

SECOND DIVISION

[G.R. No. 97399, December 03, 1999]

**SECON PHILIPPINES, LTD., PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION (NLRC) AND ERNESTO B. GRULLA,
RESPONDENTS.**

D E C I S I O N

QUISUMBING, J.:

This special civil action for certiorari seeks to annul the Resolution of NLRC promulgated on December 10, 1990, in POEA Case Nos. (L) 86-03-184, and its Resolution dated January 28, 1991, which denied petitioner's motion for reconsideration.

On July 1, 1985, petitioner hired private respondent as group leader for its construction project in Iraq. The duration of the contract is twelve months but private respondent will be under probation for two months. Before leaving for Iraq, private respondent was told that a representative of petitioner would meet him at the jobsite to provide him specifications of his duties. On July 9, 1985, private respondent together with twenty seven contract workers left Manila for Iraq. Upon arrival at the jobsite, nobody was around to apprise private respondent of his duties as a group leader. Nevertheless, he proceeded to perform his work at the jobsite. In August 4, 1985, a representative of SECON International asked private respondent to attest that their salaries for May, 1985, were already paid to their respective allottees in the Philippines. Private respondent refused to do so in the absence of any confirmation from Manila.

On August 6, 1985, or about only one month in the job, he was surprised to be repatriated to the Philippines. Upon his return to the country, private respondent was served in September, 1985, a notice of termination dated August 25, 1985, informing him that he was repatriated for not passing the probationary period as he did not qualify for the position he was assigned to.^[1]

Feeling aggrieved, private respondent filed on March 8, 1986, before the Philippine Overseas Employment Administration (POEA)^[2] a complaint for illegal dismissal with prayer for reinstatement and payment of backwages.

In a decision rendered on December 29, 1989, the POEA ruled in favor of private respondent. The labor agency found that petitioner failed to prove that private respondent did not meet the performance standards set by the employer, and that such standards were made known to private respondent at the time of engagement. The POEA decreed as follows:

"WHEREFORE, premises considered, judgment is hereby rendered ordering respondent to pay unto the complainant the sum of

US\$5,865.32 representing the unexpired portion of his contract and the further sum of US\$398.50 as earned wages.

SO ORDERED.”^[3]

On appeal, the NLRC affirmed the decision of the POEA.^[4] Its motion for reconsideration having been denied, petitioner filed the instant petition.

More appropriately phrased, the issue for our consideration is whether or not the NLRC committed grave abuse of discretion in affirming the judgment of POEA finding private respondent’s dismissal to be illegal.

Petitioner contends that public respondent committed grave abuse of discretion in not considering the several just causes that led to the dismissal of private respondent, and in not finding that the dismissal was for cause.^[5]

This petition essentially raises a factual issue. We have consistently ruled that resort to a judicial review of the decisions of the NLRC in a petition for certiorari under Rule 65 of the Rules of Court is confined only to issues of want or excess of jurisdiction and grave abuse of discretion. It does not include an inquiry as to the correctness of the evaluation of evidence which was the basis of the labor tribunal in determining its conclusion. It is not for this Court to re-examine conflicting evidence, re-evaluate the credibility of the witnesses nor substitute the findings of fact of an administrative tribunal which has gained expertise in its specialized field. Thus, factual findings of the Labor Arbiter and the NLRC are entitled to due respect and even finality if supported by substantial evidence.^[6]

As revealed by the records, we find that the NLRC judgment sustaining the ruling of the POEA has sufficient factual and legal bases. Thus, there is no cogent reason to set aside the findings and the judgment of the Commission.

It is settled that while probationary employees do not enjoy permanent status, they are entitled to the constitutional protection of security of tenure. Their employment may only be terminated for just cause or when they fail to qualify as regular employees in accordance with reasonable standards made known to them by their employer at the time of engagement,^[7] and after due process.^[8]

There is no dispute that private respondent was dismissed from the service during his probationary period of employment. As stated in the repatriation letter, he was dismissed for failing to qualify for the position he occupied. Unfortunately, petitioner did not prove that private respondent was properly apprised of the standards of the job at the time of his engagement. Neither was it shown that private respondent failed to meet such standards.

To justify private respondent’s dismissal, petitioner relied on the affidavit of Mr. Greco, executive manager of SECON International, claiming that private respondent was thoroughly briefed about his duties as group leader, first, in Manila by Mr. Greco, and then at the jobsite by Mr. Obsina whom private respondent was going to replace. But the POEA found such document of inconsequential value, for it was prepared long after the dismissal of private respondent and after the complaint for illegal dismissal was instituted. In rejecting said document, the POEA also observed