SUPREME COURT
SECOND DIVISION

PHILIPPINE LONG DISTANCE TELEPHONE COMPANY,
***Petitioner*,**

-versus-

G.R. No. 111933
July 23, 1997

NATIONAL LABOR RELATIONS COMMISSION and LETTIE P. CORPUZ,
***Respondents*.**
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D E C I S I O N

ROMERO, *J.*:

This Petition for *Certiorari* pleads for the revocation of the November 16, 1992, Decision of the National Labor Relations Commission (NLRC), affirming in toto the Resolution of Labor Arbiter Jose G. De Vera dated February 28, 1991, as well as its resolution dated August 20, 1993, denying petitioner's motion for reconsideration for lack of merit.

Private respondent Lettie Corpuz was employed as traffic operator at the Manila International Traffic Division (MITD) by the Philippine Long Distance Telephone Company (PLDT) for ten years and nine months, from September 19, 1978, until her dismissal on June 17,

1989. Her primary task was to facilitate requests for incoming and outgoing international calls through the use of a digital switchboard.

Sometime in December 1987, PLDT's rank-and-file employees and telephone operators went on strike, prompting the supervisors of the MITD to discharge the former's duties to prevent a total shutdown of its business operations. "While in the course of their emergency assignments, two supervisors almost simultaneously received two different requests for overseas calls bound for different Middle East countries and both callers reported the same calling number (98-68-16)."[1] The tone verifications having yielded negative results, the callers were advised to hang up their telephones to enable the supervisors to effect an alternative verification system by calling the same number again. As in the first instance, the number remained unverified. Investigating the seemingly anomalous incident, the matter was reported to the Quality Control Inspection Department (QCID) which revealed that the subject number was temporarily disconnected on June 10, 1987, and permanently on September 24, 1987. It also showed that 439 overseas calls were made through the same number between May and November 1987.

On account of such disclosure, the microfiches containing the completed calls through telephone number 98-68-16 were ordered to be re-run. It yielded the following results: (1) 235 telephone operators handled the 439 calls placed through the supposedly disconnected number; (2) respondent handled 56 or 12.8% of the total calls, while the other operators had an average of only 1.8% calls each; (3) respondent completed one call on May 23, 1987 and effected 34 calls after the disconnection, 24 of which were completed through tone verification while the other 10 calls were done without the requisite tone verification or call-back procedure, and 21 other calls were cancelled; (4) of the 21 cancelled calls handled by respondent, one bared a BU report (party unavailable) but fetched a long OCD (operator call duration) of 13 minutes and 21 seconds while another call registered a BB report (called party, busy) but with an OCD of 22 minutes and 34 seconds, both considered unusually protracted by respondent for holding a connection; and (5) respondent made several personal calls to telephone numbers 96-50-72, 99-92-82 and 97-25-68, the latter being her home phone number.

Premised on the above findings, on July 26, 1988, MITD Manager Erlinda Kabigting directed respondent to explain her alleged infraction, that is facilitating 34 calls using the disconnected number.

Instead of tendering the required explanation, respondent requested a formal investigation to allow her to confront the witnesses and rebut the proofs that may be brought against her. On grounds of serious misconduct and breach of trust, the Legal Department recommended her dismissal. In a letter dated June 16, 1989, respondent was terminated from employment effective the following day.

In a complaint for illegal dismissal filed by respondent against petitioner, Labor Arbiter Jose G. De Vera rendered a decision, the dispositive portion of which reads thus:

> "WHEREFORE, all the foregoing premises being considered, judgment is hereby rendered ordering the respondent company to reinstate the complainant to her former position with all the rights, benefits and privileges thereto appertaining including seniority plus backwages which as of February 28, 1991 already amounted to P103,381.50 (P5,043.00 mo. x 20.5 mos.). Further, the respondent company is ordered to pay complainant attorney's fees equivalent to ten percent (10%) of such backwages that the latter may recover in this suit.
>
> SO ORDERED."[2]

On appeal, said decision was affirmed by the NLRC on November 16, 1992. Its motion for reconsideration having been denied on August 20, 1993, petitioner filed the instant petition for *certiorari*.

The instant petition must be dismissed. Petitioner failed to adduce any substantial argument that would warrant a reversal of the questioned decision.

Time and again, this Court has reminded employers that while the power to dismiss is a normal prerogative of the employer, the same is not without limitations.[3] The right of an employer to freely discharge his employees is subject to regulation by the State, basically through

the exercise of its police power. This is so because the preservation of the lives of citizens is a basic duty of the State, an obligation more vital than the preservation of corporate profits.[4]

Petitioner insists that respondent was guilty of defrauding them when she serviced 56 of the 439 calls coming from telephone number 98-68-16 and received numerous requests for overseas calls virtually from the same calling number, which could not have been a mere coincidence but most likely was a pre-arranged undertaking in connivance with certain subscribers.

The records show, however, that the subject phone calls were neither unusual nor coincidental as other operators shared similar experiences. A certain Eric Maramba declared that it is not impossible for an operator to receive continuous calls from the same telephone number. He testified that at one time, he was a witness to several calls consistently effected from 9:30 p.m. to 5:30 a.m. The calls having passed the verification tone system, the incident was undoubtedly alarming enough but there was no way that he or his co-operators could explain the same.

The Court agrees with the labor arbiter when he stated that the more frequent handling by the respondent of overseas calls from the same calling number than other operators does not give rise to the conclusion that, indeed, respondent was a party to such anomalous transaction.

As regards petitioner's claim that no call can be filed through a disconnected line, a certain Ms. Bautista averred getting the same subject number after going through the standard verification procedures. She added that this complexity extends even to other disconnected telephone lines. Equally important is the fact that on February 7, 1989, or about two years after it was permanently disconnected, "telephone number 98-68-16 was used in calling an international number, 561-6800, that lasted for 46 minutes."[5] Telephone operator number 448 seems to have been spared from any administrative sanction considering that this lapse has aggravated the persistent problem concerning telephone number 98-68-16.

Thus, Labor Arbiter de Vera correctly ruled:

> "It need not be emphasized here that there were lapses in certain operational aspects of the respondent company which made the irregularity possible, for indeed there exists a mystery about the serviceability of the subject telephone line. That there were personnel of the respondent company involved who could have restored what was earlier disconnected permanently appears certain. Nonetheless, exacting the ultimate blame upon the respondent (complainant) in the absence of concrete inculpatory proofs of her complexity (sic) to an anomaly if there be one, cannot be justified."[6]

This Court will not sanction a dismissal premised on mere conjectures and suspicions. To be a valid ground for respondent's dismissal, the evidence must be substantial and not arbitrary and must be founded on clearly established facts sufficient to warrant his separation from work.[7]

It should be borne in mind that in termination cases, the employer bears the burden of proving that the dismissal is for just cause failing which would mean that the dismissal is not justified and the employee is entitled to reinstatement.[8] The essence of due process in administrative proceedings is the opportunity to explain one's side or a chance to seek reconsideration of the action or ruling complained of.[9] The twin requirements of notice and hearing constitute the essential elements of due process. This simply means that the employer shall afford the worker ample opportunity to be heard and to defend himself with the assistance of his representative, if he so desires. 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.[10] In the instant case, the petitioner failed to convincingly establish valid bases on the alleged serious misconduct and loss of trust and confidence.

In carrying out and interpreting the Labor Code's provisions and its implementing regulations, the workingman's welfare should be the primordial and paramount consideration. This kind of interpretation gives meaning and substance to the liberal and compassionate spirit of the law as provided for in Article 4 of the Labor Code, as amended, which states that "all doubts in the implementation and

interpretation of the provisions of the Labor Code including its implementing rules and regulations shall be resolved in favor of labor,[11] as well as the Constitutional mandate that the State shall afford full protection to labor and promote full employment opportunities for all. Likewise, it shall guarantee the rights of all workers to security of tenure. Such constitutional right should not be denied on mere speculation of any unclear and nebulous basis.[12]

WHEREFORE, in view of the foregoing, the instant Petition is **DISMISSED** and the decision dated November 16, 1992 is **AFFIRMED**. Costs against petitioner Philippine Long Distance Telephone Co.

SO ORDERED.

Regalado, Puno and Mendoza, *JJ.*, concur.
Torres, Jr., *J.*, is on leave.

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[1] Rollo, pp. 31-32.
[2] Ibid., pp. 28-29.
[3] Rance vs. NLRC, 163 SCRA 279 (1988).
[4] Manila Electric Company vs. NLRC, 175 SCRA 277 (1989).
[5] Rollo, pp. 38-39.
[6] Ibid., p. 41.
[7] Labor vs. NLRC, 248 SCRA 183 (1995).
[8] Molave Tours Corporation vs. NLRC, 250 SCRA 325 (1995).
[9] Pizza Hut vs. NLRC, 252 SCRA 531 (1996).
[10] Nitto Enterprises vs. NLRC, et al., 248 SCRA 654 (1995).
[11] Manila Electric Company vs. NLRC, 175 SCRA 277 (1989); Abella vs. NLRC, 152 SCRA 140 (1987).
[12] Tolentino vs. NLRC, 152 SCRA 717 (1987).