

SECOND DIVISION

[G.R. No. 159302, February 06, 2008]

CITIBANK, N.A., Petitioner, vs. NATIONAL LABOR RELATIONS COMMISSION and ROSITA TAN PARAGAS, Respondents.

DECISION

CARPIO MORALES, J.:

Subject of this petition for review is the National Labor Relations Commission (NLRC) Resolution dated October 24, 2001 granting the MOTION FOR PARTIAL RECONSIDERATION of respondent Rosita Tan Paragas (Rosita) relative to her appeal in an illegal dismissal case, which the Court of Appeals affirmed *in toto* by Decision of January 24, 2003 and Resolution of July 29, 2003.^[1]

Rosita was found by Labor Arbiter Geobel Bartolabac to be an employee of petitioner Citibank, N.A. for around eighteen (18) years from August 8, 1979 to September 4, 1997. At the time her employment was terminated by petitioner for serious misconduct, willful disobedience, gross and habitual neglect of duties and gross inefficiency, she was occupying the position of filing clerk.

The relevant facts pertaining to respondent's employment history may be gleaned from the following salient portions of the labor arbiter's Decision of June 29, 1998:

On 8 August 1979, complainant Paragas joined respondent Citibank as Secretary to the Premises Administration (up to 1981); Corporate Teller (1981-1982); Secretary to Assistant Vice Presidents Ed Katigbak and Z.P. Molina (up to 1987); Secretary to Vice-President-Legal Counsel, Atty. Renato J. Fernandez (up [to] 1988); Secretary to the Employer/Employee Relations Officer, Atty. Beatriz Alo and later to the Public Affairs Director Vice President, Maximo J. Edralin, Jr. When the latter retired in 1992, complainant was assigned to Cash Management Services as Remittance Processor.

Sometime in the early part of 1993, as a result of the reorganization, respondent bank declared certain officers and employees, or their positions/functions, redundant. Among these affected was complainant Paragas. However, to accommodate the union officers' request, complainant's employment was not terminated but was assigned to Records Management Unit of the Quality Assurance Division as bank statement retriever, a filing clerk job described by complainant as "non-brainer job."

In the latter part of July 1994, complainant was assigned to file Universal Account Opening Forms (UAOF) in file boxes and retrieving such UAOFs from the file boxes upon internal customers' request from time to time.

In the same month, she was also assigned to process or develop microfilms. However, on 20 February 1995, she complained that the processing of microfilms was proving to be harmful to her health. Thus, the job was reassigned to another clerk. Accordingly, beginning 21 February 1995, complainant's job in the bank was to file and retrieve UAOFs. x x x

x x x x

On 11 December 1996, complainant was assigned to undertake the special project of reorganizing the UAOF's from 13 December 1996 to 15 May 1997. The work to be done are as follows:

- a. Review of existing files in order to verify misfiles
- b. Pull-out of misfiles and file them in their proper places
- c. Interfile new/incoming UAOFs received for the day
- d. Add new file boxes and make an allowance of at least $\frac{3}{4}$ inch for each file box for incoming UAOFs and for future expansion [sic]
- e. Labelling of all file boxes and Corporate UAOFs and their actual contents
- f. Transfer of the UAOFs from the Citicenter basement to the new compactors at the third floor
- g. Submit a status report (accomplishment for the week) every Monday

On 10 January 1997, AVP Narciso Ferrera issued a Memo to complainant calling her attention on the following, to wit:

10 January 1997

TO Rosita T. Paragas

CC: Randy J. Uson

SUBJECT: REORGANIZATION OF THE UNIVERSAL ACCOUNT
OPENING FORMS (UAOF's)

In connection with the Reorganization of the Universal Account Opening Forms (UAOF's), I would like to call your attention on the following, viz:

- a. Various misfiling on the reorganized UAOF file I had the reorganized file counter-checked by your co-employees and they came out with the following misfiling, e.g.
 1. Belo, Jose; Belo, Matilde, Belo William interfiled with BELLO
 2. BARRAGER, RAYMOND misfiled with BARANGAN and BARANUELO Box (BARBARO)

3. EUGENIO BARAOIDANs interfiled with BARNUEVO AND BARRAMEDA
4. VICTOR AGIUS filed with the AGUIRREs
5. Several AGUILAs interfiled with File box ALF-ALI
6. LETICIA AMANSEC filed with AMAR and AMARGO
7. Several BARON interfiled between BARROGA AND BARRON
8. AMANDA CAMELLO interfiled between CAMERO and CAMERON
9. PETER CARSON interfiled between CARR and CARRAD

They went thru 9 files boxes only and found 9 misfiles. This level of errors is not acceptable. Remember a misfiled document is considered LOST and you will have to go through the file one by one to be able to retrieve it.

- b. Submission of a weekly status report every Monday. As per our agreement, report every Monday effective January 6, 1997. As of February 10, 1997; I have not received a single report from you.
- c. Trimming/cutting of edges of attached documents like xerox copies of Ids, Passports, Drivers license, etc. I would like to reiterate my previous instructions to do away with the trimming and cutting of attached documents as it only consumes valuable time and will prolong the reorganization process. We started the reorganization last December 13, 1996 and as today 10 February 1997, you are still in letter C for a total of 163 file boxes. There are still 348 file boxes to reorganize
- d. Accumulation of incoming newly received UAOFs. I have noticed that you have accumulated two (2) boxes full of personal UAOFs at the basement and at the third floor. Arce and Sammy are complaining on the retrieval of these files. It is taking them more time and efforts. In the monthly meeting we had last December, 1996, interfiling incoming UAOFs is your responsibility.

In view of the above, please concentrate on the filing process and stop trimming the attachments. Our goal in the reorganization of the UAOFs is ACCURATE FILING so that these documents could be located when requested. I hope you exhaust all means and efforts to finish the project within the given time frame.

Please be guided accordingly.

(Sgd.) Narciso M. Ferrera
Assistant Vice President

Again, on 2 April 1997, complainant received another memo from AVP Ferrera called her attention (a) to the same nine (9) cases misfiled UAOF's in Annex 16, (b) to three (3) other cases of misfiled UAOFs (c) her persistent failure to submit weekly report on the progress of her work under the Special Project, and (d) that despite the lapse of three (3) months, she was still in letter D (or UAOFs covering clients whose surnames begin with letter D).

As she failed to complete the project on 30 May 1997, complainant was given another 30 days to complete it. However, by the end of June 1997, her accomplishment was only 30% of the total work to be done.

On 25 July 1997, AVP Ferrera directed complainant to explain in writing why her employment should not be terminated on the ground of serious misconduct, willful disobedience, gross and habitual neglect of her duties and gross inefficiency. Correspondingly, complainant was placed under Preventive suspension. Complainant submitted her written explanation on 31 July 1997.

On 29 August 1997, an administrative conference took place with the complainant, her counsel and the Union President in attendance.

Finally, on 4 September 1997, the respondent bank thru AVP Ferrera notified complainant that her written explanation and those which she ventilated during the administrative conference held on 29 August 1997 were found self-serving, and consequently, terminating her employment on the ground of serious misconduct, willful disobedience, gross and habitual neglect of duties and gross inefficiency.^[2]

Following the termination of her services, respondent filed a complaint for illegal dismissal, praying for **reinstatement, backwages, damages and attorney's fees.**^[3] By the aforementioned Decision of June 29, 1998, the labor arbiter dismissed the complaint for lack of merit, finding that her dismissal on the ground of work inefficiency was valid.

On appeal, the NLRC, by Resolution of October 24, 2000, affirmed the decision of the labor arbiter with the modification that respondent should be paid **separation pay** "as a form of equitable relief" in view of her length of service with petitioner.

Respondent filed a MOTION FOR PARTIAL RECONSIDERATION of the NLRC Resolution. She no longer challenged her dismissal on the ground of work inefficiency, but prayed that petitioner be ordered to pay her the "Provident Fund" benefits under its **retirement plan** for which she claimed to be qualified pursuant to petitioner's "Working Together" Manual, specifically the provision on page 12.5 thereof which states:

Should you (employee) resign or be discharged for reasons other than misconduct prior to your earliest retirement date, you will be paid a percentage of your share in the Fund according to the following schedule:

Completed Years of Continuous Service Vesting

20 or more years	100%
19 years	95%
18 years	90%
x x x x	x x x x ^[4]

(Emphasis and underscoring supplied)

Respondent, claiming that the labor arbiter upheld her dismissal on the ground of merely “work inefficiency” and not for any misconduct on her part, asserted that she is entitled to 90% of the retirement benefits.

Petitioner did not move to reconsider the NLRC October 24, 2000 Resolution.

Finding that respondent’s dismissal was “for causes other than misconduct,” the NLRC, by the above-mentioned October 24, 2001 Resolution granted respondent’s motion for partial reconsideration.^[5] Petitioner moved to reconsider this Resolution, but the same was denied by the NLRC.

Petitioner thereupon filed a petition for certiorari with the Court of Appeals to set aside and nullify the October 24, 2001 NLRC Resolution. The appellate court, by Decision dated January 24, 2003, dismissed petitioner’s petition for lack of merit and affirmed *in toto* the challenged NLRC Resolution. Its motion for reconsideration having been denied by the appellate court by Resolution of July 29, 2003, the present petition^[6] was filed, petitioner asserting as follows:

1. The NLRC has no authority to pass upon and resolve issues and grant claims not pleaded and proved before the Labor Arbiter.
2. The NLRC acted without authority or without or in excess of jurisdiction when it granted the entirely new/subsequent claim (for payment of retirement benefits) of Paragas.
3. In any case, (a) the actuations of Paragas narrated in petitioner’s motion for reconsideration [of the NLRC Resolution dated October 24, 2001] for which petitioner had dismissed her on the ground of Serious Misconduct, among other grounds and (b) the decision of the Labor Arbiter dismissing Paragas’ complaint for illegal dismissal for lack of merit, which the NLRC affirmed, show that Paragas is not entitled to her new claim for retirement benefits; for as Paragas herself has shown in her motion for partial reconsideration, under the Retirement Plan of the bank a bank employee who has been dismissed for misconduct is not entitled to retirement benefit.
4. In any event, even assuming that Paragas was entitled to retirement benefit, her claim therefor is already time-barred.
5. Thus, the Court of Appeals erred when it dismissed petitioner’s petition in CA-G.R. No. SP 69642.^[7]

The petition is impressed with merit.

That respondent did not expressly claim retirement benefits in the proceedings