

[SYLLABUS]

[G.R. No. 117055, March 29, 1996]

**SAN MIGUEL CORPORATION, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION, HON. QUINTIN B. CUETO III AND
VIRILIO TORRES, RESPONDENTS.**

D E C I S I O N

PANGANIBAN, J.:

Is an employee who was dismissed due to misappropriation of company funds entitled to retirement benefits and/or financial benefits "as a matter of fairness, equity, humanitarian consideration and compassion"? This is the main question brought in this petition for certiorari to annul the following:

(a) Resolution^[1] dated April 21, 1994 of the National Labor Relations Commission in NLRC Case No. RAB 12-08-00220-88 and another Resolution^[2] dated June 17, 1995 denying the motion for reconsideration; and

(b) Decision^[3] dated February 25, 1990 of the Labor Arbiter which was affirmed by the above resolutions.

On October 2, 1995, the case was given due course by the Court. On October 23, 1995, the First Division transferred this case to the Third. After careful deliberation on the petition, as well as the Solicitor General's and the private respondent's comments, petitioner's reply and the memoranda of the parties, the Court assigned the writing of this Decision to the undersigned *ponente*.

The Facts

Private respondent Virgilio S. Torres was employed by petitioner San Miguel Corporation (SMC) on November 1, 1978 as a Route Salesman assigned in Midsayap, Cotabato. Having been found guilty of multiple misappropriation of company funds in the sum of P12,898.00 and of borrowing money and merchandise from customers, he was dismissed effective on July 15, 1988. At the time of his dismissal, he was receiving a monthly salary of P5,180.00.

On August 16, 1988, Torres filed a complaint for illegal dismissal in the Regional Arbitration Branch No. XII, NLRC, Cotabato City.

In resolving his complaint for illegal dismissal, the Labor Arbiter rendered the questioned Decision, the dispositive portion^[4] of which reads:

"WHEREFORE, with the above discussion and after thorough scrutiny of the records and evidences of this above entitled case, this Executive Labor Arbiter hereby rules to DISMISS the Complainant's Complaint against Respondent San Miguel Corporation for lack of merit as his termination is based on lawful and justifiable grounds.

"That although it is decreed that the dismissal of the Complainant is valid, still by reason of fairness, equity, humanitarian consideration and compassion, the Complainant with the expectation that this will not happen again in his future endeavors and in consonance with the previous offer made by Respondent to the Complainant as earlier discussed, it is hereby ordered that the Respondent San Miguel Corporation should allow and grant Complainant the privilege to retire from the company with the availment of 100% benefits as practiced by the company, accruing from the time said offer was first made.

"The other claims of the complainant are hereby DISMISSED for lack of merit."

From this decision, both petitioner and private respondents appealed but the NLRC dismissed both appeals "for lack of merit" through the assailed Resolutions.

In finding that the twin requirements for legal dismissal, namely just cause and due process, were observed, the NLRC said:^[5]

"Complainant contends that his dismissal was not founded on a just cause to terminate employment.

"An examination of the records shows that the suspension of the complainant which led to his termination was precipitated by the third of three (3) infractions he committed against the company, the first and second of which occurring in 1982 and 1983, respectively, for which he was likewise meted out the same penalty. While it is true that labor laws in this jurisdiction have been enacted not only to favor the workingman, but also to recognize and respect the rights of the employer, such a set-up does not provide the employees with the green light to disregard the reasonable rules drawn up by management for harmonious relations between labor and capital in the machinery of production. Success in any given enterprise cannot be attained without industrial peace and harmony where discipline plays a pivotal role. Thus, while employers are obliged to give their employees just compensation and treatment, they have also the right to expect from their workers dedicated service, diligence, honesty and good conduct.

"In the case at bench, complainant's malpractice of collecting beer empties and receiving cash without issuing the corresponding official receipts therefor to his customers has constrained respondent to act in order to protect its interest. In pursuing its defensive stance, the Commission recognizes the right of respondent to take punitive action against an employee where there exists a just cause sufficient in law to authorize the exercise of such prerogative inherent to its self-preservation and continued existence. For "(T)he law in protecting the

rights of the laborer authorizes neither the oppression nor self-destruction of the employer." (Filipro, Inc. vs. NLRC, 145 SCRA 123).

"Complainant further contends that respondent committed unfair labor practice in terminating his employment. The Commission however, on this score is not in accord with his theory that because of his involvement in union activities, complainant provoked the ire of the respondent, which was the reason why he was subjected to harassment ultimately leading to his termination. The record is bereft of any persuasive evidence to this effect. On the contrary, respondent, despite the malpractices and rampant violation of company rules and regulations by the complainant, was even lenient to the latter, in that instead of dismissing him, he was allowed to retire from the service and as a consequence the former was even willing to give him 100% retirement benefits. But said offer was rejected by the complainant who instead insisted on 150% retirement benefits which of course was denied by the respondent.

"Complainant furthermore raises the issue that he was not afforded due process during the investigation conducted by the respondent. Said contention is untenable. Upon verification from the records, it is very clear that complainant was given ample opportunity to answer the charges imputed against him but instead of rebutting them, he filed a request to avail of an early retirement as contained in his letter dated March 27, 1987. When told to file his explanation within 72 hours he requested for 15 days within which to submit the same, but even after the lapse of the period given no explanation was ever submitted by him. Due process was observed in effecting the termination of the complainant. As could be seen, the law lays down the procedure prior to the dismissal of an employee. It need not be observed to the letter but at least it must be done in the natural sequence of notice, hearing and judgment. (Ruffy vs. NLRC, 182 SCRA 365) "Due process as a constitutional precept does not always and in all situations require a trial type proceeding" (Zalvidar vs. Gonzales,) G.R. No. 80598, October 9, 1988). The essence of due process is simply an opportunity to be heard (Bermejo vs. Barrios, 31 SCRA 764) and complainant was given all such opportunity."

In its Petition, SMC presents the following "justifications"^[6]

I

"The Labor Tribunals, in grave abuse of discretion amounting to lack or excess of jurisdiction, capriciously, whimsically and arbitrarily ordered petitioner SMC to grant private respondent Virgilio Torres 100% separation benefits knowing fully well that such award is contrary to law and in utter disregard of prevailing jurisprudence as enunciated in the leading case of Philippine Long Distance Telephone Co. (PLDT) vs. NLRC, 164 SCRA 671.

II

"The Labor Tribunals gravely abused their discretion amounting to lack or

excess of jurisdiction in ordering SMC to grant separation/retirement benefits to private respondent considering that the assailed decisions are against public policy."

In his Memorandum, private respondent explains that the "Executive Labor Arbiter and the National Labor Relations Commission, Fifth Division, did not commit any error when the former ruled and affirmed by the latter, that Respondent San Miguel Corporation should allow and grant Complainant Virgilio Torres the privilege to retire from the company with the availment of 100% benefits as practiced by the company, accruing from the time said offer was made."^[7] Private respondent was referring to an offer made by SMC to him to settle the case amicably which he rejected because he wanted "150% benefits," not 100%.

The Solicitor General, in his Comment which he adopted as his Memorandum, agreed with the petitioner that the public respondent acted with grave abuse of discretion in ordering payment of the benefit to the employee whose dismissal was found by such labor tribunals as legal, there being sufficient cause and due process having been observed. Said the Solicitor-General:^[8]

"Petitioner's offer of 100% retirement benefit to private respondent was definitely not a done deal. It imploded the moment private respondent rejected it. For public respondents Labor Arbiter and NLRC to allow private respondent to collect yet on such mooted offer is to inflict a grave and insensible injustice on the petitioner. Private respondent cannot, with fairness, be allowed to 'take his bread and eat it too.'"

"Verily, were said offer considered still valid and subsisting despite its repudiation by private respondent, petitioner SMC would be placed in a "no-win situation" where, even should it win the illegal dismissal case, it would just the same be made to pay the offer. On the other hand, private respondent Torres would be placed in a "no-lose situation" where, even should he lose the illegal dismissal case, he could just the same collect on the offer. This would be the height of unfairness and injustice.

"It would, moreover, create a bad precedent if petitioner were still made to pay the rejected offer after the illegal dismissal case was thrown out on a finding of just and lawful cause for private respondent's separation from the service. Such a move will negate the reason for compromise agreements, and brush aside the policy objective of extrajudicial settlement. As correctly pointed out by the petitioner, it will encourage litigants to "gamble on the outcome of cases, hoping against hope that the amounts offered in settlement x x x are the minimum they could get" (vide: p. 17, Petition).

"Speaking of 'justice and fairness' in the case at bar, these values should more appropriately inure to petitioner's favor whose compromise offer was declined and was thus forced to litigate. After spending so much money, time and effort for its defense, and after having proven the justness and legality of dismissing private respondent from the service, it would now be most unjust and unfair to make petitioner spend even more for private respondent's alleged financial woes wrought by such dismissal for which he is solely to blame. Such injustice and unfairness