

SEVENTH DIVISION

[CA-G.R. SP. No. 129836, November 10, 2014]

**RHOMEL S. ADORADOR AND AKINS B. CASTRO, PETITIONERS,
VS. NATIONAL LABOR RELATIONS COMMISSION AND TOYOTA
SHAW-PASIG, INC., RESPONDENTS.**

D E C I S I O N

INTING, S.B., J.:

This Petition for Certiorari^[1] seeks to nullify the following issuances of public respondent National Labor Relations Commission (NLRC) in NLRC LAC No. 10-002826-12: 1) Decision^[2] dated 7 February 2013 and; 2) Resolution^[3] dated 5 March 2013.

The relevant facts, as culled from the records, follow.

Petitioners Rhomel S. Adorador and Akins B. Castro were hired as auto mechanics by private respondent Toyota-Shaw Pasig, Inc. in May 2004 and November 2006, respectively. On 29 October 2011 they were dismissed due to the complaints filed by Markgil N. Galeja, Richard Ian C. Dolor and Mike Chester M. Patagan who were then on the job trainees (OJTs) of private respondent.

Complainant Galeja alleged that on 28 September 2011 at around 4:50 pm petitioners tried to forcibly remove his pants while he was changing in the locker room.^[4] Complainant Dolor claimed that petitioners did the same thing to him in July 2011 which caused his hips to swell and his neck to ache because of the force used by petitioners to undress him. Complainant Dolor further narrated that petitioners warned him as follows: "Si Akins Castro ay nagbabantang tusukin o ipasok nya ang kanyang daliri sa aking pwet kung sakaling magbihis ulit ako sa locker room".^[5] On the other hand, complainant Patagan asserted that petitioners warned him that his pants will also be removed if he will go inside the locker room.^[6]

In a notice^[7] dated 29 September 2011 private respondent required petitioners to submit a written explanation on the matter. They were also preventively suspended pending the result of the investigation.^[8]

Petitioners repeatedly failed to attend the scheduled administrative hearings. On 29 October 2011 they were terminated from service. Private respondent held that petitioners were guilty of misconduct or undesirable behavior as provided in Acts 24, 42 and 47 provided of the Team Member's Handbook.^[9]

Their dismissal from service prompted petitioners to file a complaint^[10] before the Labor Arbiter (LA) for Unfair Labor Practice, Illegal Dismissal, Non-payment of 13th

Month Pay, Illegal Suspension, Moral and Exemplary Damages, and Attorney's Fees.

After due hearing, the LA^[11] ruled as follows:

"WHEREFORE, foregoing premises considered, this case is ordered DISMISSED for lack of merit. Respondent Toyota Shaw, Inc. is ordered to pay complainants Rhomel S. Adorador and Akins B. Castro their 13th month pay for the year 2011, computed as follows:

For Rhomel S.
Adorador
 $P12,600 \times 9/12 = P9,450.00$

For Akins B.
castro
 $13,000 \times 9/12 = P9,750.00$

All other claims are Dismissed for lack of merit.

SO ORDERED."^[12]

On appeal, the NLRC affirmed the Decision of the Labor Arbiter.^[13]

Petitioners filed a motion for reconsideration but the same was denied by the NLRC for lack of merit.^[14]

Hence, the instant petition anchored on the following grounds:^[15]

THE NLRC GRAVELY ABUSED ITS DISCRETION AND ERRED IN AFFIRMING THE LABOR ARBITER'S RULING THAT TOYOTA NEED NOT CONVENE THE COMMITTEE ON DECORUM AND INVESTIGATION TO INVESTIGATE AND DISMISS PETITIONERS;

THE NLRC GRAVELY ABUSED ITS DISCRETION AND ERRED IN AFFIRMING THE LABOR ARBITER'S RULING THAT TOYOTA OBSERVED DUE PROCESS IN INVESTIGATING AND DISMISSING PETITIONERS;

THE COMMISSION GRAVELY ABUSED ITS DISCRETION IN AFFIRMING THE LABOR ARBITER'S DECISION THAT DID NOT (SIC) AWARD NOMINAL DAMAGES;

THE NLRC GRAVELY ABUSED ITS DISCRETION IN AFFIRMING THE LABOR ARBITER'S RULING THAT PETITIONERS WERE VALIDLY DISMISSED FOR SERIOUS MISCONDUCT AND DISORDERLY BEHAVIOR BECAUSE OF THE LOCKER ROOM INCIDENT;

THE NLRC GRAVELY ABUSED ITS DISCRETION AND ERRED IN