

## **FIRST DIVISION**

**[ G.R. No. 121806, September 25, 1998 ]**

**PATRICK C. DEL VAL, PETITIONER, VS. NATIONAL LABOR  
RELATIONS COMMISSION AND LEGEND HOTEL INTERNATIONAL  
AND AUGUSTO P. CORPUZ, RESPONDENTS.**

### **D E C I S I O N**

**QUISUMBING, J.:**

This special civil action for certiorari seeks to set aside the Decision promulgated by public respondent National Labor Relations Commission (NLRC) on May 9, 1995, in NLRC NCR CA No. 007713-94.

The factual antecedents of this case as found by the NLRC are as follows:<sup>[1]</sup>

"Complainant (herein petitioner) was employed by the respondent hotel on July 16, 1991. On November 25, 1993, when complainant was allegedly terminated by the respondent; complainant held the position of Assistant Manager, which was the third highest position in the hotel, and during the night shift was the highest officer in charge of the said establishment.

Respondent hotel is engaged in the service of offering accommodations, foods and beverages and personal services to its local as well as international clientele. Respondent Augusto P. Corpuz was the resident general manager of respondent Legend Hotel.

Sometime in October, 1993, respondent Augusto P. Corpuz received reports and complaints from employees of respondent hotel regarding certain anomalies committed by complainant Patrick Del Val, in the performance of his functions, which were contrary to respondents' Code of Discipline.

In a meeting between respondent Corpus and the complainant on October 22, 1993, respondent confronted complainant about reports/complaints against him. Thereafter, a Memorandum of even date was issued, the whole text of which is quoted as follows:

'Please explain within 48 hours from receipt of this letter why you allegedly violated the provisions in our House Code of Discipline (stated below) when you walked out of the General Manager's Office stating that you refuse to talk, that you did not trust the undersigned and that the undersigned is a snake.

Provision 3.02.:                      Uttering words, doing acts to a superior which are

manifestly insulting and grossly disrespectful to the latter.

Please explain further why you allegedly place your time in on your time sheet 15 to 30 minutes before you actually start work, which is in violation of Provision 2.01, which states:

Falsifying records in such a way as to mislead the user thereof.

Due to the sensitivity of your position as the Assistant manager, the undersigned believes that your continued presence in the hotel grounds serves as a threat to our guests, employees and hotel property. Due to this, you are hereby placed on preventive suspension effective ten (10) PM, October 22. This preventive suspension is effective until November 7, 1993. By November 8, 1993, a decision will be reached regarding your case.

For your immediate compliance.'

"In a Memorandum dated October 27, 1993, complainant was required to explain why he violated the Company House Code of Discipline particularly reporting for work while under the influence of liquor on October 18, 1993, and for sleeping while on duty. The Memorandum reads:

'Please explain in writing within 48 hours from receipt of this letter why you allegedly violated the provisions in our House Code of Discipline on coming in and going on duty under the influence of alcohol last October 18, 1993. You allegedly came in about an hour late for your 11 PM duty (October 17). Furthermore, you were alleged to have been drinking at least two (2) hours before your duty time.

Please explain further why you, on several occasions, at about 3:30 AM allegedly asked the telephone operator to give you a wake up call at about 5:30 to 6:30 AM. This is in violation of our provision on sleeping while on duty.

Failure on your part to submit a written explanation within 48 hours from the receipt of this letter will mean waiver of your right to be heard before an evaluation and judgment is rendered on this situations.

Also, please be reminded that the undersigned has still not received your written explanation on why you place your time-in on hour time sheet 30 to 45 minutes before you actually come down from the officers quarters and start work. The undersigned is giving you another 48 hours from receipt of this letter to submit a written explanation.

With regards (sic) to your demand that this matter be brought to the attention of an independent body, if you are referring to the President, Mr. Napud or the Owner, Mr. King, I believe that it is well within your right to bring this matter to them. Please feel free to call on them. May I request that I or my representative be there during your meetings?'

On November 25, 1993, herein instant complaint for illegal suspension, illegal dismissal, unpaid salary and damages was filed against respondents. Complainant alleged that he was suspended based on trumped-up charges; that he was treated shabbily upon his suspension; that after his suspension of fifteen (15) days complainant was refused work and to put a semblance of legality to his dismissal, memoranda/letters were issued to him requiring his appearance before an independent body which was to investigate him. Complainant further alleged that personal hatred and envy of him brought about the incident; thus, his dismissal was without cause and prior due process.

Contravening the complaint, respondent averred complainant's suspension was legal as he violated company rules and that his dismissal was legal and based on loss of trust and confidence and due to irreconcilable differences. Complainant's claim for damages and attorney's fees were also without basis."

In a Decision dated July 22, 1994, the Labor Arbiter ruled that the suspension and eventual dismissal of petitioner is illegal, and ordered private respondents to reinstate petitioner with backwages, damages and attorney's fees.<sup>[2]</sup>

Private respondents appealed to the NLRC, which, in a Decision dated May 9, 1995, modified the judgment of the Labor Arbiter. In said decision, the NLRC upheld the Labor Arbiter's ruling that the petitioner was illegally suspended.<sup>[3]</sup> However, the labor tribunal held that the petitioner was validly dismissed for loss of trust and confidence although not accorded due process<sup>[4]</sup> and, thus, disposed of the case as follows:<sup>[5]</sup>

**"PREMISES CONSIDERED,** the Decision of July 22, 1994 is hereby **MODIFIED.** Respondents are directed to indemnify complainant in the amount of seven thousand pesos (P7, 000.00) for failure to comply strictly with due process prior to termination in addition to his wages for fifteen days equivalent to his suspension or three thousand five hundred (P3, 500.00) or a total of ten thousand (P10, 500.00). The awards representing backwages, moral/exemplary damages and attorney's fees are deleted.

SO ORDERED."

Dissatisfied with the said decision, petitioner filed this instant petition.

The fundamental issue to be resolved in this petition is whether or not the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction in modifying the decision of the Labor Arbiter and ruling that the petitioner was dismissed for just cause on the ground of loss of trust and confidence.

Petitioner contends that a finding of breach of trust or loss of confidence has not been amply proven to warrant a valid dismissal. He argues that the allegations of misconduct imputed to him are mere fabrication.

This contention is bereft of merit.