

## THIRD DIVISION

[ G.R. No. 118434, July 26, 1996 ]

**SIXTA C. LIM, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND PEPSI-COLA FAR EAST TRADE DEVELOPMENT CO., INC., RESPONDENTS.**

### DECISION

**DAVIDE, JR., J.:**

In this petition for *certiorari* under Rule 65 of the Rules of Court, petitioner Sixta C. Lim urges us to nullify the decision of public respondent National Labor Relations Commission (NLRC) in NLRC-NCR CA 005656-93 which upheld her dismissal by private respondent Pepsi-Cola Far East Trade Development Co., Inc. (hereinafter *PEPSI*), thus reversing the decision of the Labor Arbiter in NLRC-NCR 00-05-02852-91.

After deliberating on the petition, the comments thereon by the public and the private respondents, and the petitioner's reply to such comments, we resolved to give due course to the petition.

The incomplete summation of the antecedent facts by both the Labor Arbiter and the NLRC compels us to examine the original records to arrive at a just determination of this case.

PEPSI, a manufacturer of concentrates to be sold to Pepsi-Cola Bottlers Co., Inc., has a workforce of only nineteen employees, the petitioner being one of them. PEPSI employed her on 15 June 1983, but she had been with the Pepsi Group since 1 January 1981 as a secretary for Pepsi Bottling Co. (Phils.), Inc.<sup>[1]</sup> At the time of her dismissal, she held the position of Staff Accountant. As such, she assisted and worked closely with the Plant Accountant to carry out the accounting department's tasks necessary to ensure an accurate, timely, and coordinated compilation of data for each accounting transaction.<sup>[2]</sup> In particular, her work involved: (1) Cost Accounting-Production Reporting (40%) -- to ensure that all inventory movements were reported and recorded in the accounting records; (2) Cost Accounting-Financial Reporting (20%) -- to prepare accurate and timely, periodic, quarterly, and annual reports (e.g., Raw materials, Inventory Cost of Sales, etc.); (3) Payroll Reporting (15%) -- to ensure timely, complete, and accurate preparation of payroll expenditures, and valid authorization and accuracy of payroll changes; (4) Statutory Reporting (15%) -- to prepare accurate and complete quarterly sales tax returns, year-end tax schedules, and other government-related requirements; and (5) Preparation of daily trade accounts receivable reports, petty cash fund custodianship, and check preparation (10%).<sup>[3]</sup>

As per company policy, PEPSI regularly evaluated its employees' performance. Originally, the following ratings were used:

#### Marginal

- Obviously well below the acceptable level for the position.

#### Fair

- Below standard, shows noticeable need for improvement.

#### Commendable

- Fully meeting the performance requirements of the position.

#### Superior

- Noticeably better than required performance.

#### Distinguished

- Outstanding - Obviously far above an acceptable job.<sup>[4]</sup>

Over time, the petitioner's overall performance appraisals rated as follows: (a) "S" (Superior) as of 1 May 1984;<sup>[5]</sup> (b) "C" (Commendable) for the period for 1 December 1987 to 31 August 1988;<sup>[6]</sup> and (c) "C-- (C minus), quantified as 81.10% for the period from 1 September 1988 to 31 May 1989.<sup>[7]</sup>

In the latter part of 1989, PEPSI changed the rating nomenclatures for the performance evaluation of its employees,<sup>[8]</sup> to wit:

#### Significantly Above Target (SA):

- Exceeds position requirements by a wide margin; exceptional.

#### Above Target (AT):

- Usually exceeds position requirements.

#### On Target (OT):

- Meets and sometimes exceeds position requirements.

#### Below Target (BT):

- Meets some or many but not all position requirements.

#### Significantly Below Target (SB):

- Below position requirements by a wide margin; unacceptable.

For the period beginning 1 July 1989 until 31 December 1989, the petitioner received an overall rating of BT or Below Target in the management performance appraisal.<sup>[9]</sup> This rating was heavily influenced by her performance in production reporting, which accounted for forty percent (40%) of the overall rating. Her superior's appraisal on this matter was as follows:

Cost accounting work in PEPSI Concentrate Operations is one of the most significant tasks in inventory management and reporting. For some years, Sixta has been doing this job and the experience she gained from the work should have improved her performance in the tasks assigned to her. However, it is evident that the quality of her work in cost accounting needs a lot of improvement. Certain reconciliation[s] of book and subsidiary balances of inventories in 1989 were not updated. This resulted to [sic] long unresolved discrepancies in the accounting records

which should have been avoided had Sixta did [sic] her job deligitly [sic].<sup>[10]</sup>

She likewise obtained a BT rating for Cost Accounting-Financial Reporting, which was weighted at twenty percent (20%).<sup>[11]</sup> She was appraised thus:

The financial reporting aspect of cost accounting contributes to better management of [sic] the company's resources and gives decision makers an important guide in setting the company's direction towards productivity and profitability. It seems that Sixta does not fully appreciate such importance of the report[s] she generates. The reports she submits need to be thoroughly checked and these are submitted with little allowance for review. Furthermore, she has no systematic workplan which could have aided her in the diligent [sic] and competent performance of her tasks.

As to the other aspects of her job responsibilities, viz., payroll; statutory reports; and preparation of daily trade accounts receivable reports, petty cash custodianship, and check preparation, which categories account for fifteen percent (15%), fifteen percent (15%), and ten percent (10%) of the overall rating, respectively, the petitioner was rated OT or On Target.<sup>[12]</sup>

The overall performance appraisal<sup>[13]</sup> of the petitioner stated:

Sixta's overall performance for 1989 is below target. Though she has been on the job for a number of years, her indifference towards her job has hindered an improved performance from her [sic]. Although she performs well in certain areas of her work, her seemingly lack of interest in performing beyond expectations of her peers and superiors has affected her over-all performance.

She should try to improve her work habits, especially in putting her priorities in proper order. Furthermore, she should develop her own work plan for her to perform the tasks in a systematic and efficient manner. She should always be alert for [sic] her past mistakes so as not to commit the same errors repeatedly. That way, her superiors could place a significant degree of reliance on her work.

In response thereto, the petitioner wrote her superior, Mr. Wilbert Young, asking for a re-evaluation of her performance appraisal<sup>[14]</sup> as: (a) she was the first to be evaluated using the revised evaluation sheet; (b) the long unresolved discrepancies referred to were committed in 1989 while she was on maternity leave; (c) she did appreciate the importance of her reports, for which reason she even worked Saturdays to accomplish them; and (d) the delays were caused by the delay of the submission of data she needed to accomplish her reports.

On 30 November 1990, the petitioner wrote another letter to the plant manager, Mr. Marianito Lucero,<sup>[15]</sup> wherein she questioned the change of weight of the Cost Accounting-Production Reporting from twenty percent (20%) to forty percent (40%). She then objected to the finding that "certain reconciliation of book and subsidiary balances of inventories in 1989 were not updated" in the appraisal, and explained that the use of the word "certain" indicated mere isolated omissions, and

since the report in its entirety was not defective, such should not drag her rating down. Moreover, she inquired why she was not rated for the other portions of her work and stressed that she was on maternity leave during the time there was a failure to "update," which should not, therefore, be attributed to her. She likewise excepted to the finding that "it resulted to long unresolved discrepancies" in the accounting records, and contended that if, indeed, this was long unresolved, then it should not have been allowed to stay unresolved and she should have been informed sooner.

She then pointed out that the period involved, 1 July 1990 to 31 December 1990, covered only five months, but what was singled out in the appraisal was her year-end financial report, forgetting the other financial reports she submitted during the appraisal period. She made it clear that a few mistakes and delays did not mean she failed to appreciate the importance of these reports; in any event, her supervisors were likewise culpable since they were lax in allowing the reports to remain "unupdated" when they knew she was on leave. Finally, she claimed that she was fed the wrong figures, hence the mistakes. As a consequence, she questioned the favorable appraisal of the warehouseman who fed her the wrong figures. In conclusion, she cited her past favorable appraisals and asserted the unlikelihood of an abrupt decline in her performance in so short a time.

PEPSI conducted another appraisal<sup>[16]</sup> of the petitioner's performance for the period from 1 January 1990 to 31 December 1990. The petitioner received an overall rating of BT, with the text of her overall appraisal<sup>[17]</sup> reading:

Sixta's overall rating is "Below Target". Her performance meets some but not all position requirements. In the previous rating, it has been pointed out that she has to upgrade the quality of her work, particularly in Cost Accounting related tasks. However, her continued inability to show a marked improvement in her tasks has caused disruptions in the efficient workflow in the Department.

The usual delays and inaccuracies in the submission of her Cost Accounting reports has made her superiors spend more time than necessary in reviewing and correcting her job. Furthermore, she has not consistently adhered to company's [sic] policies relating to cash-handling functions. In instances where she forced balance [sic] certain petty cash reports and advanced her personal funds for petty cash. She could not have resorted to such improper practices had she submitted liquidation reports on time.

Considering that she has been with the Company for quite sometime [sic], it was expected that she should show improvements every year and expectations should also grow. However, what happened was expectations of her superiors have remained in [sic] status quo for a number of years, yet she was not able to meet such standards. She should strive harder to produce the necessary results and do some re-evaluation of her attitudes [sic] towards her tasks. She should bear in mind one of the value statement [sic] that the Pepsico Concentrate Operations Management has advocated: "ONLY RESULTS-ORIENTED [sic] PEOPLE SHOULD BE HIRED DEVELOPED AND PROMOTED."

Like the previous appraisal, the petitioner received BT ratings for Cost Accounting -- Production Reporting and Cost Accounting -- Financial Reporting. In addition, she received a BT rating for preparation of accounts receivable reports, petty cash fund custodianship, and check preparation. For payroll and statutory reports, she received a rating of OT. The following were thus suggested as areas for improvement:

#### FOR COST ACCOUNTING -- PRODUCTION REPORTING

1. She must learn to prioritize her various tasks. This way, she shall be able to effectively manage her time and produce results on a timely basis.
2. She should raise the necessary warning signals if she's having difficulties with certain areas of her job. This will alert her superiors to immediately help resolve the problems.

#### FOR COST ACCOUNTING -- FINANCIAL REPORTING

1. She should develop her own system of self checking/review of her job.
2. She should learn to fully utilize the computer to simplify her job and facilitate timely generation of her reports.

#### FOR PAYROLL:

1. She should always be in [sic] the lookout for any discrepancy in payroll reports. Such matters upon discovery, should immediately be resolved.

#### FOR PREPARATION OF ACCOUNTS RECEIVABLE REPORTS, PETTY CASH FUND CUSTODIANSHIP AND CHECK PREPARATION JOB:

1. She should strictly adhere to company policies. She should realize the repercussions of these violations.
2. She should closely monitor receivable balances to avoid bad debts losses.<sup>[18]</sup>

Unsatisfied, the petitioner wrote a letter on 4 March 1991 to Mr. Yasuyuki Mihara of Pepsi Co, Inc., Japan.<sup>[19]</sup> She pointed out that Mr. Young issued a memorandum asking the Plant Manager, Mr. Marianito Lucero, about her case without furnishing her a copy thereof, and that Messrs. Young and Lucero never discussed the matter with her. In response, Mr. Mihara sent her a telegram dated 22 March 1991 informing her that he understood her point and would discuss the matter with her superiors on his visit to the Philippines after his return from New York.<sup>[20]</sup>

PEPSI, however, did not wait for Mr. Mihara's visit. It asked the petitioner to voluntarily resign and offered to pay her termination benefits,<sup>[21]</sup> but she refused.<sup>[22]</sup>