

SECOND DIVISION

[G.R. No. 123737, May 28, 1999]

CARLOS G. LIBRES, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, NATIONAL STEEL CORPORATION, OSMUNDO G. WAGA, JR., ANTOINE D. SEVA, PETER J. LOQUILLANO, SATURNINO P. MEJORADA AND ISIDRO F. HYNSON, JR., RESPONDENTS.

D E C I S I O N

BELLOSILLO, J.:

This petition for *certiorari* seeks to annul the decision of public respondent National Labor Relations Commission (NLRC) sustaining the Labor Arbiter's finding that petitioner was validly suspended by private respondents, as well as the NLRC resolution denying petitioner's motion to reconsider its decision.

Petitioner Carlos G. Libres, an electrical engineer, was holding a managerial position with National Steel Corporation (NSC) as Assistant Manager. On 3 August 1993 he received a Notice of Investigation from Assistant Vice President Isidro F. Hynson Jr., his immediate superior, requesting him to submit a written explanation relative to the charge of sexual harassment made by Susan D. Capiral, Hynson's secretary, allegedly committed by Libres sometime in May 1992, and subsequently to answer clarificatory questions on the matter. The notice also warned him that failure to file his written explanation would be construed as a waiver of his right to be heard. On 14 August 1993 petitioner submitted his written explanation denying the accusation against him and offering to submit himself for clarificatory interrogation.

Subsequently, Hynson Jr. conducted an internal investigation to which Libres and Capiral were invited to ventilate their respective sides of the issue. They readily responded. Thereafter, Hynson Jr. submitted his report to the Management Evaluation Committee (MEC).

The MEC, after deliberation, concluded that the charges against petitioner constituted a violation of Item 2, Table V, of the *Plant's Rules and Regulations*.^[1] It opined that "touching a female subordinate's hand and shoulder, caressing her nape and telling other people that Capiral was the one who hugged and kissed or that she responded to the sexual advances are *unauthorized acts* that damaged her honor."

^[2] Referring to the Manual of the *Philippine Daily Inquirer* in defining sexual harassment,^[3] the MEC finally concluded that petitioner's acts clearly constituted sexual harassment as charged and recommended petitioner's suspension for thirty (30) days without pay.

On 5 January 1994 petitioner wrote Melchor Q. Villamor, Vice President for Manufacturing, requesting reconsideration of his suspension, but the same was denied. On 12 February 1994 the suspension order was finally implemented.

Seeking to reverse his misfortune, Libres filed a complaint for illegal suspension and unjust discrimination against respondent NSC and its officers, private respondents herein, before the Labor Arbiter. Citing the failure of the MEC to grant him audience despite his offer to answer clarificatory questions, petitioner claimed denial of due process. Labor Arbiter Nicodemus G. Palangan however ruled that due process was properly observed and that there was a positive finding of sexual harassment to justify petitioner's suspension. He pointed out that there was no substantial inconsistency between the narration of complainant Capiral and petitioner regarding the incident in the evening of May 1992. The Labor Arbiter found that aside from a few facts which were controverted by Capiral in her complaint-affidavit, petitioner's admissions approximated the truth; consequently, he ruled that the MEC was correct in including that sexual harassment had indeed transpired. The Labor Arbiter observed that petitioner should welcome that his penalty was only for suspension of thirty (30) days as opposed to termination imposed in *Villarama v. NLRC and Golden Donuts*.^[4] In this recourse petitioner maintains that public respondent grievously erred amounting to lack or excess of jurisdiction in finding that he committed sexual harassment justifying his suspension, and in concluding that he was afforded due process.

Petitioner argues that the issue of sexual harassment was not adequately considered as he noted that the finding of the NLRC was made without proper basis in fact and in law. He maintains that the NLRC merely adopted the conclusions of the Labor Arbiter which in turn were simply derived from the report of the MEC. Petitioner primarily disputes the failure of the NLRC to apply RA No. 7877, "*An Act Declaring Sexual Harassment Unlawful in the Employment, Education or Training Environment and for Other Purposes*," in determining whether he actually committed sexual harassment. He asserts that his acts did not fall within the definition and criteria of sexual harassment as laid down in Sec. 3 of the law.^[5] Specifically, he cites public respondent's failure to show that his acts of fondling the hand and massaging the shoulders of Capiral "discriminated against her continued employment," "impaired her rights and privileges under the Labor Code," or "created a hostile, intimidating or offensive environment."^[6]

Petitioner also contends that public respondent's reliance on *Villarama v. NLRC and Golden Donuts*^[7] was misplaced. He draws attention to victim Divina Gonzaga's immediate filing of her letter of resignation in the *Villarama* case as opposed to the one year delay of Capiral in filing her complaint against him. He now surmises that the filing of the case against him was merely an afterthought and not borne out of a valid complaint, hence, the *Villarama* case should have no bearing on the instant case.

As regards his assertion that he was not afforded due process, petitioner would point to his demand for personal confrontation which was brushed aside by the MEC. He argues strongly that in rejecting his plea, the MEC clearly denied him an opportunity to be heard and present his side.

The issues raised in this petition require this Court to delve into the findings of fact by the public respondent. We have ruled in a litany of cases that resort to judicial review of the decisions of the NLRC 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