

## SECOND DIVISION

[ G.R. No. 123810, January 20, 1999 ]

**CONSOLIDATED RURAL BANK (CAGAYAN VALLEY), INC.,  
PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION  
AND ANTONIA L. SANCHEZ, RESPONDENTS.**

### D E C I S I O N

**BELLOSILLO, J.:**

This is a special civil action for certiorari filed by Consolidated Rural Bank (Cagayan Valley), Inc. (CONSOLBANK for short),<sup>[1]</sup> assailing the Resolution of the National Labor Relations Commission (NLRC) dated 9 November 1995 in NLRC NCR CN. II-01-00002-94, "*Antonia L. Sanchez v. Consolidated Rural Bank*," which affirmed the decision of Labor Arbiter Ricardo N. Olarez that Antonia L. Sanchez was illegally dismissed as well as its Resolution of 30 January 1996 denying petitioner's motion for reconsideration.

Private respondent Antonia L. Sanchez was Branch Manager of petitioner's Ilagan Branch, Ilagan, Isabela, when she was terminated effective 7 August 1993 for "lack of diligence, gross negligence, insubordination, and violation of existing bank policies resulting to loss."<sup>[2]</sup> Her termination arose from the following incident: Sometime in May 1992 a certain Rosalinda Rodriguez presented six (6) US Treasury Warrants (USTW) for deposit with CONSOLBANK's Ilagan Branch with a total value of \$13,966.74 or P335,201.76. As Branch Manager private respondent referred the checks to her superiors at CONSOLBANK's Head Office in Santiago City who accepted and deposited the checks for clearing at PCIBank, CONSOLBANK's depository bank. On 21 July 1992 CONSOLBANK Head Office was informed by PCIBank that the checks were cleared prompting the Head Office to withdraw the amount of the checks which it used as cash assistance from CONSOLBANK Ilagan. On 31 July 1992 the Head Office credited Ilagan Branch with P1,805.97 as interest income for the cash assistance. In the meantime Rosalinda Rodriguez withdrew on different dates the total amount of P314,00.00 from her account at CONSOLBANK Ilagan. However, six (6) months after the USTWs were cleared CONSOLBANK was informed by PCIBank that the checks had been dishonored for having been altered and was consequently requested to deposit the amount it had previously withdrawn to cover the cost of the altered USTWs inclusive of interest charges amounting to P391,687.87.

The Board of Directors of CONSOLBANK, in order to determine responsibility for the loss, created a fact-finding committee "to delve on facts as it (sic) happened."<sup>[3]</sup> In its Report dated 27 March 1993 the Committee recommended the imposition of the penalty of 30 days' suspension each for Head Office General Manager Ramon T. Cocson, Treasury Department Manager Ginajane Espina, and herein private respondent. Private respondent was found liable for having accepted the USTWs

when she should have known that CONSOLBANK was not authorized to accept dollar checks. Her participation however was found mitigated by the fact that "she consulted Head Office first before acting and that she relied heavily on Head Office actions on said TWs."

The Fact-Finding Committee the required private respondent to comment on the charge of willful disobedience of company rules, regulations and instructions, to wit: (a) acceptance of six (6) USTWs for deposit knowing fully well that CONSOLBANK was not authorized to accept dollar checks; (b) allowing withdrawal by depositor even before clearance of said checks; and,(c) denying that she was instructed by her superior, the then President/General Manager Ramon T. Cocson to retain the USTWs.<sup>[4]</sup>

In her comment, private respondent denied that she was ever informed of CONSOLBANK's alleged policy of not accepting dollar checks/treasury warrants. Neither did her superiors at the Head Office advise her against accepting the particular USTWs in question as in fact they even accepted the checks, deposited them with CONSOLBANK's depository bank for clearing, and used the amount as cash assistance from Ilagan Branch for which it was credited with interest income. Private respondent denied that she authorized any withdrawal on the checks before they were cleared.

In June 1993 an Executive Committee composed of the Vice-Chairman of the Board of Directors of CONSOLBANK as Chairman, and four other Members of the Board of Directors conducted further investigation on the matter. After six (6) hearings held on June 10, 11, 14, 28, July 3 and 6, 1993, the Board of Directors issued on 7 August 1993 Board Resolution No. 93-256, to wit:

WHEREAS, the findings of fact of the Fact-finding committee and the result of hearings and examination of documentary evidences made by the Executive Committee have shown that Mrs. Antonia L. Sanchez, Branch Manager of Ilagan Branch, has committed lack of diligence, gross negligence, insubordination and violation of existing bank policies resulting to loss;

WHEREFORE, premises considered, be it: RESOLVED, as it is hereby RESOLVED, that Mrs. Antonia L Sanchez be dismissed for cause effective August 07, 1993 x x x x

On 10 January 1994 private respondent sued CONSOLBANK for illegal dismissal with prayer for reinstatement, backwages and other benefits as well as P500,000.00 in damages.

In his decision dated 22 July 1994 the Labor Arbiter ruled in favor of private respondent thus-

WHEREFORE x x x we find complainant illegally and unjustly dismissed and she should be reinstated to her former or substantially equivalent position without loss of seniority rights with full backwages and other benefits which she could have enjoyed had she not been illegally dismissed, computed as of July 30, 1994 as follows:

P69,700.00 – Basic Pay including 13th month pay (August 1992 to July 31, 1994)

P4,380.00 – COLA for one year (365 days x 12 mos)

P18,000.00 – Gasoline allowance (P1,500 x 12 mos)

P14,400.00 – Car allowance (P1,200 x 12 mos)

P12,000.00 – Additional representation allowance (P1,000.00 x 12 mos)  
and

P2,500.00 – Clothing allowance for one year

---

P120,980.00 – Total

Respondent is likewise ordered to pay complainant P500,000.00 as moral damages plus ten percent attorney's fees of the total monetary award.

In case reinstatement is no longer feasible, complainant is given the option to be paid separation pay in the total amount of P148,830.00 (P6,765.00 x 22) for her twenty years of service in addition to her backwages or a total amount of P269,810.00, in lieu of reinstatement x x x x

The Labor Arbiter found that private respondent could not be considered guilty of lack of diligence, gross negligence or of having violated bank policies because she merely referred the USTWs to her superiors at the Head Office who were the ones who accepted the checks and deposited them. The alleged warning not to accept the checks given by the Head Office's General Manager Ramon T. Cocson to private respondent was not given credence because his subsequent actions revealed his knowledge of the acceptance and deposit of the USTWs by the Treasury Department of the Head Office itself. In addition to finding private respondent's dismissal as tainted with bad faith because she was deliberately made a sacrificial lamb or scapegoat of the Head Office's General manager and Treasurer who were meted relatively light penalties, the Labor Arbiter ruled that private respondent was denied due process as she was neither informed of petitioner's intention to dismiss her nor given the opportunity to defend herself.

CONSOLBANK appealed to the NLRC which affirmed the conclusions of the Labor Arbiter that no valid cause existed for private respondent's dismissal and that she was denied due process.<sup>[5]</sup> A subsequent motion for reconsideration by CONSOLBANK was similarly denied in the second questioned resolution dated 30 January 1996;<sup>[6]</sup> hence, this petition.

Petitioner assails the questioned resolutions of the NLRC on both procedural and substantive grounds. On procedural grounds, petitioner contends that public respondent committed grave abuse of discretion in affirming the Labor Arbiter's decision which was rendered with indecent haste without giving petitioner further opportunity to present its evidence. Petitioner takes particular exception to the fact

that the Labor Arbiter rendered his decision only two (2) days after the hearing of 19 July 1994 wherein only private respondent was present. He brands that hearing as a "give-away" to private respondent and therefore asks that this case be remanded to the Labor Arbiter for further reception of evidence.

Petitioner's avowal of denial of procedural due process must fail, and so with its prayer for a remand. The fact that counsel for petitioner was not present during the clarificatory hearing on 19 July 1994, hence, unable to rebut the testimony given by private respondent could hardly be attributed to anybody else's fault but its own. Records show that notice was given to the parties with warning that failure to attend would be construed as a waiver of the opportunity to be heard.<sup>[7]</sup> However, while counsel for private respondent filed his *Manifestation* begging off from the hearing on ground of a prior engagement, counsel for petitioner on the other hand simply chose not to appear on the assumption that the hearing would be postponed on account of opposing counsel's absence thus negligently and completely overlooking the assurance in the very same *Manifestation* that private respondent would nevertheless appear on her own. Hence, the fact that the Labor Arbiter proceeded with the hearing as scheduled could not be branded as an arbitrary act depriving petitioner of its right to present evidence. Petitioner lost this additional opportunity entirely through its own fault and negligence.

Similarly, the decision of the Labor Arbiter not to schedule the case for another hearing could not be considered as a grave abuse of discretion. First of all, it is well-settled that the holding of a hearing is discretionary with the Labor Arbiter and is something which the parties cannot demand as a matter of right.<sup>[8]</sup> It is entirely within the bounds of the Labor Arbiter's authority to decide a case based on mere position papers and supporting documents without a formal trial or hearing as is sanctioned by the *The New Rules of Procedure of the National Labor Relations Commission*.<sup>[9]</sup> Thus we have consistently held that the requirements of due process are satisfied when the parties are given the opportunity to submit position papers<sup>[10]</sup> wherein they are supposed to attach all the documents that would prove their claim in case it be decided that no hearing should be conducted or was necessary.<sup>[11]</sup> Secondly, we note that petitioner and private respondent themselves agreed during the hearing of 3 March 1994 to forego with a formal trial and opted instead to file only their respective replies to each other's position paper.<sup>[12]</sup> Given these circumstances, petitioner certainly cannot now be heard to have been deprived of due process.

On the merits, petitioner assails public respondents' conclusion that private respondent was denied due process and that there was no valid cause for her dismissal. The NLRC and the Labor Arbiter concluded that private respondent was deprived due process because she was not informed of petitioner's intention to dismiss her. As regards this point, we agree with petitioner that the minimum requirements of due process have been substantially complied with when private respondent, with the assistance of counsel, was duly investigated by petitioner's Executive Committee and given opportunities to answer the charges levelled against her.<sup>[13]</sup> However, we are unable to agree with petitioner's proposition that valid cause exists for private respondent's dismissal.

Private respondent was dismissed for "lack of diligence, gross negligence,