

FIFTH DIVISION

[CA-G.R. SP NO. 74971, June 30, 2006]

**REYNALDO MORALIDAD, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION, ASIAN TERMINALS, PROMULGATED:
INC. AND/OR RICHARD BARCLAY, RESPONDENTS.**

DECISION

BARRIOS, J.:

This petition for certiorari was filed by Reynaldo Moralidad (hereafter Moralidad for brevity) assailing the Decision dated May 27, 2002 of the National Labor Relations Commission (or NLRC) favorable to the respondents Asian Terminals, Inc. (or ATI) and/or Richard Barclay, and the Resolution dated September 24, 2002 denying his motion for its reconsideration.

On November 11, 1998, Moralidad filed against the respondents a case for illegal dismissal, *illegal deductions, payment of service incentive leave, damages and attorney's fees*. He alleged that from May 20, 1990 until April 11, 1997 he was an employee of ATI and held the position of Supervisor III. Sometime in November 1996, he was summoned to a meeting by ATI to explain and give his side in an alleged anomaly in connection with their incentive pay report. Moralidad denied any knowledge or involvement in the anomaly. However, on April 11, 1997, Moralidad was dismissed from his employment by ATI by a termination letter. Moralidad claimed that there was no basis for his dismissal because he is innocent of the charges against him. He also maintained that he was not afforded due process because he was not given the opportunity to defend himself from the charges and to confront the witnesses against him.

In its traverse, ATI asserted that its officers uncovered several anomalies perpetrated by many of its employees. These anomalies include *disloyalty to the company's welfare and interests, payroll padding, falsification, alteration of entries in company forms and records, inexcusable negligence in the performance of duty resulting to serious loss, deliberate non-disclosure of facts during official inquiry/investigation and other forms of deceit, in violation of well-established and defined company rules and regulations* (vide: ATI's Position Paper, p. 26, rollo). ATI claimed that Moralidad was involved and actively participated in the anomaly involving the company's incentive pay. One Alberto Montevirgin (or Montevirgin), also employed in the company as a supervisor, testified about the involvement of Moralidad in the scam. ATI further claimed that Moralidad was afforded due process prior to his termination because he was apprised of his constitutional rights and given the opportunity to explain his side in the administrative investigation conducted by the company.

On March 20, 2001, the Labor Arbiter rendered a Decision, disposing that: