

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
THIRD DIVISION**

**BATANGAS LAGUNA TAYABAS BUS  
COMPANY (BLTB Co.),**

*Petitioner,*

*-versus-*

**G.R. No. L-69875  
October 28, 1988**

**NATIONAL LABOR RELATIONS  
COMMISSION, LIBRADO AQUINO and  
EUFEMIO BONDAD,**

*Respondents.*

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**DECISION**

**FERNAN, C.J.:**

This is a Special Civil Action for *Certiorari* seeking to annul the Decision of the National Labor Relations Commission (NLRC) which affirmed the decision of its labor arbiter granting private respondents Librado Aquino and Eufemio Bondad backwages and separation pay.

Private respondents Librado Aquino and Eufemio Bondad were bus conductors of petitioner Batangas Laguna Tayabas Bus Company (BLTB Co.). Sometime in December 1973, private respondents, together with 34 other employees, were detained by the military for

alleged involvement in the defraudation of petitioner in the amount of P186,169.30 committed during the months of February to November, 1973.<sup>[1]</sup>

Martial law then being in effect, private respondents, together with the aforesaid 34 other employees, were investigated by the military and detained at the military camps in San Pablo City and later at Camp Vicente Lim, Canlubang, Laguna.<sup>[2]</sup> The preliminary investigation was initially conducted by the Judge Advocate General Office (JAGO), but after jurisdiction over such cases was transferred to the civil courts, the cases were endorsed to the city fiscal's office of San Pablo City for further investigation.<sup>[3]</sup>

Thereafter, an estafa case was filed against the 36 employees including private respondents before the Court of First Instance of San Pablo City, Branch XXXI (Case No. 723 SP). This case was still pending as of the filing of the Solicitor General's Comment to the petition on April 22, 1985.<sup>[4]</sup>

Subsequent to their temporary release<sup>[5]</sup> on May 7, 1974, private respondents Aquino and Bondad filed before the Department of Labor a complaint against BLTB Co. for illegal dismissal and violation of Presidential Decree No. 21 (NLRC Case No. LR-6117).<sup>[6]</sup> By agreement of the parties, said case was submitted for voluntary arbitration before Director Antonio M. Nuesa. On March 3, 1981, when the case remained pending and unresolved despite submission by the parties of their respective position papers sometime in 1975, private respondents, together with Eduardo Punzalan, Casiano Alcantara, Eligio Fomento and Ernesto Bobadilla who alleged to be co-complainants in said case, wrote Director Nuesa inquiring as to the status of the case.<sup>[7]</sup> Receiving no reply thereto, private respondents as well as Eduardo Punzalan, Casiano Alcantara, Eligio Fomento and Ernesto Bobadilla filed on April 8, 1981 a complaint for illegal dismissal with the labor arbiter for alleged refusal of petitioner BLTB Co. to give them work assignments since 1974.<sup>[8]</sup> Private respondents prayed for reinstatement and payment of their full backwages plus the 13th month pay and cost of living allowance (RO4-A Case No. AB 6-41781).<sup>[9]</sup>

On October 30, 1981, Labor Arbiter Vicente Manzano rendered a Decision, the dispositive portion of which reads as follows:

“WHEREFORE, premises considered the following orders are hereby entered:

- “1. Respondent Laguna Transportation Co., Inc. is hereby ordered to pay Librado Aquino and Eufemio Bondad their full backwages, allowances and other monetary benefits from the date these complainants stopped working up to April 8, 1981;
- “2. Respondent Batangas Laguna Tayabas Bus Company is hereby ordered to pay complainants Librado Aquino and Eufemio Bondad their separation pay computed at 1/2 month for every year of service from their respective dates of employment up to April 8, 1981. The separation of these two (2) complainants is hereby approved after the payment of this benefit;
- “3. The complaint for illegal dismissal of Ernesto Bobadilla, Eduardo Punzalan, Casiano Alcantara, and Eligio Fomento is hereby dismissed for reasons as stated above.”<sup>[10]</sup>

Petitioner appealed the decision to the NLRC, which affirmed the same on December 5, 1984.<sup>[11]</sup> Hence, this recourse.

The issue raised in this case is whether the public respondent NLRC committed grave abuse of discretion in ruling that private respondents Aquino and Bondad were illegally dismissed.

In finding that private respondents' employment were illegally terminated by petitioner BLTB Co., the NLRC stated:

“Respondent (BLTB Co.) has miserably failed to adduce any iota of evidence to pinpoint the guilt and/or culpability of complainants (private respondents) in connection with the pocketing of collections as conductors of the company. Neither did complainants receive any application to terminate their

employment nor any documentary evidence for this purpose. Moreover, complainants were mere suspects of respondent who have never been convicted of qualified theft in the regular court of justice. Worse of it, complainants were deprived of due process when no investigation on the matter was ever made by the respondent. Indeed, the innocence of complainants is further fortified when they received an absolute release on June 9, 1975, after months of their incarceration.”<sup>[12]</sup>

‘The import of the above-quoted portion of the assailed NLRC decision is that private respondents’ dismissal from the service of petitioner BLTB Co. is illegal for (1) lack of just cause and (2) lack of prior clearance to terminate as required by then prevailing laws.’”

We are not in complete agreement. By the nature of their work as bus conductors, BLTB Co. had no choice but to repose its trust and confidence on private respondents that they would remit the day’s collection of fares to the company. Having been prima facie shown to be involved in the mass defraudation of the company as evidenced by the filing of criminal charges for estafa against private respondents and 34 other co-employees, it is to be expected that the company should lose its trust in them. The daily collection of fares is the company’s very lifeblood and to continue those who have been prima facie shown to have pocketed part of said fares in its employ, would be highly inimical, if not suicidal, for BLTB Co.

Fraud or wilfull breach of trust reposed upon an employee by his employer is a recognized cause for termination of employment<sup>[13]</sup> and it is not necessary that the employer should await the employee’s final conviction in the criminal case involving such fraud or breach of trust before it can terminate the employee’s services.<sup>[14]</sup> In fact, even the dropping of the charges or acquittal of the employee therefrom does not preclude the dismissal of an employee for acts inimical to the interests of the employer.<sup>[15]</sup>

To our mind, the criminal charges initiated by the company against private respondents and the finding after preliminary investigation of their prima facie guilt of the offense charged constitute substantial evidence sufficient to warrant a finding by the Labor Tribunal of the

existence of a just cause for their termination based on loss of trust and confidence. The Labor Tribunal need not have gone further as to require private respondents' conviction of the crime charged, or inferred innocence on their part from their release from detention, which was mainly due to their posting of bail.

The Labor Tribunal would further require BLTB Co. to conduct its own investigation on the matter of private respondents' involvement in the alleged mass defraudation of said company. It must be recalled that the irregularity complained of covering a period of ten (10) months, involved 36 employees, and doubtless, volumes of documentary evidence. For the company to conduct its own investigation would only be a duplication of the JAGO's and later, the city fiscal's investigation, which the company had reason to reply upon, said officials being the persons charged with this special function. Considering further the impartiality of said official, which factor may not be completely present in petitioner company, being the offended party, and the quantum of evidence required to show prima facie guilt, we are convinced that private respondents were afforded due process of law in connection with their dismissal.

But while we find that a just cause existed for private respondents' dismissal from BLTB Co.'s employ, we find that BLTB Co. failed to comply with the corollary clearance requirement under Section 11 of P.D. 21, the then prevailing law, which provides:

“No employer may shut down his establishment or dismiss or terminate the service of regular employee with at least one (1) year of service without the written clearance of the Secretary of Labor.”

Under these circumstances, where there was a valid and reasonable ground for the dismissal of the employee, but no prior clearance was obtained by the employer, to adjudge BLTB Co. liable for both backwages and separation pay would be unduly harsh. Applying by analogy *Victoria vs. Inciong, et al.*,<sup>[16]</sup> payment only of separation pay to private respondents is considered equitable under the premises.

**WHEREFORE**, the Decision of public respondent NLRC dated December 5, 1984 in RO4-Case No. AB-6-417-81 is hereby modified. The award of backwages to private respondents is deleted and petitioner BLTB Co. is hereby ordered to pay private respondents separation pay equivalent to 1/2 month pay for every year of service computed from their respective dates of employment up to December, 1974 when they are deemed separated from petitioner's employ.

**SO ORDERED.**

**Gutierrez, Jr., Feliciano, Bidin and Cortes, JJ., concur.**

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- [1] Annex "D", Petition, pp. 38-39, Rollo.
  - [2] Petition, p. 3, Rollo.
  - [3] Ibid.
  - [4] Comment, p. 105, Rollo.
  - [5] Private respondents' release was made permanent on June 9, 1975 (p. 105, Rollo).
  - [6] Annex "D", Petition, p. 37, Rollo.
  - [7] Annex "E", p. 44 Rollo.
  - [8] p. 44, Rollo.
  - [9] Annex "C", Petition, p. 33, Rollo.
  - [10] Annex "E", Petition, pp. 51-52, Rollo.
  - [11] Annex "K", Petition, pp. 74-79, Rollo.
  - [12] p. 77, Rollo.
  - [13] Art. 283, Labor Code: Monte de Piedad & Savings Bank vs. Minister of Labor and Employment, 122 SCRA 444.
  - [14] Sea-Land Services, Inc. vs. NLRC, 136 SCRA 544.
  - [15] National Labor Union vs. Standard Vacuum Oil Company, 73 Phil. 279; Nat. Organization of Laborers and Employees vs. Roldan, 95 Phil. 727; Gatmaitan vs. MRR Co., 128 Phil. 208; Phil. Education Co., Inc. vs. Union of Phil. Education Employees and CIR, 107 Phil. 1003; Dole Philippines, Inc. vs. National Labor Relations Commission, G.R. No. 55413, July 25, 1983, 123 SCRA 673; Philippine Geothermal, Inc. vs. National Labor Relations, G.R. No. 55249-50, October 19, 1982, 117 SCRA 692; Philippine Long Distance Telephone Co. vs. NLRC, G.R. No. 63191, April 30, 1984, 129 SCRA 163, cited in Sea-Land Service, Inc. vs. NLRC, supra.
  - [16] G.R. No. L-49046, January 26, 1988.