

SECOND DIVISION

[G.R. No. 162583, June 08, 2007]

**ALBERTO NAVARRO, PETITIONER, VS. COCA-COLA BOTTLERS
PHILS., INC., MANUEL GARCIA AND RUSTUM ALEJANDRINO,
RESPONDENTS.**

DECISION

QUISUMBING, J.:

This is an appeal to reverse and set aside both the Decision^[1] dated August 27, 2003 and the Resolution^[2] dated March 8, 2004 of the Court of Appeals in CA-G.R. SP No. 63379. The appellate court had reversed the Resolution^[3] of the National Labor Relations Commission (NLRC) and held that petitioner Alberto Navarro was validly dismissed by the respondents.

The facts are undisputed.

Petitioner was an employee of the respondent Coca-Cola Bottlers Phils., Inc. (Coca-Cola) for more than a decade. Specifically, he worked as a forklift operator for Coca-Cola from November 1, 1987 to February 27, 1998.

The respondent company has an Employees Code of Disciplinary Rules and Regulations, which includes Rule 002-85. Section 4(i) of the rule provided for the penalty of DISCHARGE for a tenth AWOP^[4]/AWOL^[5] whether consecutive or not, following other AWOP/AWOLs within one calendar year.

On August 11, 1997, petitioner did not report to work because of heavy rains which flooded the entire barangay where he resided. In a Memorandum dated October 1, 1997, he was required to explain in writing within 24 hours why no disciplinary action should be imposed on him for his tenth absence without permission. In response, petitioner submitted a written explanation accompanied by a Certification^[6] from his Barangay Captain, stating that his absence was due to heavy rains and subsequent flooding that hit his barangay. Later, petitioner filed a Supplemental Written Explanation^[7] in lieu of answers to a questionnaire provided by the company. Petitioner stated that on August 11, 1997, his house was heavily flooded and that on the next day, he immediately filed an application for leave of absence. Despite his compliance and explanation, petitioner was dismissed on February 27, 1998 and given a notice of termination^[8] which enumerated the dates of his absences without permission.

Thereafter, petitioner filed a complaint for illegal dismissal with the Labor Arbiter, which was dismissed for lack of merit.

On appeal, the NLRC reversed the Decision of the Labor Arbiter. The dispositive portion of the NLRC Resolution reads:

WHEREFORE, premises considered, Complainants' appeal is GRANTED. The Labor Arbiter's decision in the above-entitled case is hereby ANNULLED and SET ASIDE. A new one is entered declaring that Complainant Navarro's dismissal from his employment is illegal.

Respondent Coca-Cola Bottlers Phils., Inc. is hereby ordered to immediately reinstate Complainant Navarro to his former position without loss of seniority rights and other privileges and to pay his full backwages, inclusive of allowances, and his other benefits or their monetary equivalent computed from the time he was illegally dismissed up to the time of his actual reinstatement.

Respondent Coca-Cola Bottlers Phils., Inc. is likewise ordered to pay Complainant Navarro attorney's fees equivalent to ten percent (10%) of his total monetary award.

SO ORDERED.^[9]

Respondent elevated the case to the Court of Appeals. The Court of Appeals annulled the resolution of the NLRC. It ruled as follows:

WHEREFORE, premises considered, the Decision (sic) as well as the Resolution of the National Labor Relations Commission is hereby SET ASIDE and the Decision of the Labor Arbiter is reinstated with the MODIFICATION that petitioner Coca-Cola Bottlers Phils., Inc. is ordered to pay private respondent Alberto Navarro separation pay equivalent to one-half (1/2) month salary for every year of service starting from November 1, 1987 until his dismissal on February 27, 1998.

SO ORDERED.^[10]

The appellate court also denied petitioner's motion for reconsideration.

Hence the instant petition before us, raising the following issues:

- A -

WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED REVERSIBLE ERROR AND GRAVELY ABUSED ITS DISCRETION IN REVERSING AND SETTING ASIDE THE DECISION OF THE NLRC AND REINSTATING, WITH MODIFICATION, THAT OF THE LABOR ARBITER WHEN, OBVIOUSLY, THE RULING OF THE COMMISSION IS MORE IN ACCORD WITH THE EVIDENCE AND SETTLED JURISPRUDENCE.

- B -

THE HONORABLE COURT OF APPEALS DID NOT HEED THE INJUNCTION OF THIS HONORABLE COURT THAT: "AS IS WELL-SETTLED, IF DOUBTS EXIST BETWEEN THE EVIDENCE PRESENTED BY THE EMPLOYER AND THE EMPLOYEE, THE SCALES OF JUSTICE MUST BE TILTED IN FAVOR OF THE