SUPREME COURT
SECOND DIVISION

F.F. MARINE CORPORATION and/or MR. ERIC A. CRUZ,
***Petitioners*,**

-versus-

G.R. No. 152039
April 8, 2005

THE HONORABLE SECOND DIVISION NATIONAL LABOR RELATIONS COMMISSION and RICARDO M. MAGNO,
***Respondents*.**
x----------x

D E C I S I O N

TINGA, *J.*:

Before this Court is a Rule 45, Petition assailing the Decision[1] dated 31 January 2002 of the Court of Appeals which affirmed the Resolution[2] dated 11 October 2000 of the National Labor Relations Commission (NLRC) that in turn reversed the Decision[3] dated 6 August 1999 of Labor Arbiter Salimathar V. Nambi. The Labor Arbiter had upheld the validity of the retrenchment program undertaken by petitioner corporation.

The factual antecedents of the case follow.

Petitioner F.F. Marine Corporation (FFMC) is a corporation duly organized and existing under Philippine laws, with Eric A. Cruz as its president. It is engaged in ship-repair, dry-docking and dredging services, and has a total of 419 employees including private respondent Ricardo M. Magno (Magno).[4] Magno, who began working for FFMC on 7 February 1990, was eventually assigned as Lead Electrician at the Marine Dredging with a monthly salary of P8,500.00.

On 26 October 1998, petitioners filed with the Department of Labor and Employment (DOLE) a notice that petitioner corporation was undertaking a retrenchment program to curb the serious business reverses brought about by the Asian economic crisis.[5] Petitioners likewise stated in the notice that they had already closed down their dry docking and ship repair division on 30 August 1998 and that their dredging services were heavily affected by the economic slowdown being experienced by the construction industry.[6] They manifested that the retrenchment program would start on 1 November 1998.[7] The affected employees were to remain employed only until 16 December 1998.[8]

Pursuant to the retrenchment program, petitioners served the affected employees a personal notice of retrenchment, stating that their employment would end at the close of business hours of 16 December 1998. However, petitioners paid them in advance of their payroll from 16 November to 16 December 1998 to spare them from reporting for work during the period. They were also paid separation pay equivalent to one-half (1/2) month basic pay per year of service, plus the proportionate 13th month pay.

On 11 December 1998 and in compliance with its notice to the DOLE dated 26 October 1998, petitioners filed with the DOLE, an "Establishment Termination Report" for the retrenchment of twenty-one (21) affected employees, including Magno.

In view of the retrenchment, Magno received his separation pay equivalent to nine (9) years and proportionate 13th month pay in the

total amount of P46,182.41. After receiving the above separation pay, Magno executed a release and quitclaim in favor of petitioners.[9]

However, on 12 January 1999, Magno filed a complaint for illegal dismissal, moral and exemplary damages and attorney's fees, with prayer for reinstatement and payment of backwages against petitioners.[10] Magno claimed that he was beguiled into accepting the separation pay since petitioners terminated his services on the pretext that the dredging machine where he was assigned was temporarily stalled in Zambales. Magno eventually learned that the company had been adducing to others a different reason for retrenchment, primarily the Asian financial crisis.[11]

On 6 August 1999, after the contending parties submitted their responsive pleadings, Labor Arbiter Salimathar V. Nambi promulgated a Decision upholding the validity of retrenchment.[12] The dispositive portion thereof reads:

> WHEREFORE, premises considered, the complaint for illegal dismissal is hereby DISMISSED for lack of merit. Consequently, complainant's claim for backwages, separation pay differential, damages and attorney's fees is likewise dismissed.
>
> SO ORDERED.[13]

Magno appealed the Labor Arbiter's Decision to the NLRC which, on 11 October 2000, issued a Resolution reversing the findings and conclusions of the Labor Arbiter.[14] The NLRC deemed the petitioners as having been unable to establish proof of actual losses, due to the absence of financial reports of independent external auditors that would confirm the losses sustained for the years 1996 and 1997.[15] The decretal text of the issuance reads:

> WHEREFORE, premises considered, Complainant's appeal is GRANTED. The Labor Arbiter's decision in the above-entitled case is hereby ANNULLED and SET ASIDE. A new one is entered declaring Complainant's dismissal as illegal.
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> Respondent F.F. Marine Corporation is ordered to pay Complainant:

1. full backwages from December 16, 1998 up to the finality of this decision;

2. separation pay equivalent to Complainant's one (1) month pay for every year of service, computed from his first day of employment on February 7, 1990 up to the finality of this decision, the total amount from which shall be deducted his advanced separation pay of P38,250.00; and

3. attorney's fees equivalent to ten percent (10%) of his total monetary award.

SO ORDERED.[16]

After the denial of their Motion for Reconsideration, petitioners elevated the case to the Court of Appeals by way of Petition for Certiorari. Before the appellate court, petitioners presented financial reports prepared by independent external auditors Banaria, Banaria and Company, auditing FFMC's balance sheets and income statements for the years 1996 and 1997. Petitioners alleged that these reports could not be submitted earlier as they had not been completed during the pendency of the proceedings before the Labor Arbiter.[17]

The appellate court eventually dismissed the petition and affirmed the resolution of the NLRC. Material to the resolution of the case was the issue of admissibility and competency as evidence of the 31 December 1997 and 1996 Financial Statements of petitioners. The Court of Appeals noted that these financial statements were submitted to it only and at that on the pretext that they had not yet been completed by the independent auditor when the case was still pending before the Labor Arbiter. However, the appellate court ruled that a perusal of the certification issued by Banaria, Banaria and Company regarding the Financial Statements reveals that the same were executed on 30 March 1998 or nine (9) months prior to the filing of the complaint for illegal dismissal on 12 January 1999. Thus, the financial statements could have been offered as evidence before

the Labor Arbiter and the NLRC. Thus, the Court of Appeals reproached petitioners for having suppressed material evidence.

Accordingly, the appellate court found that petitioners failed to substantiate the substantive requirements of a valid retrenchment.[18] The fact that Magno executed a quitclaim in favor of petitioners, according to the Court of Appeals, did not bar him from filing the instant complaint for illegal dismissal.[19]

Aggrieved by the decision of the appellate court, petitioners went to this Court via the present petition for review.

As grounds for appeal, petitioners allege that the appellate court gravely erred in: (a) finding that petitioners failed to substantiate the substantive requirements of a valid retrenchment and (b) affirming the NLRC's award of separation pay and attorney's fees to Magno.[20]

Petitioners argue that retrenchment programs undertaken by corporations are purely business decisions properly within the reasonable exercise of management prerogative. As a recognized management prerogative, petitioners' assessment of the necessity of retrenchment cannot be substituted with the NLRC's own perception, much less opinion, as to the thrust and direction of petitioners' business. It is only subject to faithful compliance with the substantive and procedural requirements laid down by law and jurisprudence.[21] They assert that they complied with both the substantive and procedural requirements of a valid retrenchment as they were able to show that the expected losses were not merely de minimis but substantial and imminent.[22] They point out that in 1994 and 1995, they earned minimal profits of only P77,609.79 and P155,339.96, respectively.[23]

They further stress that the corporation had been beset with financial problems as early as 1996 when the company had incurred losses in the amount of P18,005,918.08. On the other hand, the losses for the years 1997 and 1998 are P21,316,072.89 and P21,234,582.25, respectively.[24] These losses resulted to a total deficit of P39,146,167.82 in 1997 and continued to increase.[25] Thus, petitioners insist that the retrenchment program was necessary to prevent additional losses. Petitioners also allege that the corporation

initially explored ways of minimizing its losses by taking necessary measures to cut operational expenses.[26]

They also contend that the appellate court gravely erred in placing too much emphasis on the late presentation of the 1996-1997 Financial Statements so as to completely disregard other documentary evidence submitted by petitioners. The documentary evidence submitted by petitioners before the Labor Arbiter, consisting of the Statements of Retained Earnings and Balance Sheets for the periods covering 1993 to 1997, were sufficient to prove that petitioner corporation was experiencing losses prior to the retrenchment program.[27] They also allege that having freely entered into the subject quitclaim, Magno was bound by the terms thereof and may not later be disowned simply because of change of mind. Thus, they should not be held liable for the claims of Magno for backwages, separation pay, damages nor attorney's fees.[28]

The petition suffers from lack of merit.

This Court is not oblivious of the significant role played by the corporate sector in the country's economic and social progress. Implicit in turn in the success of the corporate form in doing business is the ethos of business autonomy which allows freedom of business determination with minimal governmental intrusion to ensure economic independence and development in terms defined by businessmen. Yet, this vast expanse of management choices cannot be an unbridled prerogative that can rise above the constitutional protection to labor. Employment is not merely a lifestyle choice to stave off boredom. Employment to the common man is his very life and blood which must be protected against concocted causes to legitimize an otherwise irregular termination of employment. Imagined or undocumented business losses present the least propitious scenario to justify retrenchment.

Retrenchment is the termination of employment initiated by the employer through no fault of the employees and without prejudice to the latter, resorted to by management during periods of business recession, industrial depression, or seasonal fluctuations or during lulls occasioned by lack of orders, shortage of materials, conversion of the plant for a new production program or the introduction of new

methods or more efficient machinery, or of automation.[29] Retrenchment is a valid management prerogative. It is, however, subject to faithful compliance with the substantive and procedural requirements laid down by law and jurisprudence.

There are three (3) basic requisites for a valid retrenchment to exist, to wit: (a) the retrenchment is necessary to prevent losses and such losses are proven; (b) written notice to the employees and to the DOLE at least one (1) month prior to the intended date of retrenchment; and (c) payment of separation pay equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher.[30]

Jurisprudential standards to justify retrenchment have been reiterated by this Court in a long line of cases to forestall management abuse of this prerogative, viz:

> ***Firstly***, the losses expected should be substantial and not merely de minimis in extent. If the loss purportedly sought to be forestalled by retrenchment is clearly shown to be insubstantial and inconsequential in character, the bonafide nature of the retrenchment would appear to be seriously in question.
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> ***Secondly***, the substantial loss apprehended must be reasonably imminent, as such imminence can be perceived objectively and in good faith by the employer. There should, in other words, be a certain degree of urgency for the retrenchment, which is after all a drastic recourse with serious consequences for the livelihood of the employees retired or otherwise laid-off. Because of the consequential nature of retrenchment, it must,
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> ***Thirdly***, be reasonably necessary and likely to effectively prevent the expected losses. The employer should have taken other measures prior or parallel to retrenchment to forestall losses, i.e., cut other costs than labor costs. An employer who, for instance, lays off substantial numbers of workers while continuing to dispense fat executive bonuses and perquisites or so-called “golden parachutes”, can scarcely claim to be

> retrenching in good faith to avoid losses. To impart operational meaning to the constitutional policy of providing "full protection" to labor, the employer's prerogative to bring down labor costs by retrenching must be exercised essentially as a measure of last resort, after less drastic means—e.g., reduction of both management and rank-and-file bonuses and salaries, going on reduced time, improving manufacturing efficiencies, trimming of marketing and advertising costs, etc.—have been tried and found wanting.
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> ***Lastly***, but certainly not the least important, alleged losses if already realized, and the expected imminent losses sought to be forestalled, must be proved by sufficient and convincing evidence. The reason for requiring this quantum of proof is readily apparent: any less exacting standard of proof would render too easy the abuse of this ground for termination of services of employees. *(emphasis supplied)* (EMCO Plywood Corporation, et al. vs. Perferio Abelgas, et al., G.R. No. 148532, April 14, 2004; See also (Polymart Paper Industries, Inc., et al. vs. NLRC, et al., G. R. No. 118973, August 12, 1998; Lopez Sugar Corporation vs. Federation of Free Workers, G.R. Nos. 75700-01, August 30, 1990, 189 SCRA 179, 186-187.

Retrenchment is one of the economic grounds to dismiss employees. It is resorted to by an employer primarily to avoid or minimize business losses. The law recognizes this under Article 283[32] of the Labor Code. However, the employer bears the burden to prove his allegation of economic or business reverses. The employer's failure to prove it necessarily means that the employee's dismissal was not justified.[33]

In the case at bar, petitioners seek to justify the retrenchment on the ground of serious business losses brought about by the Asian economic crisis. To prove their claim, petitioners adduced before the Labor Arbiter the 1994 and 1995 Financial Statements. Said Financial Statements, however, were prepared only by petitioners' accountant, Rosalie Bengzon, and approved by the manager Bernadette Rosales.[34] They were not audited by an independent external auditor. The financial statements show that in 1994 and 1995, petitioner corporation earned an income of only P77,609.79 and

P155,339.96, respectively. In contrast, the 1996 and 1997 Financial Statements, however, showed losses[35] of P18,005,918.08, and P21,316,072.89, respectively.

It was only before the Court of Appeals that the financial statements for the years 1996 and 1997 as audited by an independent external auditor were introduced.[36] They were not presented before the Labor Arbiter and the NLRC although they were executed on 30 March 1998, several months prior to the filing of the complaint for illegal dismissal by Magno on 12 January 1999.[37]

Petitioners' failure to adduce financial statements duly audited by independent external auditor casts doubt on their claim of losses for financial statements are easy prey to manipulation and concoction. This Court has ruled that financial statements audited by independent external auditors constitute the normal method of proof of the profit and loss performance of a company. (Polymart Paper Industries, Inc., et al. vs. NLRC, et al., G. R. No. 118973, August 12, 1998; Lopez Sugar Corporation vs. Federation of Free Workers, G.R. Nos. 75700-01, August 30, 1990, 189 SCRA 179, 186-187).[38] Even this, however, is not a hard and fast rule as the norm does not compel this Court to accept the contents of the said documents blindly and without thinking. (Philippine Tobacco Flue-Curing And Redrying Corporation vs. NLRC, 360 Phil. 218 [1998]). [39] A careful examination of financial statements may be resorted to especially if on their face relevant facts appear to have been ignored that will warrant a contrary conclusion.

Petitioners had called upon the Court of Appeals to consider alleged new evidence not presented before the Labor Arbiter or the NLRC, a course of action unmistakably outside the sphere of that court's certiorari jurisdiction. This Court itself was confronted with the same situation in Matugas vs. Commission on Elections, et al., [G.R. No. 151944, 20 January 2004, 420 SCRA 365][40] as petitioner therein asked the Court to consider documents which were not presented in evidence before the poll body. The Court rejected petitioner's stance, holding that the "cause of action" sought is "clearly beyond the courts' certiorari powers."

In the case at bar, petitioner did not file a motion for leave to present the alleged new evidence as they simply attached the additional financial statements to their petition. Significantly in that regard, the financial statements do not constitute newly discovered evidence as they had already been prepared by the independent auditors eight (8) months before the filing of the case with the Labor Arbiter. That must have been the reason why petitioners opted not to avail of the prescribed manner for introducing newly discovered evidence.

In the Matugas case, this Court pointedly ruled, thus:

The rule in appellate procedure is that a factual question may not be raised for the first time on appeal, and documents forming no part of the proofs before the appellate court will not be considered in disposing of the issues of an action. This is true whether the decision elevated for review originated from a regular court or an administrative agency or quasi-judicial body, and whether it was rendered in a civil case, a special proceeding, or a criminal case. Piecemeal presentation of evidence is simply not in accord with orderly justice.

The same rules apply with greater force in certiorari proceedings. Indeed, it would be absurd to hold public respondent guilty of grave abuse of discretion for not considering evidence not presented before it. The patent unfairness of petitioner's plea, prejudicing as it would public and private respondents alike, militates against the admission and consideration of the subject documents.[41]

Petitioners cite Cañete vs. NLRC, [320 Phil. 313 (1995)] where the Court upheld the NLRC's consideration of documents submitted to it by the respondent therein for the first time on appeal. The holding is clearly not apropos since the documents were presented to the NLRC, unlike in this case where the new financial statements were submitted for the first time before the Court of Appeals. That was why this Court in Cañete ratiocinated that the petitioner therein had the opportunity to rebut the truth of the additional documents. The same cannot be said of the private respondent in this case. [43]

Considering the foregoing disquisitions, we fail to see any reason to reverse the legal conclusions made by the Court of Appeals. It is

worthy of note that decisions of the NLRC are reviewable only by the Court of Appeals via the special civil action of certiorari under Rule 65 of the Rules of Court.[44] This mode of review may be availed of only in case a tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to a lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law.[45] The sole office of the writ of certiorari is the correction of errors of jurisdiction including the commission of grave abuse of discretion amounting to lack of jurisdiction and does not include correction of public respondents' evaluation of the evidence and the factual findings based thereon.[46]

The appellate court's affirmance of the decision of the NLRC is principally anchored on the ground that petitioners failed to adduce the 1996 and 1997 Financial Statements audited by an independent external auditor before the Labor Arbiter and the NLRC. By merely upholding the evidentiary weight accorded to financial statements duly audited by independent external auditors, grave abuse of discretion on the part of the NLRC is hardly imaginable as it is unfounded.

It is essentially required that the alleged losses in business operations must be proven. Otherwise, said ground for termination would be susceptible to abuse by scheming employers who might be merely feigning business losses or reverses in their business ventures in order to ease out employees.[47] The employer bears the burden of proving the existence or the imminence of substantial losses with clear and satisfactory evidence that there are legitimate business reasons justifying a retrenchment. Should the employer fail to do so, the dismissal shall be deemed unjustified.[48]

Moreover, petitioners failed to act in consonance with the rule that retrenchment shall be a remedy of last resort. Even assuming that the corporation has actually incurred losses by reason of the Asian economic crisis, the retrenchment is not perfectly justified as there was no showing that the retrenchment was the last recourse resorted to by petitioners. Although petitioners allege in their petition before this Court that they had undertaken cost-cutting measures before they resorted to retrenchment, their contention does not inspire belief

for the evidence shows that the petition for certiorari filed by petitioners with the Court of Appeals is bereft of any allegation of prior resort to cost-cutting measures other than retrenchment.[49] Well-established is the rule that retrenchment is only a measure of last resort when other less drastic means have been tried and found to be inadequate.[50]

Considering that the ground for retrenchment availed of by petitioners was not sufficiently and convincingly established, the retrenchment is hereby declared illegal and of no effect. The quitclaims executed by retrenched employees in favor of petitioners were therefore not voluntarily entered into by them. Their consent was similarly vitiated by mistake or fraud. The law looks with disfavor upon quitclaims and releases by employees pressured into signing by unscrupulous employers minded to evade legal responsibilities.[51] As a rule, deeds of release or quitclaim cannot bar employees from demanding benefits to which they are legally entitled or from contesting the legality of their dismissal. The acceptance of those benefits would not amount to estoppel. The amounts already received by the retrenched employees as consideration for signing the quitclaims should, however, be deducted from their respective monetary awards.[52] Sad to say, among the retrenched employees, only Magno filed an action for illegal dismissal.

Undoubtedly, Magno was illegally dismissed but it must be emphasized that Magno prayed for the payment of separation pay in lieu of reinstatement on the ground of strained relations between him and petitioners.[53]

It is well-settled that when a person is illegally dismissed, he is entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages.[54] In the event, however, that reinstatement is no longer feasible, or if the employee decides not to be reinstated, the employer shall pay him separation pay in lieu of reinstatement.[55] Such a rule is likewise observed in the case of a strained employer-employee relationship or when the work or position formerly held by the dismissed employee no longer exists.[56] In sum, an illegally dismissed employee is entitled to: (1) either reinstatement if viable or separation pay if reinstatement is no longer viable, and (2) backwages.[57]

As to the amount of separation pay, this Court has ruled that separation pay may be computed at one (1) month pay, or one (1/2) month pay for every year of service, whichever is higher.[58] It is noteworthy that the separation pay being awarded in the instant case is due to illegal dismissal; hence, it is different from the amount of separation pay provided for in Article 283 in case of retrenchment to prevent losses or in case of closure or cessation of the employer's business, in either of which the separation pay is equivalent to at least one (1) month or one-half (1/2) month pay for every year of service, whichever is higher.[59]

Evidently, Magno is entitled to (a) full backwages[60] from 16 December 1998 until the finality of this decision; (b) separation pay equivalent to his one (1) month pay for every year of service, computed from his first day of employment on 7 February 1990 up to finality of this decision less the advanced separation pay of P38,250.00; and (c) attorney's fees equivalent to ten percent (10%) of his total monetary award.

WHEREFORE, foregoing premises considered, the petition is **DENIED** and the challenged Decision and Resolution of the Court of Appeals are **AFFIRMED**. Costs against petitioners.

SO ORDERED.

PUNO, *J.*, *(Chairman)*, AUSTRIA-MARTINEZ, CALLEJO, SR., and CHICO-NAZARIO, *JJ.*, concur.

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[1] Rollo, pp. 44-56. Decision penned by Justice Andres B. Reyes, Jr. and concurred in by Justices Conrado M. Vasquez, Jr. and Amelita G. Tolentino.
[2] Id. at 102-115.
[3] Id. at 122-129.
[4] Id. at 124.
[5] Ibid.
[6] Id. at 125.
[7] Id. at 58.
[8] Id. at 59.
[9] Supra note 6.
[10] Rollo, p. 46.

[11] Id. at 45.
[12] Id. at 47-49.
[13] Id. at 129.
[14] Id. at 49-52
[15] Id. at 64-66.
[16] Id. at 69.
[17] Id. at 87.
[18] Id. at 55.
[19] Ibid.
[20] Id. at 19.
[21] Id. at 20-21.
[22] Id. at 23.
[23] Id. at 23-24.
[24] Id. at 24-25.
[25] Id. at 25.
[26] Id. at 26.
[27] Id. at 29.
[28] Id. at 36.
[29] (Polymart Paper Industries, Inc. vs. NLRC, 355 Phil. 592 [1998], 294 SCRA 159; Uichico vs. NLRC, G.R. No. 121434, June 2, 1997, 273 SCRA 35).
[30] Id. at 167-168.
[31] EMCO Plywood Corporation, et al. vs. Perferio Abelgas, et al., G.R. No. 148532, 14 April 2004; See also Polymart Paper Industries, Inc. vs. NLRC, supra note 29; Lopez Sugar Corporation vs. Federation of Free Workers, G.R. Nos. 75700-01, 30 August 1990, 189 SCRA 179, 186-187.
[32] ART. 283. Closure of establishment and reduction of personnel. – The employer may also terminate the employment of any employee due to the installation of labor saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the worker and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year.
[33] (Precision Electronics Corporation vs. NLRC, et al., G.R. No. 86657, October 23, 1989, 178 SCRA 667).
[34] Rollo, p. 64; see also pp. 139-140.
[35] Loss before other income.
[36] Id. at 53-54.

[37] Rollo, p. 54.
[38] Polymart Paper Industries, Inc. vs. NLRC, supra note 29; Lopez Sugar Corporation vs. Federation of Free Workers, supra note 31.
[39] (Philippine Tobacco Flue-Curing And Redrying Corporation vs. NLRC, 360 Phil. 218 [1998]).
[40] [G.R. No. 151944, 20 January 2004, 420 SCRA 365].
[41] Id. at 376.
[42] Id. at 377-378.
[43] [320 Phil. 313 (1995)].
[44] St. Martin Funeral Homes vs. NLRC, 356 Phil. 811 (1998).
[45] Section 1 of Rule 65, Rules of Court; Microsoft Corporation vs. Best Deal Computer Center Corporation, 438 Phil. 408 (2002); Manila Midtown Hotel and Land Corporation vs. NLRC, 351 Phil. 500 (1998); Abad vs. NLRC, G.R. No. 108996, February 20, 1998, 286 SCRA 355.
[46] Building Care Corporation vs. NLRC, 335 Phil. 113 (1997); Salas vs. Castro, G.R. No. 100416, December 2, 1992, 216 SCRA 198.
[47] Garcia vs. National Labor Relations Commission, 153 SCRA 639 (1987); National Federation of Labor Unions (NAFLU) vs. Ople, 143 SCRA 124; Polymart Paper Industries, supra note 29.
[48] EMCO Plywood Corporation, supra note 31.
[49] Rollo, pp.72-97.
[50] EMCO Plywood Corporation, supra note 31; Polymart Paper Industries, Inc., supra note 29 citing Somerville Stainless Steel corporation vs. NLRC, G.R. No. 125887, March 11, 1998, 287 SCRA 420.
[51] Ibid.
[52] Ibid.
[53] Rollo, p. 65.
[54] Article 279 of the Labor Code provides: Security of Tenure.—In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.
[55] Torillo vs. Leogardo, 274 Phil. 758 (1991); Starlite Plastic Industrial Corporation vs. NLRC, G.R. No. 78491, 16 March 1989, 171 SCRA 315; Pepsi-Cola Bottling Co., et al. vs. NLRC, et al., G.R. No. 101900, 23 June 1992, 210 SCRA 277; Quezon Electric Cooperative vs. NLRC. et al., G.R. Nos. 79718-22, 12 April 1989, 172 SCRA 89; Carandang vs. Dulay, et al., G.R. No. 90492, 20n August 1990, 188 SCRA 792 ; De Vera vs. NLRC, G.R. No. 93212, 22 November 1990, 191 SCRA 632.
[56] Bongar vs. NLRC, 356 Phil. 28 (1998).
[57] Ibid.
[58] Philippine Tobacco Flue-Curing and Redrying Corporation vs. NLRC, supra note 39; Gaco vs. NLRC, et al, G.R. No. 104690, 23 February 1994, 230 SCRA 260; Pure Foods Corporation vs. NLRC, G.R.No. 78591, 21 March

1989, 171 SCRA 415; Grolier International Inc. vs. Amansec, G.R. No. 83523, 31 August 1989, 177 SCRA 196.

[59] Philippine Tobacco Flue-Curing And Redrying Corporation vs. NLRC, supra note 39.

[60] An unqualified award of backwages means that the employee is paid at the wage rate at the time of his dismissal. Evangelista vs. NLRC, 319 Phil. 299 (1995).

The base figure to be used in the computation of backwages due to the employee should include not just the basic salary, but also the regular allowances that he had been receiving such as the emergency living allowances and the 13th-month pay mandated under the law. Paramount Vinyl Product Corporation vs. NLRC, G.R. No. 81200, October 17, 1990, 190 SCRA 525.