SUPREME COURT
FIRST DIVISION

CHRISTOPHER MAÑEBO,
***Petitioner*,**

-versus-

G.R. No. 107721
January 10, 1994

NATIONAL LABOR RELATIONS COMMISSION and TRITRAN and/or MICHAEL TRINIDAD,
***Respondents*.**
x----------x

D E C I S I O N

DAVIDE, JR., *J.*:

The petitioner seeks to set aside, for having been allegedly issued with grave abuse of discretion amounting to lack of jurisdiction, the Decision[1] of 31 August 1992 of the National Labor Relations Commission (NLRC) in NLRC Case No. L-000278-92, entitled Christopher Mañebo vs. Tritran and/or Michael Trinidad, and its Resolution[2] of 9 October 1992 denying his motion for reconsideration. The NLRC decision affirmed the decision of the Labor Arbiter which dismissed the petitioner's complaint for unfair labor practice, illegal suspension, and illegal dismissal.

We required the respondents to comment on the petition. The private respondents and the Office of the Solicitor General complied on 19 February 1993[3] and 2 June 1993,[4] respectively. The latter joins cause with the petitioner and prays that the challenged decision and resolution of the NLRC be set aside and that the petitioner be reinstated to his former position without loss of seniority rights and with back wages. It further prays that the NLRC be granted a new period within which to file its own comment. We thus required the NLRC to submit its own comment. After three extensions of time within which to do so, it finally filed its Comment on 4 November 1993.[5]

The petition is impressed with merit. We therefore rule for the petitioner and order his reinstatement.

The antecedent facts are sufficiently and faithfully summarized in the Comment of the Office of the Solicitor General:

> "Petitioner Christopher Mañebo was hired in 1980 as a bus conductor by RJM Bus Co. before it became TRITRAN Bus Co. In 1987, he was appointed as the bus company's comptroller in Biñan, Laguna. He was active in union activities, occupying the position of Chief Shop Steward and representing union members in the grievance machinery committee hearings (Ibid, p. 184; Annex B of Annex D, Petition).

Sometime in June 1990, respondent bus company served on petitioner notice dismissing him from the service for serious misconduct committed against the firm's operation manager (Record, p. 106; Annex D of Annex D, Petition). Aggrieved, petitioner appealed the matter to the grievance machinery committee.

On June 18, 1990, the Grievance Committee, during its hearing, resolved to remove from petitioner's 201 file the record of termination. It directed petitioner to report to the Personnel Office the following day for assignment (Ibid, p. 107; Annex A of Annex D, Petition). On June 19, 1990, the bus firm's Personnel Assistant, Rodolfo C. Lopez reinstated petitioner to his former work (Ibid, p. 108; Annex A).

It appears, however, that the company president was dissatisfied with the grievance committee's resolution and the Personnel Department's order to reinstate Mañebo to his former position (Ibid, pp. 19, 114-115).

Thus, on June 21, 1990, while a scheduled Grievance Committee Hearing was about to start, petitioner was advised by the Personnel Manager, Florencio T. Alfonso, Jr. to see that same day the company president at his Caloocan office. Apparently, the meeting was arranged by the Personnel Manager, Alfonso, in order that the bus company president may be given an opportunity to finally approve the latter's reinstatement (pp. 3-4, Annex 1 of Private Respondent's Comment [Annex B]). Petitioner failed to follow instructions considering that he was then attending, as representative of the union workers, a grievance machinery committee hearing. Moreover, the lack of a written order from the President requiring petitioner to see him immediately and the unreasonableness of the demand considering that it required him to travel a distance of 50 kms. and further that it would prevent him from attending the grievance committee hearing, raised doubt in petitioner's mind as to the real purpose of the verbal instruction.

The following day, June 22, 1990, the Personnel Manager issued a memorandum requiring Mañebo to explain why he should not be dealt with administratively "for refusing to obey the repeated instructions of the President of the Company for conference and appropriate guidance" (Ibid, p. 16).

On June 25, 1990, petitioner filed his explanation.

In a Decision dated July 14, 1990, respondent bus company dismissed petitioner on the ground of willful disobedience of the order of the company president and serious misconduct committed against the bus company's operations manager."[6]

Petitioner then filed on 3 January 1991 with the Arbitration Branch, Region IV, NLRC, a complaint for unfair labor practice, illegal suspension, and illegal dismissal with moral damages and attorney's fees against the private respondents. The case was docketed as NLRC Case No. RB-IV-1-3564-91.

During the initial conference, the Labor Arbiter directed the parties to submit their position papers. In his position paper, the petitioner admitted that on 21 June 1990 he was instructed by TRITRAN's personnel manager in Biñan, Laguna, to see, that same day, the company president who apparently disagreed with the Grievance Machinery Committee's resolution dated 18 June 1990 and the Personnel Department's memorandum of 19 June 1990 reinstating the petitioner to his job. He alleged that his failure to comply with the instruction was not motivated by any ill motive to disobey but was due to the fact that he was then attending that same day, as Chief Shop Steward and representative of the union workers, a grievance committee conference; that, in any case, the instruction was so untimely that it raised in him the suspicion that it was a mere ploy to prevent him from representing the union workers in the grievance committee hearing; that it was unreasonable and difficult to comply with as it required him to travel a distance of fifty kilometers; that his dismissal was too harsh a penalty considering that he had been in respondent's employ for ten years; and that the real reason for his dismissal was his active participation in union activities.

On the other hand, the private respondents claimed in their position paper that the petitioner's dismissal was justified considering that he was found guilty by the company of serious misconduct and willful disobedience in its decisions of 2 June 1990 and 14 July 1990. It made a reservation to submit at a latter date testimonial and documentary evidence.

In his Reply to the private respondent's position paper, the petitioner objected to the private respondents' reservation because he asserts that position papers must contain, as required under Section 2, Rule V of the NLRC Rules, all supporting documents, including the affidavits of witnesses. He further alleged that the findings of TRITRAN in its decision of 2 June 1990 was superseded by the resolution of the Grievance Committee of 18 June 1990 wherein TRITRAN agreed to reinstate the petitioner to his former position and to remove from his 201 file the record of his dismissal; that his failure to appear before the president did not constitute willful disobedience considering that the order was not work-connected, was unreasonable, whimsical, and capricious; and that there was no

showing that such failure caused any loss or damage to TRITRAN's property or personnel.

Hearings of the case were scheduled. Sometime after the petitioner had testified on 21 May 1991, the parties agreed to submit the case for decision after they have filed their respective memoranda. The petitioner filed his Memorandum. However, the private respondents filed instead a Supplemental Position Paper and Memorandum attaching thereto documentary exhibits to establish facts and defenses neither raised nor referred to in its Position Paper, such as alleged infractions committed by the petitioner prior to the serious misconduct and the insubordination covered by the decisions of 2 June 1990 and 14 July 1990, respectively, like the falsification of his report on 19 June 1988 to make it appear that he was at the post at Carmona when he was not, the act of allowing passengers to board respondent's buses without tickets on 7 July 1988, and the falsification of the entry in his time card on 13 July 1989. No copy of the said Supplemental Position Paper and Memorandum was furnished to the petitioner's counsel.

On 28 August 1991, the Labor Arbiter rendered a decision dismissing the petitioner's complaint.[7]

The Labor Arbiter found the respondent guilty of serious misconduct for having purportedly hurled upon the operations manager "reproaching words" on 17 May 1990 and of willful disobedience for refusing to comply with the order of the president to see the latter on 21 June 1990. The Labor Arbiter's decision, in effect, upheld the respondent corporation's decisions of 2 June 1990 and 14 July 1990, copies of which were attached to the private respondents' Position Paper as Annexes "1" and "2", respectively.[8] The Labor Arbiter principally based his factual findings on TRITRAN's Supplemental Position Paper and Memorandum.

Petitioner seasonably appealed the decision to the NLRC. In its Decision of 31 August 1992,[9] the NLRC (Third Division) affirmed the Labor Arbiter's decision. A motion to reconsider the same having been denied, the petitioner filed on 1 December 1992 the instant special civil action for certiorari.

The petitioner alleges that the respondent NLRC committed grave abuse of discretion amounting to lack of jurisdiction when it affirmed the decision of the Labor Arbiter which was principally based on the Supplemental Position Paper and Memorandum submitted by the private respondents after the case had already been deemed submitted for resolution. He states that no copy of the Supplemental Position Paper and Memorandum was furnished to him or his counsel, thereby depriving him of due process. He avers that the Labor Arbiter erred in holding him liable for misconduct and in affirming the 2 June 1990 decision of the respondent corporation dismissing him from the service for alleged misconduct committed on the operations manager when such dismissal had already been lifted by virtue of the resolution of the Grievance Committee wherein he was even made to report for work on 19 June 1990. He contends that his employer denied him due process and that the decision to terminate him was a grave and patent abuse of discretion.[10]

In their comment, the private respondents traverse the petitioner's contentions and justify their submission of the Supplemental Position Paper and Memorandum by claiming that it was the petitioner who preferred the "position paper method" and that the annexes thereto were submitted for the scrutiny of counsel and the NLRC in view of the petitioner's preference for such method. Their failure to furnish a copy thereof to the petitioner's counsel, Atty. Marquina, was because the said counsel made "no earlier notice of appearance."[11] They insist that the directive to the petitioner to see the company's president and general manager on 21 June 1991 was a lawful order, non-compliance of which amounted to willful disobedience — a just cause for terminating an employee's services.

The Office of the Solicitor General agrees with the petitioner that there was a denial of due process with respect to the admission of the Supplemental Position Paper and Memorandum by the Labor Arbiter. It opines, however, that such defect was cured on appeal to the NLRC which gave him a chance to rebut the additional evidence presented by the private respondents. It mentions Section 2 of the NLRC Rules of Procedure which provides that the Rules should be liberally construed to assist the parties in obtaining just, expeditious, and inexpensive settlement of labor disputes, and the case of Philippine Telegraph and Telephone Corp. vs. NLRC[12] which enjoins Labor

Officials to ascertain the facts of each case speedily and objectively, eschewing technicalities of law and procedure, all in the interest of justice.

As to the issue of whether the petitioner was dismissed for just cause, the Office of the Solicitor General states that in order that an employer may terminate an employee on the ground of willful disobedience to the former's orders, regulations, or instructions, it must be established that the said orders, regulations, or instructions are (1) reasonable and lawful, (2) sufficiently known to the employee, and (3) in connection with the duties which the employee has been engaged to discharge.[13] In the instant case, the private respondents have not shown that the instruction or order of the personnel manager for the petitioner to appear before the company president is connected with the discharge of his duty as a comptroller of the company. More pertinently, the Office of the Solicitor General observes:

> "Thus, the Personnel Manager vaguely defined the purpose of the ordered meeting as one 'for conference and appropriate guidance.' However, in its Supplemental Position Paper and Memorandum (pp. 3-4), respondent company spills the truth : it was for the purpose of providing an opportunity for the company president who apparently objects to the Grievance Committee['s] and the Personnel Department's separate resolutions ordering petitioner's reinstatement to his former position, to finally approve petitioner's reinstatement."[14]

It further states that the order in question imposed an unreasonable burden on the petitioner as it required him to travel a distance of fifty kilometers in order to plead for the president's final approval of his reinstatement, which was unnecessary since the 18 June 1990 Minutes of the Grievance Committee and the 19 June 1990 Memorandum issued by TRITRAN's Personnel Department unconditionally ordered the petitioner's reinstatement.

We are in substantial accord with the stand of the Office of the Solicitor General.

We wish, however, to stress some points. Firstly, while it is true that the Rules of the NLRC must be liberally construed and that the NLRC is not bound by the technicalities of law and procedure, the Labor Arbiters and the NLRC itself must not be the first to arbitrarily disregard specific provisions of the Rules which are precisely intended to assist the parties in obtaining just, expeditious, and inexpensive settlement of labor disputes.[15] One such provision is Section 3, Rule V of the New Rules of Procedure of the NLRC[16] which requires the submission of verified position papers within fifteen days from the date of the last conference, with proof of service thereof on the other parties. The position papers "shall cover only those claims and causes of action raised in the complaint excluding those that may have been amicably settled, and shall be accompanied by all supporting documents including the affidavits of their respective witnesses which shall take the place of the latter's testimony." After the submission thereof, the parties "shall not be allowed to allege facts, or present evidence to prove facts, not referred to and any cause or causes of action not included in the complaint or position papers, affidavits and other documents."

For obvious reasons, delays cannot be countenanced in the settlement of labor disputes. The dispute may involve no less than the livelihood of an employee and that of his loved ones who are dependent upon him for food, shelter, clothing, medicine, and education. It may as well involve the survival of a business or an industry.

In the instant case, the parties have filed their position papers and have even agreed to consider the case submitted for decision after the submission of their respective memoranda. Clearly then, the Labor Arbiter gravely abused his discretion in disregarding the rule governing position papers by admitting the Supplemental Position Paper and Memorandum, which was not even accompanied by proof of service to the petitioner or his counsel, and by taking into consideration, as basis for his decision, the alleged facts adduced therein and the documents attached thereto. Compounding the error is the Labor Arbiter's arbitrary, if not capricious and whimsical, holding that the petitioner committed serious misconduct against TRITRAN's operations manager for which he was dismissed per TRITRAN's 2 June 1990 decision, when, as evidence before him clearly shows, the penalty was set aside and the petitioner was

ordered reinstated pursuant to the resolution of the Grievance Committee.

The directive for the petitioner to go to Caloocan City to see the company president is neither a reasonable order nor one connected with his duties. Even a willful disobedience thereof cannot be a valid ground for dismissal. Article 282 of the Labor Code provides:

> "ART. 282. Termination by Employer. — An employer may terminate an employment for any of the following causes:
>
> > (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;" (Emphasis added).

Thus, in Gold City Integrated Port Services, Inc. vs. NLRC,[17] we ruled:

> "Willful disobedience of the employer's lawful orders, as a just cause for the dismissal of an employee, envisages the concurrence of at least two (2) requisites: the employee's assailed conduct must have been willful or intentional, the willfulness being characterized by a 'wrongful and perverse attitude;' and the order violated must have been reasonable, lawful, made known to the employee and must pertain to the duties which he has been engaged to discharge."[18]

In the instant case, the private respondents have not even endeavored to show that the directive or order pertained to the regular duties of the petitioner as a comptroller. The purpose therefor was not revealed to the petitioner. It was, as wittingly or unwittingly revealed in the Supplemental Position Paper, to provide "an opportunity for the company president who apparently objects to the Grievance Committee's and the Personal Department's separate resolutions ordering petitioner's reinstatement,"[19] to "finally approve" the petitioner's reinstatement, which was, of course, unnecessary since the reinstatement was not subject to such final approval. It is highly plausible that the president wanted to extract from the petitioner, as a condition to the "final approval", an apology for his past misdeeds.

This was shown in the private respondents' Comment to the Petition thus:

> "We proposed that Mañebo be reemployed but subject to one condition — that he should see the new company president for specific instructions and to apologize for his past misdeeds."[20]

The primary aim then of the directive was wholly unrelated to the petitioner's duties. It was to extract a whimsical and oppressive condition. It was, as well, unreasonable and extremely difficult to comply with since the petitioner was attending a conference of the Grievance Committee held fifty kilometers away from where he was ordered to go. It was clearly a peremptory summons meant to put the petitioner "in his proper place." Disobedience thereof, even if willful, cannot be a ground for the dismissal of the petitioner. In any event, the petitioner's disobedience can by no means be characterized as willful. As correctly observed by the Office of the Solicitor General:

> "The record shows that petitioner's failure to abide by the Personnel Manager's instructions to see the company president was not by reason of any ill or perverse intention to defy his superior. Uncontradicted is the fact that at the time the petitioner received the instruction to go to the company's president's office at Caloocan City, he was attending as Chief Steward in a scheduled grievance committee hearing. Surely, if petitioner was to leave for Caloocan City to see the company president, the union workers would have lost their voice in the hearing."[21]

And even if the directive were reasonable and connected with the petitioner's duties, his dismissal by TRITRAN on 24 July 1990 was void for lack of due process. While it may be true that he was allowed to explain, no hearing was actually conducted. It is settled that pursuant to Paragraph (b), Article 277 of the Labor Code and Sections 2 to 6, Rule XIV, Book V of the Rules Implementing the Labor Code:

> "The employer is required to furnish an employee who is to be dismissed two (2) written notices before such termination. The first is the notice to apprise the employee of the particular acts or omissions for which his dismissal is sought. This may be

> loosely considered as the proper charge. The second is the notice informing the employee of the employer's to dismiss him. This decision, however, must come only after the employee is given a reasonable period from receipt of the first notice within which to answer the charge, an ample opportunity to be heard and defend himself with the assistance of his representative, if he so desires. This is in consonance with the express provisions of law on the protection to labor and the broader dictates of procedural due process. Non-compliance therewith is fatal because these requirements are conditions sine qua non before dismissal may be validly affected."[22]

"Ample opportunity" connotes every kind of assistance that management must accord the employee to enable him to prepare adequately for his defense including legal representation.[23]

WHEREFORE, the instant petition is **GRANTED**. The challenged decisions of the National Labor Relations Commission of 31 August 1992 and of the Labor Arbiter of 15 August 1991 in NLRC Case No. L-000278-92 (RB-IV-1-3564-91) are hereby **SET ASIDE** and a new decision is hereby entered **DECLARING UNLAWFUL** the dismissal of the petitioner and **ORDERING** the private respondents to reinstate the petitioner to his former or equivalent position without loss of seniority rights and with full back wages, inclusive of allowances and other benefits or their monetary equivalent, pursuant to Article 279 of the Labor Code, subject to deductions of income earned elsewhere during the period of illegal dismissal, if any.

Costs against the private respondents.

SO ORDERED.

Cruz, Bellosillo and Quiason, *JJ.*, concur.

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[1] Rollo, 29-34.
[2] Id., 36-37.
[3] Id., 65-74.
[4] Id., 111-128.
[5] Rollo, 145-151.

[6] Rollo, 116-119.
[7] Rollo, 111-115. Per Labor Arbiter Ariel C. Santos.
[8] Id., 65.
[9] Annex "B" of Petition; Id., 29-34.
[10] Rollo, 12-15.
[11] Id., 69-70.
[12] 183 SCRA 451 [1990].
[13] Citing Department of Labor Manual, Section 4343.01; and Gold City Integrated Port Services, Inc. vs. NLRC, 189 SCRA 811, 816-817 [1990].
[14] Rollo, 124.
[15] Section 2, Rule I, New Rules of Procedure of the NLRC.
[16] Formerly, Section 2, Rule VII of the Revised Rules of the NLRC.
[17] Supra at footnote No. 13. See also, Aguilar vs. NLRC, 216 SCRA 207 [1992].
[18] Citing Batangas Laguna Tayabas Bus Co. vs. Court of Appeals, 71 SCRA 470 [1976].
[19] Rollo, 124.
[20] Id., 68.
[21] Rollo, 124.
[22] Tiu vs. NLRC, 215 SCRA 540, 551-552 [1992].
[23] Abiera vs. NLRC, 215 SCRA 476, 581 [1992].