

## FOURH DIVISION

[ CA-G.R. SP NO. 89280, September 20, 2006 ]

**PHILIPPINE SCOUT VETERANS SECURITY & INVESTIGATION  
AGENCY, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS  
COMMISSION, FELIPE TURQUEZA AND DIEGO DACUT,  
RESPONDENTS.**

### D E C I S I O N

**BARRIOS, J.:**

In its petition for certiorari, the Philippine Scout Veterans Security & Investigation Agency, Inc. (hereafter the petitioner for brevity) assails the Decision dated June 9, 2004 and the Resolution dated March 9, 2005 of the National Labor Relations Commission (or NLRC) for allegedly having been issued with grave abuse of discretion.

On January 5, 2000, the respondents Felipe Turqueza and Diego Dacut (or the respondents) filed against the petitioner a case for *illegal suspension, illegal dismissal, non-payment/underpayment of overtime pay, premium pay for holiday pay, rest day, holiday pay, service incentive leave pay, 13th month pay, illegal deduction of cash bond, with prayer for moral and exemplary damages and attorney's fees.*

In their position paper, the respondents alleged that they were employed by the petitioner as security guards and assigned to work in different posts or assignments until their illegal suspension on January 3, 2000. They claimed that they were not informed of the reason or cause for their suspension nor given a chance to be heard. The suspension continued for more than three (3) months, amounting to their constructive dismissal.

In its traverse, the petitioner contended that the respondents were suspended for valid causes due to the numerous offenses they have committed, such as sleeping on their post, wearing of slippers while on duty and for absences without leave. In a memorandum dated January 8, 2000, the respondents were directed to explain why they should not be given appropriate disciplinary action for their offenses. However the respondents have instituted the complaint for illegal dismissal against the petitioner on January 5, 2000.

On December 29, 2000, the Labor Arbiter rendered a Decision disposing that:

WHEREFORE, premises considered, this office finds that complainants were illegally dismissed from employment. Respondents are hereby ordered to pay each complainant the following:

1. Separation pay at the rate of one-month pay for every year of service;
2. Proportionate service incentive leave pay accruing from the date of

their dismissal up to rendition of this decision;

3. 13th month pay and holiday pay for the preceding three years from filing of the instant case;

4. Moral and exemplary damages in the amount of P50,000.00; and

5. Attorney's fees equivalent to 10% of the herein total awards.

Accordingly, the Computation and Examination Unit of this office is hereby directed to compute the herein awards of each complainant, forming part of this decision.

SO ORDERED. (p. 72, rollo)

The petitioner appealed this to the NLRC which rendered a Decision dated March 31, 2003, the decretal portion of which reads:

WHEREFORE, the respondents' appeal is partially granted. Finding the dismissal of the complainants to be with just cause but ineffectual for respondents' failure to observe due process, the said respondents, are jointly and solidarily, ordered to pay complainants full backwages computed from the time of their dismissal on (04 January 2000) until the finality of this decision, plus attorney's fees equivalent to ten (10%) percent of the total award.

SO ORDERED. (pp. 111-112, rollo)

The petitioner moved for a partial reconsideration of this but this was denied in an Order dated June 27, 2003.

On September 10, 2003, the Order became final and executory and an Entry of Judgment was made on September 15, 2003. On October 17, 2003, the respondents filed a Motion for the Issuance of a Writ of Execution. The petitioner, on the other hand, filed an appeal to the NLRC asking that the computation of monetary awards made by the Computation and Examination Unit of the NLRC dated October 14, 2003 and approved by the Labor Arbiter, be set aside for being contrary to the NLRC decision and that a new computation of the monetary awards be made. On June 9, 2004, the NLRC rendered the assailed Decision dismissing the appeal, ruling that:

In view of the corrections clearly made on the computation, the appeal relative to the computation has become moot and academic, and the amount of P881,669.38 is declared the award adjudged in this case.

**WHEREFORE**, respondents' appeal is hereby dismissed.

**SO ORDERED.** (pp. 26-27, rollo)

Petitioner's Motion for Reconsideration was likewise denied in the Resolution dated March 9, 2005.

Hence, this petition.