

THIRD DIVISION

[G.R. No. 170098, February 29, 2012]

**DANIEL O. PADUATA, PETITIONER, VS. MANILA ELECTRIC
COMPANY (MERALCO), RESPONDENT.**

DECISION

ABAD, J.:

This case is about the need under company rules for an employee who claims absence due to illness to submit a medical certificate when he reports for work, showing the reason for his absence.

The Facts and the Case

As the Court of Appeals (CA) summarized it, on April 24, 1986 respondent Manila Electric Company (MERALCO) hired petitioner Daniel O. Paduata as Bill Collector. Having done well in his job, MERALCO named him "One Million Man Collector." Four years later in 1990 he testified against certain company officials in an administrative case filed against a co-employee. He claimed harassment afterwards, including the filing of several administrative cases against him for which he was exonerated.^[1]

MERALCO suspended Paduata on October 1, 1992 and ultimately dismissed him on December 10, 1992 for collecting a daily average of only 33 bills instead of the required 100 and for late remittance of collections in violation of MERALCO's Code on Employee Discipline.^[2] On December 14, 1992 he filed a complaint for illegal suspension and underpayment against MERALCO which the Labor Arbiter decided in his favor on October 8, 1993. MERALCO appealed to the National Labor Relations Commission (NLRC), which on August 14, 1995 affirmed the Labor Arbiter's ruling. Based on this, MERALCO reinstated Paduata on its payroll on October 10, 1993 and eventually reinstated him to do actual work at its Tutuban Branch on May 21, 1997. After three months or in August 1997, MERALCO transferred him to its Pasay Branch as Bill Collector and Bill Executioner. Subsequently, MERALCO promoted him for excellent work to the position of Junior Branch Lineman with a corresponding salary increase.^[3]

After a year, MERALCO transferred him to its Central Office in Manila District to do the work of Acting Stockman. He claimed that this transfer violated the provision of the company's collective bargaining agreement with the union that an employee may only be transferred for promotion on the employee's written request. After his new posting, Paduata started incurring several absences due to rheumatic arthritis.^[4] MERALCO averred that these absences were unauthorized and unexcused since he did not submit the required medical certificate after they were incurred.^[5]

On May 19, 1999 MERALCO sent Paduata a notice to attend on May 28 an

investigation of his unauthorized absences from April 28 to May 21, 1999. Paduata appeared with counsel and presented his affidavit. He said in it that his absence on April 28, 1999 was due to swollen muscles and inflamed joints caused by arthritis. On May 4 his wife called his office to inform it of his illness. On May 11 he submitted a medical certificate to his office to prove that illness. On May 22 his condition worsened due to fever and flu. On May 24 he went to MERALCO's Satellite Clinic in Manila for medical examination but was advised under a referral slip to go to John F. Cotton Hospital (Cotton Hospital) for proper medication. At the Cotton Hospital, Dr. Alcasaren advised him after examination to report for work on May 27 or 28 depending on the effect of the medication given him. Another doctor from the same hospital, Dr. Rene Duque, advised hospitalization if his condition worsened. Since Paduata's condition improved he was given a duty slip on May 27 or 28, 1999. [6]

About a month later, the company doctor, Dr. Rene Sicangco, submitted a report to Mike De Chavez, Jr., Paduata's supervisor, that Paduata went on self-quartered leave on July 5, 7, 13 and 14, 1999 but did not present a medical certificate covering those absences. In turn, De Chavez reported the matter to MERALCO's Investigation-Legal Department on July 19, 1999. [7]

On August 11, 1999 De Chavez wrote MERALCO's Investigation-Legal Department again regarding another report from Dr. Sicangco that Paduata went on a self-quartered leave on August 2 and 3 and like before did not present the required medical certificate when he again reported for work on August 4. Later, Paduata did not report for work as well from August 24 to 30 allegedly due to rheumatic arthritis. [8]

On September 8, 1999 MERALCO held an investigation of Paduata's unauthorized and unexcused absences in violation of Section 4(e) of the Company Code on Employee Discipline that penalizes more than five days of such kinds of absences with dismissal. [9]

Paduata submitted a sworn statement in his defense, denying the charges against him and declaring that on August 23, 1999, the day before his absence from work, his immediate supervisor, Paquito De Guzman, advised him to stay at home considering a swollen ankle and difficulty in walking. On August 24 he called De Guzman on the phone and said that he could not come to work because of his arthritis. He consulted a certain Dr. Saavedra who advised a 5-day rest and issued him a medical certificate for it. Paduata claimed that a friend named Romy gave the certificate to De Guzman. Romy told him that he handed the certificate to the guard who handed it to De Guzman.

Paduata further said that he reported for work on August 30, prepared a sick report, and submitted it to De Guzman for approval. After signing it, De Guzman gave the sick report and the medical certificate back to him with the advice that he instead report for duty the following day since it was already late in the day. Paduata opted to go to the Cotton Hospital where a doctor gave him medicines and a duty slip to report the following day. He submitted a sick report and medical certificate to the Cotton Hospital after that consultation. [10]

Two months later on November 11, 1999 MERALCO sent Paduata a memorandum,

requiring him to explain in writing within 72 hours why he should not be penalized for incurring absences on November 5 and 8 to 11, 1999. Paduata did not submit the required explanation. He contends that MERALCO sent the memorandum after he refused to accede to its demand that he file an application for Special Separation Pay.^[11]

On November 15, 1999 MERALCO wrote Paduata a letter informing him of his dismissal from the service due to his absences from April 28 to May 21, July 5, 7, 13 to 14, August 2 to 3, and August 24 to 30, all in 1999, without any prior permission from his superiors. Paduata maintained, however, that he never got the notice of dismissal, the same having been sent to a certain Marcelino Paduata in Tondo, Manila.^[12]

Nine months after his dismissal or on August 14, 2000, Paduata filed a complaint for illegal dismissal against MERALCO with the NLRC.^[13] On April 30, 2001 the Labor Arbiter found MERALCO guilty of illegal dismissal and ordered it to reinstate Paduata to his former position without loss of seniority rights with full backwages and other benefits due him and attorney's fees.

The Labor Arbiter held that Paduata's absences were reasonable, valid and legally justified, as the same were not intentional but brought about by a recurring illness of rheumatic arthritis resulting in swollen ankle preventing him to walk.^[14] Acknowledging Paduata's recurring illness, the Labor Arbiter gave MERALCO the option to pay him P255,000.00 as separation pay in lieu of reinstatement.^[15]

MERALCO appealed to the NLRC.^[16] On September 30, 2002 the NLRC reversed the Labor Arbiter's Decision. The NLRC found it unlikely that Paduata would call his company supervisor but not his doctor for consultation and a medical certificate. It was also not likely for that supervisor to recommend disciplinary action against him for going on leave without notice if he had indeed given such notice. It did not help Paduata that his supervisor denied advising him not to report for work because he had a swollen ankle or on another occasion because it was late in the day. The supervisor also denied instructing Paduata to prepare a sick report in lieu of a medical certificate or having received a phone call regarding his subordinate's absence from work. The NLRC also noted Paduata's failure to produce a copy of the medical certificate that Dr. Saavedra supposedly issued to him.^[17] Paduata moved for reconsideration, but the NLRC denied it on June 18, 2003.

Not dissuaded, Paduata filed a petition for *certiorari* in the CA, which affirmed the NLRC Decision on July 29, 2004. The CA held that MERALCO presented evidence that it complied with the substantive and procedural requirements of dismissal, supported by documents and memoranda and that, consequently, the burden was on Paduata to prove that his absences were authorized and excused. The CA found, however, that Paduata failed to submit credible proof that he gave prior notice of his absences or that he submitted the medical certificates needed to justify them. He relied solely on his own affidavit. He did not submit the affidavits of the private physician he allegedly consulted, his wife, or Romy. The CA said that it cannot but conclude that Paduata's absences were not due to illness or that MERALCO had authorized them. Undeterred, Paduata filed a petition for review on *certiorari* before