

SECOND DIVISION

[G.R. No. 113178, July 05, 1996]

**RADIO COMMUNICATIONS OF THE PHILIPPINES, INC. (RCPI),
NORBERTO T. BRAGA, PETRONILA R. VALBUENA, TOMAS C.
PARROCHA AND PACIENCIA M. ILUSTRE, PETITIONERS, VS.
NATIONAL LABOR RELATIONS COMMISSION AND MARIO
DANILO B. VILLAFLORES, RESPONDENTS.**

[G.R. NO. 114777. JULY 5, 1996]

**MARIO DANILO B. VILLAFLORES, PETITIONER, VS. NATIONAL
LABOR RELATIONS COMMISSION AND RADIO
COMMUNICATIONS OF THE PHILIPPINES, INC., RESPONDENTS.**

D E C I S I O N

ROMERO, J.:

The issue in these two consolidated^[1] petitions for *certiorari* is whether or not the Radio Communications of the Philippines, Inc. (RCPI) illegally terminated the services of its Assistant Vice-President for Management Services, Mario Danilo B. Villaflores, on the grounds of gross misconduct and loss of confidence.

Villaflores was employed by the RCPI on July 1, 1975. A certified public accountant (CPA), who finished the law course while working, he also took units in Master of Laws at the University of Sto. Tomas. In the course of his employment, he became the Internal Auditor, Acting Assistant Vice-President for Finance and Comptroller, and Assistant Vice-President for Management Services. At the time of the incident here involved, Villaflores was receiving P8,200.00 as basic monthly salary and representation and transportation allowances of P5,300.00.

As determined by Labor Arbiter Arthur L. Amansec and affirmed on appeal by the National Labor Relations Commission (NLRC), the facts which gave rise to these petitions are as follows:

German Bernardo Mattus was hired by RCPI on July 2, 1990 as manager of its Management Information System Department. He was under the division of Villaflores but he was required to report directly to Norberto T. Braga, the Executive Vice-President (EVP) for Corporate Services.

On October 29, 1990, Mattus posted a copy of an invitation to a computer seminar on the bulletin board without having sought the permission of Villaflores. When the latter arrived and saw the poster, he asked his secretary, Lydia Henares, to remove it from the bulletin board. Lydia Henares followed Villaflores' order. When Mattus learned of its removal, he took the poster from Lydia Henares and sought out Villaflores.

Mattus found Villaflores at work in the computer room. He said, "Ano ba ito, Danny?" Villaflores replied, "Hindi puede," at the same time getting a stapler with the apparent intention of throwing it at Mattus. When a co-employee grabbed the stapler from Villaflores, the latter snatched the poster from Mattus, tore and crumpled it, and threw the pieces at Mattus but missed. Had it not yet been for the timely intervention of the other employees present, the two would have assaulted each other. As Mattus was leaving the room, Villaflores shouted invectives such as "bullshit ka," "baboy ka" and "gago ka" at him.

On the same day, Mattus lodged a complaint against Villaflores for: (a) conduct unbecoming of an assistant vice-president of the company; (b) threatening a subordinate with physical injury, and (c) shouting invectives at a subordinate in the presence of the Management Services staff.^[2]

The next day, EVP Braga asked Villaflores to explain why no administrative action should be taken against him "for provoking and instigating a fight within company premises, using abusive and dirty language directed to your Manager, and for threatening the MIS Manager."^[3]

In his explanation, Villaflores claimed that after he had instructed his secretary to remove all the publications posted on the bulletin board, Mattus rushed into the computer room and shouted at the top of his voice, "Ano ito, Danny?" Mattus, who was bigger than Villaflores, allegedly attempted to attack him but was prevented by co-employees from doing so. Villaflores admitted having uttered "shit, baboy" but these were mere expressions of disgust at and by way of objecting to the imminent attack against his person and dignity.^[4]

The RCPI management scheduled a formal investigation and summoned several employees who witnessed the incident. Both parties, however, agreed to forego the "trial-type" investigation, opting instead to submit their formal explanations. Mattus submitted his explanation on November 13, 1990 while Villaflores submitted his on November 26, 1990.

On December 10, 1990, RCPI, through EVP Braga, placed Villaflores under preventive suspension, at the same time giving him a final chance to explain further "why no drastic administrative action should be taken against him for serious misconduct" and "for acts unbecoming of a company official."^[5] On December 13, 1990, Villaflores submitted his final explanation.^[6]

After investigation and personally evaluating all the evidence presented by both parties, EVP Braga issued a memorandum dated January 18, 1991 advising Villaflores of the termination of his services effective December 10, 1990 on grounds of gross misconduct unbecoming of a company official in gross violation of Rules 52, 53 and 55 of the Company Rules and Regulations.^[7] As a consequence, the company had lost trust and confidence in him.^[8]

On December 19, 1990, several of Villaflores' co-employees wrote Braga a letter stating that the penalty imposed upon Villaflores appeared "to be not commensurate and too harsh a penalty for the alleged offense committed" and praying that the

penalty imposed upon Villaflores be reconsidered,^[9] but the plea was ignored.

On January 25, 1991, Villaflores filed before the National Labor Relations Commission (NLRC) Arbitration Branch in the National Capital Region a complaint against RCPI for illegal dismissal, illegal suspension, illegal deduction of allowances and nonpayment of 13th month pay with claim for moral damages of P1,000,000.00, exemplary damages of P200,000.00 and attorney's fees of P100,000.00.^[10]

On November 4, 1992, Labor Arbiter Amansec rendered a decision, the pertinent portions of which read:

"We reviewed the entire records of the case and arrived at the finding that complainant was not guilty of serious misconduct. Complainant reacted to the posting by Mattus of a poster at the bulletin board without his consent and the latter's angrily barging into the room where he was seated but his reaction -- his attempt to throw a stapler at Mattus and, thereafter, his uttering foul language at him although constituting misconduct cannot, we are confident, fall under the category of a serious misconduct. Complainant was provoked by Mattus who unjustifiably barged into his room. Complainant did not actually throw a stapler at Mattus. He could have just tried to scare him with the stapler. He allowed himself to be pacified by cooler heads. These attending circumstances removed complainant's reaction from the classification of a serious misconduct.

We find Mattus to be guilty of disrespect to complainant, his superior officer. Firstly, he posted a material on the bulletin board without complainant's consent. Secondly, he barged into complainant's room. A respectful subordinate should have secured his prior permission to post a material at the bulletin board and a respectful subordinate should have controlled himself and desisted from barging into the room where his superior is working. Even if he believed the superior to be at fault or to have erred in ordering the removal of the poster, proper decorum would have caused him to bring his case to the superior officer in a mild and respectful manner. Respect to authority is the tie that binds society. Disrespect to superiors in the office, persons or authority like policemen and judges, or parents is a certain step to a chaotic society where everyone wants his wishes to prevail. If complainant unduly reacted when Mattus angrily barged into his room, it was because the barging was improper."

Expressing disapproval of Villaflores' attempt to throw a stapler at Mattus, the Labor Arbiter added that Villaflores "should not have met anger with anger but with sobriety and authority" for he "degraded his position by engaging a subordinate in a shouting match of foul language." The Labor Arbiter concluded that Villaflores was guilty of minor misconduct. However, he held that the latter may not be reinstated considering that the relationship between "the parties" had "unduly soured and strained." He stated that since Villaflores was "not entirely blameless in the

incident," it would be unfair to require his reinstatement to RCPI which, rightly or wrongly," had lost trust and confidence in him. On the part of Villaflores, his non-reinstatement would be better for his "tranquility of mind and career prospects."

Thus, the Labor Arbiter disposed of the case as follows:

"WHEREFORE, complainant is hereby declared to have been illegally dismissed by respondent corporation. Concomitantly, and considering all the attending circumstances of the case, complainant's being guilty of a minor misconduct, respondent is hereby ordered to pay complainant backwages from date of his dismissal up to the date of this decision plus separation pay at thirty (30) days for every year of service or the separation or retirement pay rate under company policy or practice if this is higher.

Respondent corporation is also ordered to pay complainant his unpaid bi-monthly allowance of P250.00 from May 1990 up to the time of his preventive suspension and his 13th month pay for 1990 in the amount of EIGHT THOUSAND TWO HUNDRED PESOS (P8,200.00).

Other claims are hereby dismissed for lack of merit.

SO ORDERED."

Both parties appealed to the NLRC, RCPI maintained that Villaflores should have been held guilty of grave misconduct instead of a minor one and that his claim for a bi-monthly allowance of P250.00 should have been disallowed. On the other hand, Villaflores contended that, as there was no just cause for his dismissal, the Labor Arbiter should have ordered his reinstatement; that the finding of illegal dismissal warranted the award of damages, and his suspension should have been declared illegal on the face of the evidence on record.

On August 30, 1993, the NLRC affirmed the Labor Arbiter's decision except that it found the claim of Villaflores for bi-monthly allowance of P250.00 to be without legal basis. Both parties elevated the case to this Court on separate petitions for certiorari which were ordered consolidated by the Court in its resolution dated May 25, 1994 in G.R. No. 114777.

In its petition in G.R. No. 113178, RCPI and its officials assert that Villaflores should have been found guilty of serious or grave misconduct which warrants his termination from employment. On the other hand, in G.R. No. 114777, Villaflores insists that, not only should he be reinstated, but that he should have been awarded damages and the bi-monthly allowance of P250.00.

Additionally, petitioners RCPI and its officials contend that public respondents' findings are contrary to law and jurisprudence as they are based on a misappreciation of facts. They insist that the unauthorized posting of the invitation to a computer seminar by Mattus is a "trivial matter which could not justify the actuations" of Villaflores considering his educational attainment and position in the