter of attendance. Considering that we are a service-oriented company, you can appreciate that we cannot allow such a situation to continue lest we put the best interest of the Company in jeopardy.

Much to our regret, therefore, pleased (sic) be advised that the Company is terminating your employment effective July 31, 1991.

You are requested to report to Personnel Department at your earliest convenience for the settlement of any money or benefits due you.

Very truly yours,

(Sgd) V.V. REYES
Business Manager

cc: L.L. Abano

Alleging that his dismissal was without just cause and due process, private respondent filed a complaint with the Arbitration Branch of the Department of Labor and Employment (DOLE) on July 18, 1991.

In his position paper filed on September 6, 1991, he claimed that he was not given the opportunity to be heard and that he was summarily dismissed from employment based on charges which had not been duly proven.[5]

Petitioners denied private respondent's claims. It was alleged that several conferences were held by the management with private respondent because of the latter's unsatisfactory performance in the company and he was given sufficient warning and opportunity to "reform and improve his attitude toward attendance,"[6] but to their regret, he never did. It was alleged that private respondent was constantly told of his poor attendance record and inefficiency through the company's internal electronic mail (e-mail) system. According to petitioners, this system allows paperless or "telematic"[7] communication among IBM personnel in the company offices here and abroad. An employee is assigned a "User ID" and the corresponding password is provided by the employee himself and, theoretically, known only to him. Employees are then expected to turn on their computers everyday, "log in" to the system by keying in their respective IDs and passwords in order to access and read the messages sent to and stored in the computer system. To reply, an employee types in or encodes his message-response and sends the same to the intended recipient, also via the computer system. The system automatically records the time and date each message was sent and received, including the identification of the sender and receiver thereof. All messages are recorded and stored in computer disks.[8]

Attached to petitioners' position paper were copies of print-outs of alleged computer entries/messages sent by petitioner Reyes to private respondent through IBM's internal computer system. The following is a summary of the contents of the print-outs which mostly came from petitioner Reyes' computer:

(a) Private respondent was admonished when he would miss out on meetings with clients and failed to attend to important accounts, such as that of Hella Philippines;[9]

(b) Petitioner Reyes conducted consultations with private respondent concerning the latter's work habits;[10]

(c) A new policy of requiring employees to be at the office at 8:30 a.m. every morning was adopted and employees were no longer allowed to sign out of the office by phone;[11]

(d) Petitioner Reyes would type into his computer the records of the security guard which reflect private respondent's daily tardiness and frequent absences;[12]

(e) Private respondent was admonished when he failed to respond to instructions from his superiors;[13]

(f) IBM Australia, contacted by Hella Australia, once asked about the reported lack of attention given to Hella Philippines.[14] Private respondent directly answered IBM Australia, through telematic memo, and reported that Hella Philippines was deferring its computer plan and decided to use micros in the meantime;[15]

(g) The said response was denied by Hella Australia which later made it clear that it would be

buying "anything but IBM";[16] and

(h) While private respondent showed some improvement after consultations where he allegedly admitted his shortcomings, petitioner Reyes reported that he (private respondent) would eventually slide back to his old ways despite constant counselling and repeated warnings that he would be terminated if he would not improve his work habits.[17]

Through these computer print-outs calling private respondent's attention to his alleged tardiness and absenteeism, petitioner sought to prove that private respondent was sufficiently notified of the charges against him and was guilty thereof because of his failure to deny the said charges.

On March 13, 1992, the labor arbiter rendered a decision finding private respondent to have been terminated for cause and accordingly dismissing the complaint. Considering, however, the ground for termination as well as private respondent's long record of service to the company, the arbiter ordered the award of separation pay at the rate equivalent to one-half (1/2) month salary for every year of service. The dispositive portion of the decision reads ¾

> WHEREFORE, judgment is hereby rendered in this case declaring respondent IBM Phils., Inc. not guilty of the charge of illegal dismissal. However, respondent company is directed to pay complainant Israel the sum of Two Hundred Forty Eight Thousand (P248,000.00) as separation pay. All other claims are denied for lack of merit.

It appears, however, that prior to the release of the labor arbiter's decision at 11:21 a.m. on March 26, 1992, private respondent had filed a "Manifestation And Motion To Admit Attached New Evidence For The Complainant" which was received by the Arbitration Branch at 10:58 a.m. of the same day. The evidence consisted of private respondent's Daily Time Records (DTRs) for the period June 1, 1990 to August 31, 1990 and pay slips for the period January 1990 to June 1991 showing that private respondent did not incur any unexcused absences, that he was not late on any day within the period and that no deduction was made from his salary on account of tardiness or absences.

Private respondent appealed to the NLRC which, on April 15, 1994, reversed the labor arbiter's decision and found private respondent's dismissal illegal. The NLRC ruled: (1) that the computer print-outs which petitioners presented in evidence to prove that private respondent's office attendance was poor were insufficient to show that the latter was guilty of habitual absences and tardiness; and (2) that private respondent was not heard in his defense before the issuance of the final notice of dismissal.[18] The dispositive portion of the NLRC's decision reads:

> WHEREFORE, the Decision dated March 13, 1992 is hereby SET ASIDE and a new one entered declaring the dismissal of the complainant as illegal. Respondent (sic) are hereby ordered to reinstate complainant to his former position without loss of his seniority rights and to pay backwages starting August 1991 until reinstated at the rate of P40,516.65 a month including all its benefits and bonuses.
>
> Presiding Commissioner Edna Bonto-Perez dissented on the ground she found that petitioners have presented strong and convincing documentary evidence that private respondent was guilty of habitual tardiness and absences. She was also of the opinion that private respondent was sufficiently warned before he was actually dismissed.[19]

Petitioners moved for a reconsideration, but their motion was denied in a resolution, dated July 20, 1994. Hence, this petition for *certiorari*. Petitioners contend that ¾

1. THE NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OF JURISDICTION IN HOLDING THAT NO JUST CAUSE EXISTS NOR WAS THERE DUE PROCESS OBSERVED IN THE DISMISSAL OF THE PRIVATE RESPONDENT BECAUSE THE COMPUTER PRINTOUTS WHICH PROVE JUST CAUSE AND DUE PROCESS ARE NOT ADMISSIBLE IN EVIDENCE.

2. THE NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OR EXCESS OF ITS JURISDICTION IN HOLDING THAT EVEN IF THE COMPUTER PRINTOUTS WERE ADMISSIBLE, PETITIONER FAILED TO SATISFY DUE PROCESS.

We find petitioners' contention to be without merit.

First. Petitioners argue that the computer print-outs submitted by them need not be identified or authenticated according to the rules of procedure in regular courts in order for the same to be admissible in evidence. They contend that technical rules of evidence do not apply to administrative/labor cases[20] and because of a relaxation of the rules of evidence, private respondent was in fact allowed by the labor arbiter to adduce additional evidence even after a decision had been rendered.[21]

It is indeed true that administrative agencies, such as the NLRC, are not bound by the technical rules of procedure and evidence in the adjudication of cases.[22] This was the reason private respondent was allowed to submit additional evidence even after the case was deemed submitted for resolution by the labor arbiter. The practice of admitting additional evidence on appeal in labor cases has been sanctioned by this Court.[23]

However, the liberality of procedure in administrative actions is subject to limitations imposed by basic requirements of due process. As this Court said in *Ang Tibay v. CIR*,[24] the provision for flexibility in administrative procedure "does not go so far as to justify orders without a basis in evidence having rational probative value." More specifically, as held in *Uichico v. NLRC*:[25]

> It is true that administrative and quasi-judicial bodies like the NLRC are not bound by the technical rules of procedure in the adjudication of cases. However, this procedural rule should not be construed as a license to disregard certain fundamental evidentiary rules. While the rules of evidence prevailing in the courts of law or equity are not controlling in proceedings before the NLRC, the evidence presented before it must at least have a modicum of admissibility for it to be given some probative value. The Statement of Profit and Losses submitted by Crispa, Inc. to prove its alleged losses, without the accompanying signature of a certified public accountant or audited by an independent auditor, are nothing but self-serving documents which ought to be treated as a mere scrap of paper devoid of any probative value.

The computer print-outs, which constitute the only evidence of petitioners, afford no assurance of their authenticity because they are unsigned. The decisions of this Court, while adhering to a liberal view in the conduct of proceedings before administrative agencies, have nonetheless consistently required some proof of authenticity or reliability as condition for the admission of documents.

In *Rizal Workers Union v. Ferrer-Calleja*,[26] this Court struck down the decision of the Director of Labor Relations which was based on an unsigned and unidentified manifesto. It was held:

> From even a perfunctory assessment, it becomes apparent that the "evidence" upon which said decision is professedly based does not come up to that standard of substantiality.
>
> It is of course also a sound and settled rule that administrative agencies performing quasi-judicial functions are unfettered by the rigid technicalities of procedure observed in the courts of law, and this so that disputes brought before such bodies may be resolved in the most expeditious and inexpensive manner possible. But what is involved here transcends mere procedural technicality and concerns the more paramount principles and requirements of due process, which may not be sacrificed to speed or expediency...The clear message of [Article 221 of the Labor Code] is that even in the disposition of labor cases, due process must never be subordinated to expediency or dispatch. Upon this principle, the unidentified documents relied upon by

> respondent Director must be seen and taken for what they are, mere inadmissible hearsay. They cannot, by any stretch of reasoning, be deemed substantial evidence of the election frauds complained of.

Likewise, in the case of *EMS Manpower & Placement Services v. NLRC*,[27] the employer submitted a photocopy of a telex which supposedly shows that the employee was guilty of "serious misconduct" and which became the basis of her dismissal. This Court ruled that the telex, a "single document, totally uncorroborated and easily concocted or fabricated to suit one's personal interest and purpose,"[28] was insufficient to uphold the employer's defense.

In *Jarcia Machine Shop and Auto Supply, Inc. v. NLRC*, this Court held as incompetent unsigned daily time records presented to prove that the employee was neglectful of his duties:

> Indeed, the [DTRs] annexed to the present petition would tend to establish private respondent's neglectful attitude towards his work duties as shown by repeated and habitual absences and tardiness and propensity for working undertime for the year 1992. But the problem with these DTRs is that they are neither originals nor certified true copies. They are plain photocopies of the originals, if the latter do exist. More importantly, they are not even signed by private respondent nor by any of the employer's representatives...[29]

In the case at bar, a specimen of the computer print-out submitted by petitioners reads:

> Date and time 10/12/90 09:23:1
>
> From: REYESVV -- MNLVM1
>
> To: ISRAEL -- MNLRVM Israel, A.D.
>
> SEC: I IBM INTERNAL USE ONLY
>
> Subject:
>
> Angel, have been trying to pin you down for a talk the past couple of days. Whatever happened to our good discussion 2 weeks ago? I thought you would make an effort to come in on time from then on? If you have problems which prevent you from coming in on time, let me know because I would really like to help if I can. The sum of all your quotas is less than mine so I really need all of you pitching in. Kindly take a look at your proofs in-tray as there are some to do's which are pending. Acts such as St. Louis U. and NEECO should be worth looking into as they've been inquiring about upgrading their very old boxes. If you are too tied up for these accounts do let me know so I can reassign. By Monday morning please. Let's give it that final push for the branch!
>
> ==========
>
> Regards from the APPLICATION MNLVM 1 (REYESVV)
>
> SYSTEMS MARKETING group T (832)8192-279
>
> Victor V. Reyes - Marketing Manager
>
> ==========

Not one of the 18 print-out copies submitted by petitioners was ever signed, either by the sender or the receiver. There is thus no guarantee that the message sent was the same message received. As the Solicitor General pointed out, the messages were transmitted to and received not by private respondent himself but his computer.[30]