

THIRD DIVISION

[G.R. No. 116025, February 22, 1996]

**SUNSHINE TRANSPORTATION, INCORPORATED, PETITIONER,
VS. NATIONAL LABOR RELATIONS COMMISSION AND REALUCIO
R. SANTOS, RESPONDENTS.**

D E C I S I O N

DAVIDE JR., J.:

This is a special civil action for certiorari under Rule 65 of the Rules of Court to set aside, for having been rendered with grave abuse of discretion, the 21 April 1994 decision^[1] of the National Labor Relations Commission (NLRC) in NLRC Case No. 00528 1-93, entitled "*Realucio R. Santos vs. Sunshine Transportation, Inc.*," which modified the decision^[2] of the Labor Arbiter by allowing the private respondent's money claimed in the amount of P158,000.00.

The antecedents are not disputed.

On 24 August 1989, petitioner Sunshine Transportation, Inc. hired private respondent Realucio R. Santos (hereinafter *Santos*) as a bus driver on a probationary basis. After six months, the former then extended the latter a regular appointment as "Bus Driver Class C" on 16 March 1990.^[3]

On 7 January 1992, Santos received a memorandum^[4] dated 4 January 1992 from the petitioner directing him to submit a written explanation within 48 hours as to why he failed to report for his trip scheduled on 28 December 1991. However, Santos claimed that on 2 January 1992, he applied for a leave of absence with the petitioner's Operations Manager Danilo Alvarado; but Alvarado tore the leave application, verbally terminated his services, and even forced him off the premises. Santos then opted to mail his application for leave, also on 2 January 1992.^[5]

Subsequently, Santos received a letter of termination dated 22 January 1992^[6] premised on the grounds that: (1) he committed insubordination to a lawful order of his superior by failing to submit the required written explanation; and (2) such failure amounted to an admission of his guilt. Nonetheless, he kept reporting for work, but was not allowed entry into the company's premises, prompting him to believe that he had been either suspended or dismissed.^[7]

On 21 December 1992, Santos filed with the Labor Arbiter a complaint for (a) illegal suspension, (b) illegal dismissal, (c) illegal deduction of Bicol trip allowance, (d) non-payment of salaries, overtime pay, premiums for holidays, rest day and night shift, allowances, and separation pay. ^[8] He also prayed for reinstatement with back wages and moral damages.

On its part, the petitioner emphasized that prior to Santos' misdeed of 28 December 1991, he had committed the following violations of company rules:

1. failure to remit and account for cash collections in the amount of P3,716.00 under his custody.
2. refusal to carry a passenger to her destination despite having a ticket and listed in the manifest.
3. remittance of cash collections under his custody only after official demand.
4. attempted illegal exaction of money from two passengers regarding their baggages [sic].
5. stealing dogs.
6. sexually harassing female passengers.
7. arrogant use of company buses for personal use.
8. punching-in of time card of another employee.
9. failure to report for work without prior notice on 17 September. . . 1991.^[9]

In his decision^[10] of 30 June 1993, Labor Arbiter Eduardo J. Carpio dismissed the complaint upon a finding that Santos was dismissed for cause with due process and that he was not entitled to his money claims.

Santos appealed to the NLRC and, in its decision^[11] of 21 April 1994, the NLRC upheld the Labor Arbiter's finding, but granted Santos' money claims in the amount of P158,000.00, as the petitioner "failed to refute the complainant's claim that he was underpaid."^[12]

Unsatisfied with the NLRC decision, the petitioner filed the instant special civil action for *certiorari* charging the NLRC with having acted with grave abuse of discretion in rendering the decision. More concretely, it imputes to the NLRC the commission of the following errors: (1) in not dismissing the patently defective appeal of Santos due to his failure to comply with the mandatory requirements for perfecting an appeal; (2) in modifying the Labor Arbiter's decision by granting the private respondent's money claim without any factual nor legal basis; (3) in ruling that the private respondent's money claims for the year 1989 have not yet prescribed; and (4) in failing to give consideration to the waiver/quitclaim executed by the private respondent on 20 October 1992 discharging the petitioner from any obligation arising from his (private respondent's) claim for overtime pay.

In their respective Comments filed in compliance with the resolution of 25 July 1994, the public respondent, through the Office of the Solicitor General, and the private respondent prayed that we dismiss the petition for lack of merit.

The required Reply to the Comment of public respondent was belatedly filed by counsel for the petitioner after he was directed to show cause why he should not be held in contempt of court.^[13]