

## SECOND DIVISION

[ G.R. NO. 160769, August 09, 2006 ]

**CITY TRUCKING, INC. / JOHN EDLES, PETITIONERS, VS.  
ANTONIO BALAJADIA, RESPONDENT.**

### D E C I S I O N

**PUNO, J.:**

On appeal are the Decision<sup>[1]</sup> and Resolution<sup>[2]</sup> of the Court of Appeals, dated July 10, 2003 and November 13, 2003, respectively, in CA-G.R. SP No. 75401, affirming the Decision<sup>[3]</sup> and Resolution<sup>[4]</sup> of the National Labor Relations Commission (NLRC), dated August 30, 2002 and October 30, 2002, respectively, that petitioners illegally dismissed respondent from employment, with the modification that respondent should be immediately reinstated to his former or equivalent position without loss of seniority rights and other privileges.

The facts:

Petitioner City Trucking, Inc. is primarily engaged in the hauling and disposal of waste matters from the City of Manila to the San Mateo landfill in Rizal. Petitioner John Edles, a.k.a. Caesar T. Edles, is its General Manager.

On June 20, 1994, petitioners employed respondent Antonio Balajadia as a helper mechanic and part of their maintenance staff. His duties included doing errands for petitioners like buying spare parts, picking up repaired parts from machine shops, and assisting other employees performing maintenance or repair work on the dump trucks owned by petitioners. His working hours were from 8:00 a.m. to 5:00 p.m., Mondays to Sundays with a salary of One Hundred Fifty Pesos (P150.00) a day.

On December 31, 2000, the San Mateo landfill was closed down. In January 2001, while respondent Balajadia was performing his work, Honorato Edles, the chief mechanic and cousin of petitioner John Edles, informed him that he may continue to work for petitioners, but he should not expect to be paid his salary, unless petitioners get to collect from their clients. A few days later, Rowena Edles, the company secretary and sister of petitioner John Edles, asked respondent why he was still working when he had already been terminated from employment. Thus, beginning January 7, 2001, respondent stopped reporting for work.

On January 18, 2001, respondent went to John Edles's office to request for a Certificate of Employment. Petitioner company granted the request and issued the Certification which reads:

This is to certify that Mr. Antonio Balajadia has been an Assistant Mechanic at Citywide Builders & Trucking, Inc. from January 1990 to December 2000.

This certification is being issued upon the request of Mr. Balajadia, for whatever legal purpose it may serve.

(signed)

CAESAR T. EDLES

General Manager<sup>[5]</sup>

On January 24, 2001, respondent filed a complaint for illegal dismissal with the Public Assistance and Complaints Unit (PACU) of the Department of Labor and Employment (DOLE). The PACU set a conference between the parties before Atty. Catalina Marasigan on March 1, 2001.<sup>[6]</sup> During the conference, petitioner company was informed of the details of respondent's money claims. It requested more time to go over its records, in order to respond to the allegations of respondent. Thus, a second conference was scheduled on April 4, 2001.

Before the said scheduled date or on March 14, 2001, respondent filed the complaint for illegal dismissal with the NLRC.<sup>[7]</sup>

On August 31, 2001, Labor Arbiter Cresencio G. Ramos, Jr. ruled in favor of respondent. The dispositive portion of the decision reads:

WHEREFORE, in the light of the foregoing premises, judgment is hereby rendered declaring that complainant Antonio Balajadia had indeed been illegally dismissed from his employment. Accordingly, respondents are hereby directed to pay said complainant the sum of P28,000.00 as separation pay in lieu of reinstatement, as well as P33,930.00 as full backwages.

SO ORDERED.

Petitioners appealed to the NLRC, which affirmed the decision of the labor arbiter. The NLRC also denied petitioners' motion for reconsideration.

On petition for certiorari with the Court of Appeals, the latter upheld the ruling of the NLRC, with the modification that respondent should be immediately reinstated to his former or equivalent position without loss of seniority rights and other privileges. Petitioners' Motion for Reconsideration<sup>[8]</sup> was denied.

Hence, this appeal.<sup>[9]</sup> Petitioners raise the following issues for resolution:

- A. Whether or not an employee's act of requesting a Certificate of Employment after failing to report to work can be construed of his intention to abandon his work.
- B. Whether or not a former employee could be reinstated despite his admission of strained relations between him and his employer and his prayer for separation pay in lieu of reinstatement.
- C. Whether or not an employee who did not appeal the decision is entitled to backwages during the pendency of the appeal even if the assailed labor arbiter's decision did not order his reinstatement.<sup>[10]</sup>