

## SECOND DIVISION

[ G.R. No. 124966, June 16, 1998 ]

**ALMA COSEP, MARILOU COQUIA, DULCEVITA SORIANO AND  
MARY JANE RABORAR, PETITIONERS, VS. NATIONAL LABOR  
RELATIONS COMMISSION AND PREMIERE DEVELOPMENT BANK,  
RESPONDENTS.**

### D E C I S I O N

**MARTINEZ, J.:**

The antecedents of this labor case are sufficiently and faithfully summarized in the Comment of the Office of the Solicitor General, quoted as follows:<sup>[1]</sup>

"Petitioners Alma Cosep, Dulcevita Soriano, Marilou Coquia and Mary Jane Raborar were regular employees of private respondent Premiere Development Bank at its Guadalupe Branch, then headed by area manager Gloria Doplito. Cosep began working with private respondent on October 11, 1989, Coquia, on March 7, 1994, Soriano, on April of 1992, and Raborar, on March 4, 1994.

On November 17, 1994, private respondent suspended Doplito for alleged malversation of money belonging to its clients. Commiserating with Doplito, petitioners wrote an open letter which criticized private respondent's handling of the case of Doplito. The open letter, which was disseminated to the employees of private respondent's various branches, stated:

*'The transfer of assignment of Mrs. Gloria Doplito and subsequently her suspension have tremendously affected us, the officers and staff of Guadalupe and the branch as a whole. Guadalupe will not be the same without Ate Oyah around because whatever success it has attained, no one can take credit for it but only one person – with a heart as big as she is – the person we've mentioned above. We felt that the Management's decision was very inconsiderate, unfair, biased, even inhuman. For the past 26 years, her loyalty to the bank was unquestionable, her integrity has been intact for those long years and worth mentioning here is her love to the bank which we think no officers(sic) or staff can surpass. Whatever she did that management compelled(sic) to suspend her – that – we cannot question. We cannot just say Forgive and Forget. What we're saying is to give her another chance because we felt the accusations hurled against her were all peanuts' compared to Girlie Rocco's of Concepcion branch who admitted having committed the crime of stealing other people's money and yet remained scot-free. What you've*

*become to tolerate this decision, you yourself can only answer. Its very scary working under this system wherein there is no justice. If they want to throw you out even if you're innocent, they can. If this can happen to the officers of the bank how much more the security of the rank and file(sic)? Let's put some decency to the bank and most importantly, to ourselves. If we cannot do this, we're not worth to be called educated bank employees who can carry on any tasks courageously – but ROBOTS.*

*Whatever may come out of this, we're ready to face the consequences – for the love of Ate Oyah. We've grown attached to her for all the kindness and love she has shown us. Her many friends and supporters can attest to this. The clients she has unselfishly served and given enough accommodation(sic) to the extent of sacrificing a part of herself, specifically her career, will always be grateful to her. WE ALL ARE.*

*Before we end, we want to make it clear that nobody forced us to do this. We did this on our own free will to show Ate Oyah how much we love her. Please give her a chance, that's what we're only asking(sic).*

*Thank You,  
Guadalupe Staff'*

Private respondent required petitioners to explain what they meant by issuing the 'open letter.' It also suspended petitioner and did not pay their 13th month pay and wages in the meantime.

Petitioners filed an answer, explaining that the 'open letter' was just an exercise of their right to freedom of speech.

On January 20, 1995, private respondent sent to each petitioner a memorandum dismissing them from the service effective immediately, on the ground that they undermined the interest of the bank. However, on January 23, 1995, private respondent issued to each petitioner a 'transfer of assignment' temporarily suspending the effects of the previous memorandum ordering their dismissal. Petitioners ignored the memorandum transferring them to other branches and, instead, filed a complaint before the Labor Arbiter against private respondent for illegal dismissal and unpaid wages and 13th month pay. They asked for separation pay and the award of moral and exemplary damages.

Despite the filing of the complaint, private respondent again instructed petitioners in separate letters dated February 8, 1995 that they should report to their new assignments, warning that 'their continued failure and/or refusals to do so shall leave' the bank 'without any option but (to) take such action as may be warranted under the circumstances' to protect its interest.

Petitioners subsequently wrote a letter to private respondent dated February 9, 1995, informing the bank that as of January 20, 1995, they

considered themselves dismissed from the service, and that they have already filed a complaint with public respondent.

At the time of the filing of the complaint, Cosep was a cashier with a monthly salary of P5,440.00. Coquia, a teller, was earning P3,900.00 a month. Soriano, an accounting clerk, was receiving P4,500.00 monthly. On the other hand, Raborar, a new accounts clerk, was being paid P3,900.00 a month.

On June 23, 1995, Labor Arbiter Manuel P. Asuncion issued his decision, the decretal part of which states:

‘WHEREFORE, all the foregoing considered, judgment is hereby rendered declaring complainants to have been illegally dismissed and ordering the respondent to pay the former the following:

xxx xxx xxx [2]

SO ORDERED.” (citations omitted).

Private respondents appealed the judgment to public respondent National Labor Relations Commission (NLRC) which rendered a decision reversing that of the Labor Arbiter. The dispositive part of the NLRC decision provides:

‘WHEREFORE, premises considered, the appealed decision is modified by deleting the awards of separation pay, backwages, moral and exemplary damages. Respondent is ordered to pay complainants their unpaid wages and 13th month pay as computed in the Labor Arbiter’s decision.” [3]

When its motion for reconsideration was denied, petitioners elevated the case to this Court via petition for certiorari and imputed grave abuse of discretion to respondent NLRC in reversing the labor arbiter’s finding that petitioners were illegally dismissed. The issues raised are:

“I

Public respondent committed grave abuse of discretion in declaring that petitioners’ ‘temporary suspension’ of termination resulted in the lifting of their termination.

II

Public respondent committed grave abuse of discretion in finding that there were just causes for petitioners’ dismissal i.e., insubordination and for signing the ‘open letter’

III

Public respondent committed grave abuse of discretion in declaring that petitioners were validly dismissed despite private respondent’s assertion that they were merely being reassigned.

IV

Public respondent committed grave abuse of discretion in omitting to make a finding whether or not procedural due process requirements were complied with.”<sup>[4]</sup>

The petition is impressed with merit.

In the assailed Decision, respondent NLRC declared that:

“While there is no dispute that the complainants were notified of their termination effective January 20, 1995, it also appears clear that the respondent lifted the effects of that termination by so informing them that effective January 23, 1995, they are being reassigned to different branches of bank. As January 20, 1995 is a Friday and January 23, 1995 is a Monday, the two-day gap are non-working days in the bank. This is the basis of respondent in saying that the complainants were not dismissed. Respondent may have realized the severity of the earlier decision.

Under such circumstances, We believe that there was no illegal dismissal of the complainants.

Complainants, consistent with the stand that they have been dismissed, remained adamant in their refusal to report for work. The acts of the complainants in refusing to obey the transfer order issued to them constitute valid and lawful basis for their termination due to insubordination. They should be answerable by their very acts. Even if they believe that the order is unreasonable, it did not give the complainants the prerogative not to comply.” <sup>[5]</sup>

According to respondent NLRC, petitioners were dismissed for insubordination which corresponds to willful disobedience under par. (a) of Article 282 of the Labor Code. We ruled in *Gold City Integrated Port Services, Inc. vs. NLRC*<sup>[6]</sup> that willful disobedience of the employer’s lawful orders, as a just cause for dismissal of an employee, envisages the concurrence of at least two (2) requisites: the employee’s assailed conduct must have been willful or intentional, the willfulness being characterized by a wrongful and perverse attitude; and the order violated must have been reasonable, lawful, made known to the employee and must pertain to the duties which he had been engaged to discharge.

It appears from the record, however, that the earlier memorandum issued by private respondent dated January 20, 1995 terminated the services of petitioners on the ground of serious misconduct for violation of Rule IV of the Bank’s Code of Conduct,<sup>[7]</sup> where it held as follows:

“As you are well aware of, Rule IV of the Bank’s Code of Conduct strictly prohibits an employee from undermining the interest of the Bank by issuing malicious, derogatory or false statements involving the good name of the Bank or its management/stockholders. As you are likewise aware of such action is considered as a serious misconduct for which the penalty is outright dismissal.

By your own admission of your willful and collective authorship of the subject letter as well as the surreptitious distribution thereof with the other Guadalupe Branch personnel concerned, and based on the results