

NINTH DIVISION

[CA-G.R. SP NO. 128505, November 19, 2014]

**NOLI G. ENRIQUEZ, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION (2ND DIV.), AND PHILIPPINE
MARITIME INSTITUTE RIZABEL CLOMA-SANTOS, RESPONDENTS.**

D E C I S I O N

PERALTA, JR., E. B., J.:

When both the Labor Arbiter^[1] and the NLRC^[2] were not persuaded by petitioner's theory of his illegal dismissal as Shipboard Training Officer of Philippine Maritime Institute, the Petition for Certiorari was elevated to Us to press the concept of illicit severance of his employment.^[3]

Private respondent Philippine Maritime Institute (hereinafter referred to as PMI) was an educational institution which offered courses in Marine Engineering, Marine Transportation and Customs Administration and related disciplines.

Petitioner Noli G. Enriquez (hereinafter referred to as petitioner) joined the PMI sometime in 1978 as a faculty member. Through hard work and perseverance, he eventually became a regular teacher and was later designated as OIC and Shipboard Training Officer Director.^[4]

On July 29, 1998, petitioner was appointed as Assistant Dean in the College of Marine Transportation of PMI.^[5] For his services, petitioner received a gross monthly salary of P47,000.00. P23,000.00 as Assistant Dean and P24,000.00 as Shipboard Training Officer.

On October 19, 2001, petitioner was given teaching load assignments for the BSMT course for quite sometime^[6] but he stopped teaching because he was already handling jobs as Shipboard Training Officer and Assistant Dean.

In March, 2006, representatives from the European Maritime Safety Agency (EMSA) conducted an audit of PMI facilities and it was discovered that there were deficiencies in the campus.

On September 26, 2008, the Commission on Higher Education (CHED) also conducted an audit of PMI's campus, which confirmed PMI's inadequacies.

Prodded by the thought that the deficiencies were due to petitioner's failure to do what was incumbent upon him as Shipboard Training Officer Director, the PMI, through its Human Resource Officer, ordered petitioner to correct the defects that were reported by the CHED and the EMSA, to no avail.

On May 25, 2011, the CHED informed PMI of its Resolution No. 092-2011 dated May 23, 2011, which directed the phase out of BSME and BSMT programs of PSMI beginning school year 2012-2013.^[7]

Thus, in a Memorandum^[8] to petitioner dated June 27, 2011, PMI advised petitioner that he will no longer be part of PMI Administrative Team as Shipboard Training Officer and OIC effective July 1, 2011.

On July 1, 2011, petitioner received another Memorandum^[9] which confirmed his removal:

"This Office announces the following academic appointments effective 01 July 2011:

- 1. Chief Mate Felipe B. Maigue, Jr. - Dean, College of Maritime Affairs (replaces Capt. Rebusi)*
- 2. 2/M Melecio V. Bueno, Jr. -Director, Shipboard Training Office (replaces 2/M Enriquez)*

**** nothing follows ****

All are requested to welcome both Chief Mate Maigue and 2/M Bueno into the PMI community by extending their support and cooperation for what these gentlemen are tasked to do.

Thank you for your continued support of the PMI Colleges and warm regards."

Consequently, on September 29, 2011, petitioner filed a Complaint^[10] against private respondent PMI Colleges, Inc. and its President, Rizabel Cloma-Santos, for illegal dismissal, payment of damages and attorney's fees, docketed as NLRC NCR Case No. 00-09-14855-2011.

On May 8, 2012, Labor Arbiter Marita V. Padolina rendered a Decision^[11] which dismissed the Complaint for illegal dismissal filed by petitioner:

***"WHEREFORE,* premises considered, judgment is hereby rendered **DISMISSING** the complaint of illegal dismissal. However, respondent Philippine Maritime Institute College, Inc., is ordered to pay complainant nominal damages in the amount of Thirty Thousand Pesos (P30,000.00) in so far as the position of Technical Director is concerned.**

Likewise, complainant is ordered to report back to work as faculty member/Assistant Dean as he was not terminated from said position.

***SO ORDERED.*"**^[12]

On June 13, 2012, petitioner appealed^[13] the Decision of the Labor Arbiter to the NLRC, docketed as LAC No. 06-001773-12.

On August 31, 2012, the NLRC issued the assailed Resolution,^[14] which agreed with the dismissal of petitioner's appeal:

"WHEREFORE, premises considered, judgment is hereby rendered AFFIRMING the Labor Arbiter's Decision dated May 8, 2012.

SO ORDERED."^[15]

Petitioner moved for reconsideration of the aforementioned Resolution on September 19, 2012,^[16] but his Motion was denied by the NLRC's Resolution^[17] dated November 16, 2012.

Dissatisfied, petitioner filed the instant Petition for Certiorari^[18] anchored on the usual ascription of grave abuse of discretion:

"WITH DUE RESPECT, THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DECLARING THAT THE PRIVATE RESPONDENT WAS NOT ILLEGALLY DISMISSED."^[19]

We do not agree with petitioner's major submission.

As a general rule, in *certiorari* proceedings under *Rule 65 of the Rules of Court*, the appellate court does not assess and weigh the sufficiency of evidence upon which the Labor Arbiter and the NLRC based their conclusion. The query in this proceeding is limited to the determination of whether or not the NLRC acted without or in excess of its jurisdiction or with grave abuse of discretion in rendering its decision. However, as an exception, the appellate court may examine and measure the factual findings of the NLRC if these are not supported by substantial evidence.^[20]

When the Complaint for illegal dismissal was rejected, the Labor Arbiter did so since:

"To the mind of this Office, a just cause exists to remove complainant as a Training Director considering that for many years, as a director, he could have already helped and made recommendations or changes in the teaching standards of the institution, thus, leading to better students and quality graduates. Note that PMI failed to meet compliance with the CHED and STCW requirements consistently, thus, the phase out of