

SECOND DIVISION

[G.R. No. 159738, December 09, 2004]

**UNION MOTOR CORPORATION, PETITIONER, VS. NATIONAL
LABOR RELATIONS COMMISSION AND ALEJANDRO A. ETIS,
RESPONDENTS.**

D E C I S I O N

CALLEJO, SR., J.:

This is a petition for review on certiorari filed by petitioner Union Motor Corporation of the April 10, 2003 Decision^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 73602 which affirmed the decision of the National Labor Relations Commission (NLRC) holding that respondent Alejandro A. Etis was illegally dismissed from his employment.

On October 23, 1993, the respondent was hired by the petitioner as an automotive mechanic at the service department in the latter's Paco Branch. In 1994, he was transferred to the Caloocan City Branch, where his latest monthly salary was P6,330.00. During his employment, he was awarded the "Top Technician" for the month of May in 1995 and Technician of the Year (1995). He also became a member of the Exclusive P40,000.00 Club and received the Model Employee Award in the same year.

On September 22, 1997, the respondent made a phone call to Rosita dela Cruz, the company nurse, and informed her that he had to take a sick leave as he had a painful and unbearable toothache. The next day, he again phoned Dela Cruz and told her that he could not report for work because he still had to consult a doctor. Finding that the respondent's ailment was due to a tooth inflammation, the doctor referred him to a dentist for further management.^[2] Dr. Rodolfo Pamor, a dentist, then scheduled the respondent's tooth extraction on September 27, 1997, hoping that, by that time, the inflammation would have subsided. Upon instructions from the management, Mr. Dumagan, a company security guard, visited the respondent in his house on September 24, 1997 and confirmed that the latter was ill.

On September 27, 1997, Dr. Pamor rescheduled the respondent's tooth extraction on October 4, 1997 because the inflammation had not yet subsided and recommended that he rest. Thus, the respondent was not able to report for work due to the painful and unbearable toothache.

On October 2, 1997, the petitioner issued an Inter Office Memorandum^[3] through Angelo B. Nicolas, the manager of its Human Resources Department, terminating the services of the respondent for having incurred more than five (5) consecutive absences without proper notification. The petitioner considered the consecutive absences of the respondent as abandonment of office under Section 6.1.1, Article III of the Company Rules.

On October 4, 1997, Dr. Pamor successfully extracted the respondent's tooth. As soon as he had recovered, the respondent reported for work, but was denied entry into the company's premises. He was also informed that his employment had already been terminated. The respondent sought help from the union which, in turn, included his grievance in the arbitration before the National Conciliation and Mediation Board (NCMB). Pending the resolution thereof, the respondent wrote to the petitioner asking for the reconsideration of his dismissal,^[4] which was denied. Sometime thereafter, the union's complaints were dismissed by the NCMB.

Left with no other recourse, the respondent filed, on May 18, 1999, a complaint for illegal dismissal before the arbitration branch of the NLRC against the petitioner and/or Benito Cua, docketed as NLRC-NCR Case No. 00-05-05691-99.^[5]

The respondent alleged that he was dismissed from his employment without just and legal basis. For its part, the petitioner averred that his dismissal was justified by his ten (10) unauthorized absences. It posited that, under Article 282 of the Labor Code, an employee's gross and habitual neglect of his duties is a just cause for termination. It further alleged that the respondent's repetitive and habitual acts of being absent without notification constituted nothing less than abandonment, which is a form of neglect of duties.^[6]

On October 19, 2000, the Labor Arbiter rendered a Decision dismissing the complaint. The Labor Arbiter ruled that the respondent's failure to report for work for ten (10) days without an approved leave of absence was equivalent to gross neglect of duty, and that his claim that he had been absent due to severe toothache leading to a tooth extraction was unsubstantiated. The Labor Arbiter stressed that "unnotarized medical certificates were self-serving and had no probative weight."

Aggrieved, the respondent appealed the decision to the NLRC, docketed as NLRC NCR CA No. 027002-01. He alleged therein that –

I

THE HONORABLE LABOR ARBITER COMMITTED GRAVE ABUSE OF DISCRETION IN DISMISSING THE COMPLAINT.

II

THERE ARE SERIOUS ERRORS IN THE FINDINGS OF FACTS WHICH WOULD CAUSE GRAVE OR IRREPARABLE DAMAGE OR INJURY TO HEREIN COMPLAINANT.^[7]

On November 29, 2001, the NLRC issued a Resolution reversing the decision of the Labor Arbiter. The dispositive portion of the resolution reads:

WHEREFORE, the assailed decision dated October 19, 2000 is SET ASIDE and REVERSED. Accordingly, the respondent-appellee is hereby ordered to immediately reinstate complainant to his former position without loss of seniority rights and other benefits and payment of his full backwages from the time of his actual dismissal up to the time of his reinstatement.

All other claims are dismissed for lack of merit.^[8]

The NLRC upheld the claim of the respondent that his successive absences due to severe toothache was known to management. It ruled that the medical certificates issued by the doctor and dentist who attended to the respondent substantiated the latter's medical problem. It also declared that the lack of notarization of the said certificates was not a valid justification for their rejection as evidence. The NLRC declared that the respondent's absence for ten (10) consecutive days could not be classified as gross and habitual neglect of duty under Article 282 of the Labor Code.

The NLRC resolved to deny the motion for reconsideration of the petitioner, per its Resolution^[9] dated August 26, 2002.

The petitioner, thereafter, filed a petition for certiorari under Rule 65 of the Rules of Court before the CA, docketed as CA-G.R. SP No. 73602. It raised the following issues:

Whether or not the public respondent gravely abused it[s] discretion, amounting to lack or excess of jurisdiction in reversing the decision of the labor arbiter *a quo* and finding that private respondent Alejandro A. Etis was illegally dismissed.

Whether or not public respondent gravely abused its discretion in reinstating private respondent Alejandro A. Etis to his former position without loss of seniority rights and awarding him full backwages.^[10]

In its Decision^[11] dated April 10, 2003, the CA affirmed *in toto* the November 29, 2001 Resolution of the NLRC.

The CA agreed with the ruling of the NLRC that medical certificates need not be notarized in order to be admitted in evidence and accorded full probative weight. It held that the medical certificates which bore the names and licenses of the doctor and the dentist who attended to the respondent adequately substantiated the latter's illness, as well as the tooth extraction procedure performed on him by the dentist. The CA concluded that since the respondent's absences were substantiated, the petitioner's termination of his employment was without legal and factual basis.

The CA similarly pointed out that even if the ten-day absence of the respondent was unauthorized, the same was not equivalent to gross and habitual neglect of duty. The CA took into consideration the respondent's unblemished service, from 1993 up to the time of his dismissal, and the latter's proven dedication to his job evidenced by no less than the following awards: Top Technician of the Year (1995), Member of the Exclusive P40,000.00 Club, and Model Employee of the Year (1995).

The motion for reconsideration of the petitioner was denied by the appellate court. Hence, the petition at bar.

The petitioner raises the following issues for the Court's resolution:

WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN GIVING MUCH EVIDENTIARY WEIGHT TO THE MEDICAL CERTIFICATES SUBMITTED BY THE PRIVATE RESPONDENT.

II

WHETHER OR NOT THE HONORABLE LABOR ARBITER COMMITTED A REVERSIBLE ERROR IN RULING THAT PRIVATE RESPONDENT WAS ILLEGALLY DISMISSED.^[12]

As had been enunciated in numerous cases, the issues that can be delved with in a petition for review under Rule 45 are limited to questions of law. The Court is not tasked to calibrate and assess the probative weight of evidence adduced by the parties during trial all over again.^[13] Well-established is the principle that findings of fact of quasi-judicial bodies, like the NLRC, are accorded with respect, even finality, if supported by substantial evidence.^[14] However, if, as in this case, the findings of the Labor Arbiter clash with those of the NLRC and CA, this Court is compelled to go over the records of the case, as well as the submissions of the parties, and resolve the factual issues.

The petitioner avers that the respondent's absences were unauthorized, and that the latter failed to notify the petitioner in writing of such absences, the reasons therefor, and his (respondent's) whereabouts as prescribed by the company rules. The petitioner avers that its security guard caught the respondent at home, fit to work. The petitioner further asserts that it was justified in dismissing the respondent under Section 6.1.1, Article III of the Company Rules which reads:

An employee who commits unauthorized absences continuously for five (5) consecutive working days without notice shall be considered as having abandoned his job and shall be terminated for cause with applicable laws.

The petitioner contends that the respondent's dismissal was also justified under Article 282(b) of the Labor Code, which provides that an employer may dismiss an employee due to gross and habitual neglect of his duties.

The contention of the petitioner has no merit.

The NLRC ruled that the respondent notified the petitioner of his illness through the company nurse, and that the petitioner even dispatched a security guard to the respondent's house to ascertain the reason of his absences, thus:

The termination by respondent-appellee of complainant's service despite knowledge of complainant's ailment, as shown by the telephone calls made by the latter to the company nurse and the actual confirmation made by respondent's company guard, who personally visited complainant's residence, clearly establishes the illegality of complainant's dismissal. The documentary testimonies of the nurse, Miss Rosita dela Cruz, regarding complainant's telephone calls and the confirmation made by respondent's security guard, Mr. Dumagan, are evidentiary matters which are relevant and material and must be considered to the fullest by