

## SECOND DIVISION

[ G.R. No. 176287, January 31, 2011 ]

**HOSPITAL MANAGEMENT SERVICES, INC. - MEDICAL CENTER  
MANILA, PETITIONER, VS. HOSPITAL MANAGEMENT SERVICES,  
INC. - MEDICAL CENTER MANILA EMPLOYEES ASSOCIATION-  
AFW AND EDNA R. DE CASTRO, RESPONDENTS.**

### D E C I S I O N

**PERALTA, J.:**

Before this Court is a petition for review on *certiorari* seeking to set aside the Decision<sup>[1]</sup> dated May 24, 2006 and Resolution<sup>[2]</sup> dated January 10, 2007 of the Court of Appeals (CA), Special First Division, in CA-G.R. SP No. 73189, entitled *Hospital Management Services, Inc.-Medical Center Manila Employees Association-AFW and Edna R. De Castro v. National Labor Relations Commission, Hospital Management Services, Inc.-Medical Center Manila and Asuncion Abaya-Morido*, which reversed and set aside the Decision<sup>[3]</sup> dated February 28, 2002 of the National Labor Relations Commission (NLRC), Second Division, in NLRC NCR No. 00-07-07716-99 (CA No. 027766-01), and its Resolution<sup>[4]</sup> dated May 31, 2002. The assailed CA decision ordered petitioner Hospital Management Services, Inc.-Medical Center Manila to reinstate respondent Edna R. De Castro to her former position without loss of seniority rights or by payroll reinstatement, pursuant to the Labor Arbiter's Decision dated January 18, 2001, but with payment of full backwages and other benefits or their monetary equivalent, computed from the expiration of the 14-day suspension period up to actual reinstatement.

The antecedent facts are as follows:

Respondent De Castro started working as a staff nurse at petitioner hospital since September 28, 1990, until she was dismissed on July 20, 1999.

Between 2:00 a.m. to 3:00 a.m. of March 24, 1999, while respondent De Castro and ward-clerk orientee Gina Guillergan were at the nurse station on night duty (from 10:00 p.m. of March 23, 1999 to 6:00 a.m. of March 24, 1999), one Rufina Causaren, an 81-year-old patient confined at Room 724-1 of petitioner hospital for "gangrenous wound on her right anterior leg and right forefoot" and scheduled for operation on March 26, 1999, fell from the right side of the bed as she was trying to reach for the bedpan. Because of what happened, the niece of patient Causaren staying in the room was awakened and she sought assistance from the nurse station. Instead of personally seeing the patient, respondent De Castro directed ward-clerk orientee Guillergan to check the patient. The vital signs of the patient were normal. Later, the physician on duty and the nursing staff on duty for the next shift again attended to patient Causaren.

Chief Nurse Josefina M. Villanueva informed Dr. Asuncion Abaya-Morido, president

and hospital director, about the incident and requested for a formal investigation. On May 11, 1999, the legal counsel of petitioner hospital directed respondent De Castro and three other nurses on duty, Staff Nurse Janith V. Paderes and Nursing Assistants Marilou Respicio and Bertilla T. Tatad, to appear before the Investigation Committee on May 13, 1999, 2:00 p.m., at the conference room of petitioner hospital. During the committee investigation, respondent De Castro explained that at around 2:30 a.m. to 3:00 a.m., she was attending to a newly-admitted patient at Room 710 and, because of this, she instructed Nursing Assistant Tatad to check the vital signs of patient Causaren, with ward-clerk orientee Guillergan accompanying the latter. When the two arrived at the room, the patient was in a squatting position, with the right arm on the bed and the left hand holding on to a chair.

In the Investigation Report<sup>[5]</sup> dated May 20, 1999, the Investigation Committee found that the subject incident happened between 11:00 a.m. to 11:30 a.m. of March 23, 1999. The three other nurses for the shift were not at the nurse station. Staff Nurse Paderes was then in another nurse station encoding the medicines for the current admissions of patients, while Nursing Assistant Respicio was making the door name tags of admitted patients and Nursing Assistant Tatad delivered some specimens to the laboratory. The committee recommended that despite her more than seven years of service, respondent De Castro should be terminated from employment for her lapse in responding to the incident and for trying to manipulate and influence her staff to cover-up the incident. As for Staff Nurse Paderes and Nursing Assistants Respicio and Tatad, the committee recommended that they be issued warning notices for failure to note the incident and endorse it to the next duty shift and, although they did not have any knowledge of the incident, they should be reminded not to succumb to pressure from their superiors in distorting the facts.

On July 5, 1999, Janette A. Calixijan, HRD Officer of petitioner hospital, issued a notice of termination, duly noted by Dr. Abaya-Morido, upon respondent De Castro, effective at the close of office hours of July 20, 1999, for alleged violation of company rules and regulations, particularly paragraph 16 (a), Item 3, Chapter XI of the Employee's Handbook and Policy Manual of 1996 (Employee's Handbook):<sup>[6]</sup> (1) negligence to follow company policy on what to do with patient Rufina Causaren who fell from a hospital bed; (2) failure to record and refer the incident to the physician-[on- duty and] allow[ing] a significant lapse of time before reporting the incident; (3) deliberately instructing the staff to follow her version of the incident in order to cover up the lapse; and (4) negligence and carelessness in carrying out her duty as staff nurse-on-duty when the incident happened.

On July 21, 1999, respondent De Castro, with the assistance of respondent Hospital Management Services Inc.-Medical Center Manila Employees Association-AFW, filed a Complaint<sup>[7]</sup> for illegal dismissal against petitioners with prayer for reinstatement and payment of full backwages without loss of seniority rights, P20,000.00 moral damages, P10,000.00 exemplary damages, and 10% of the total monetary award as attorney's fees.

On January 18, 2001, the Labor Arbiter rendered a Decision,<sup>[8]</sup> ordering petitioner hospital to reinstate respondent De Castro to her former position or by payroll reinstatement, at the option of the former, without loss of seniority rights, but without backwages and, also, directing petitioners to notify her to report to work.

Her prayer for damages and attorney's fees was denied. The Labor Arbiter concluded that although respondent De Castro committed the act complained of, being her first offense, the penalty to be meted should not be dismissal from the service, but merely 7 to 14 days suspension as the same was classified as a less serious offense under the Employee's Handbook.

On appeal by respondent De Castro, the NLRC rendered a Decision dated February 28, 2002, reversing the findings of the Labor Arbiter and dismissing the complaint against the petitioners. It observed that respondent De Castro lacked diligence and prudence in carrying out her duty when, instead of personally checking on the condition of patient Causaren after she fell from the bed, she merely sent ward-clerk orientee Guillergan to do the same in her behalf and for influencing her staff to conceal the incident.

On May 31, 2002, the NLRC denied respondent De Castro's Motion for Reconsideration dated April 16, 2002.

On May 24, 2006, the CA reversed and set aside the Decision of the NLRC and reinstated the Decision of the Labor Arbiter, with modification that respondent De Castro should be entitled to payment of full backwages and other benefits, or their monetary equivalent, computed from the expiration of the 14-day-suspension period up to actual reinstatement. The CA ruled that while respondent De Castro's failure to personally attend to patient Causaren amounted to misconduct, however, being her first offense, such misconduct could not be categorized as serious or grave that would warrant the extreme penalty of termination from the service after having been employed for almost 9 years. It added that the subject infraction was a less serious offense classified under "commission of negligent or careless acts during working time or on company property that resulted in the personal injury or property damage causing expenses to be incurred by the company" stated in subparagraph 11, paragraph 3 (B), Chapter XI [on the Rules on Discipline] of the Employee's Handbook<sup>[9]</sup> of petitioner hospital. The CA did not sustain the NLRC's ruling that respondent De Castro's dismissal was proper on the ground that her offense was aggravated to serious misconduct on account of her alleged act of asking her co-employees to lie for her as this fact was not proven.

Petitioners' motion for reconsideration was denied by the CA in the Resolution dated January 10, 2007.

Hence, this present petition.

Petitioners allege that the deliberate refusal to attend to patient Causaren after the latter fell from the bed justifies respondent De Castro's termination from employment due to serious misconduct. They claim that respondent De Castro failed to: (a) personally assist the patient; (b) check her vital signs and examine if she sustained any injury; (c) refer the matter to the patient's attending physician or any physician-on-duty; and (d) note the incident in the report sheet for endorsement to the next shift for proper monitoring. They also aver that respondent De Castro persuaded her co-nurses to follow her version of what transpired so as to cover up her nonfeasance.

In her Comment, respondent De Castro counters that there was no serious misconduct or gross negligence committed, but simple misconduct or minor