

THIRD DIVISION

[G.R. No. 113948, July 05, 1996]

**ARMANDO NICOLAS, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION AND PHILIPPINE NATIONAL
CONSTRUCTION CORP., RESPONDENTS.**

R E S O L U T I O N

FRANCISCO, J.:

The facts as found and summarized by public respondent National Labor Relations Commission (NLRC) are as follows:

"From the pleadings submitted by the parties, the following are the facts of this case: On July 13, 1987, complainant [Armando Nicolas] was charged by the respondent [Philippine National Construction Corporation (PNCC)] of having misappropriated company funds. On December 9, 1987, complainant received a notice of dismissal with forfeiture of company privileges and benefits.

"Complainant filed a complaint on April 12, 1988 for illegal dismissal, non-payment of wages from July 13, 1987 to December 9, 1987, non-payment of 13th month pay, unused sick and vacation leaves, damages and attorney's fees.

"Respondent, in defense, alleged that it discovered the loss of P144,155.50 in toll collections which was not deposited with the Philippine National Bank. The loss was investigated by the National Bureau of Investigation. Consequently, respondent issued a notice of dismissal to the complainant and four other employees. An investigation committee was formed at the instance of the employees involved. Based on the Committee's report, complainant's dismissal was confirmed and the four other employees were reinstated but without prejudice to the filing of the criminal case against them. The loss of the toll collection was attributed to the complainant and so he was dismissed for cause. His salaries and 13th month pay during the preventive suspension were set-off against the amount he misappropriated. Respondent denied the charge that complainant was not afforded due process. Complainant's right to the payment of his accrued vacation and sick leaves was forfeited.

"Respondent further asserts that complainant as cash clerk was tasked to bring out the shift collections from the vault for delivery to the PNB collector and that the issue of the missing toll collections has been resolved by the National Bureau of Investigation and the Assistant Provincial Fiscal with the filing of the criminal case for estafa against the