

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**PHILIPPINE AIRLINES, INC.,  
*Petitioner,***

***-versus-***

**G.R. No. 132805  
February 2, 1999**

**NATIONAL LABOR RELATIONS  
COMMISSION, LABOR ARBITER  
ROMULUS PROTACIO and DR.  
HERMINIO A. FABROS,  
*Respondents.***

**X-----X**

**DECISION**

**PUNO, J.:**

Petitioner Philippine Airlines, Inc. assails the Decision of the National Labor Relations Commission dismissing its appeal from the decision of Labor Arbiter Romulus S. Protacio which declared the suspension of private respondent Dr. Herminio A. Fabros illegal and ordered petitioner to pay private respondent the amount equivalent to all the benefits he should have received during his period of suspension plus P500,000.00 moral damages.

The facts are as follow:

Private respondent was employed as flight surgeon at petitioner company. He was assigned at the PAL Medical Clinic at Nichols and was on duty from 4:00 in the afternoon until 12:00 midnight.

On February 17, 1994, at around 7:00 in the evening, private respondent left the clinic to have his dinner at his residence, which was about five-minute drive away. A few minutes later, the clinic received an emergency call from the PAL Cargo Services. One of its employees, Mr. Manuel Acosta, had suffered a heart attack. The nurse on duty, Mr. Merlino Eusebio, called private respondent at home to inform him of the emergency. The patient arrived at the clinic at 7:50 in the evening and Mr. Eusebio immediately rushed him to the hospital. When private respondent reached the clinic at around 7:51 in the evening, Mr. Eusebio had already left with the patient. Mr. Acosta died the following day.

Upon learning about the incident, PAL Medical Director Dr. Godofredo B. Banzon ordered the Chief Flight Surgeon to conduct an investigation. The Chief Flight Surgeon, in turn, required private respondent to explain why no disciplinary sanction should be taken against him.

In his explanation, private respondent asserted that he was entitled to a thirty-minute meal break; that he immediately left his residence upon being informed by Mr. Eusebio about the emergency and he arrived at the clinic a few minutes later; that Mr. Eusebio panicked and brought the patient to the hospital without waiting for him.

Finding private respondent's explanation unacceptable, the management charged private respondent with abandonment of post while on duty. He was given ten days to submit a written answer to the administrative charge.

In his answer, private respondent reiterated the assertions in his previous explanation. He further denied that he abandoned his post on February 17, 1994. He said that he only left the clinic to have his dinner at home. In fact, he returned to the clinic at 7:51 in the evening upon being informed of the emergency.

After evaluating the charge as well as the answer of private respondent, petitioner company decided to suspend private respondent for three months effective December 16, 1994.

Private respondent filed a complaint for illegal suspension against petitioner.

On July 16, 1996, Labor Arbiter Romulus A. Protasio rendered a Decision<sup>[1]</sup> declaring the suspension of private respondent illegal. It also ordered petitioner to pay private respondent the amount equivalent to all the benefits he should have received during his period of suspension plus P500,000.00 moral damages. The dispositive portion of the decision reads:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered declaring the suspension of complainant as illegal, and ordering the respondents the restitution to the complainant of all employment benefits equivalent to his period of suspension, and the payment to the complainant of P500,000.00 by way of moral damages.<sup>[2]</sup>

Petitioner appealed to the NLRC. The NLRC, however, dismissed the appeal after finding that the decision of the Labor Arbiter is supported by the facts on record and the law on the matter.<sup>[3]</sup> The NLRC likewise denied petitioner's motion for reconsideration.<sup>[4]</sup>

Hence, this petition raising the following arguments:

1. The public respondents acted without or in excess of their jurisdiction and with grave abuse of discretion in nullifying the 3-month suspension of private respondent despite the fact that the private respondent has committed an offense that warranted the imposition of disciplinary action.
2. The public respondents acted without or in excess of their jurisdiction and with grave abuse of discretion in holding the petitioner liable for moral damages:

- (a) Despite the fact that no formal hearing whatsoever was conducted for complainant to substantiate his claim;
- (b) Despite the absence of proof that the petitioner acted in bad faith in imposing the 3-month suspension; and
- (c) Despite the fact that the Labor Arbiter's award of moral damages is highly irregular, considering that it was more than what the private respondent prayed for.<sup>[5]</sup>

We find that public respondents did not err in nullifying the three-month suspension of private respondent. They, however, erred in awarding moral damages to private respondent.

First, as regards the legality of private respondent's suspension. The facts do not support petitioner's allegation that private respondent abandoned his post on the evening of February 17, 1994. Private respondent left the clinic that night only to have his dinner at his house, which was only a few minutes' drive away from the clinic. His whereabouts were known to the nurse on duty so that he could be easily reached in case of emergency. Upon being informed of Mr. Acosta's conditions, private respondent immediately left his home and returned to the clinic. These facts belie petitioner's claim of abandonment.

Petitioner argues that being a full-time employee, private respondent is obliged to stay in the company premises for not less than eight (8) hours. Hence, he may not leave the company premises during such time, even to take his meals.

We are not impressed.

Articles 83 and 85 of the Labor Code read:

**ARTICLE 83.** Normal hours of work. — The normal hours of work of any employee shall not exceed eight (8) hours a day.

Health personnel in cities and municipalities with a population of at least one million (1,000,000) or in hospitals and clinics with a bed capacity of at least one hundred (100) shall hold regular office hours for eight (8) hours a day, for five (5) days a week, exclusive of time for meals, except where the exigencies of the service require that such personnel work for six (6) days or forty-eight (48) hours, in which case they shall be entitled to an additional compensation of at least thirty per cent (30%) of their regular wage for work on the sixth day. For purposes of this Article, "health personnel" shall include: resident physicians, nurses, nutritionists, dieticians, pharmacists, social workers, laboratory technicians, paramedical technicians, psychologists, midwives, attendants and all other hospital or clinic personnel. (Emphasis supplied)

ARTICLE 85. Meal periods. — Subject to such regulations as the Secretary of Labor may prescribe, it shall be the duty of every employer to give his employees not less than sixty (60) minutes time-off for their regular meals.

Section 7, Rule I, Book III of the Omnibus Rules Implementing the Labor Code further states:

SECTION 7. Meal and Rest Periods. — Every employer shall give his employees, regardless of sex, not less than one (1) hour time-off for regular meals, except in the following cases when a meal period of not less than twenty (20) minutes may be given by the employer provided that such shorter meal period is credited as compensable hours worked of the employee;

- (a) Where the work is non-manual work in nature or does not involve strenuous physical exertion;
- (b) Where the establishment regularly operates not less than sixteen hours a day;
- (c) In cases of actual or impending emergencies or there is urgent work to be performed on machineries, equipment or installations to avoid serious loss which the employer would otherwise suffer; and

- (d) Where the work is necessary to prevent serious loss of perishable goods.

Rest periods or coffee breaks running from five (5) to twenty (20) minutes shall be considered as compensable working time.

Thus, the eight-hour work period does not include the meal break. Nowhere in the law may it be inferred that employees must take their meals within the company premises. Employees are not prohibited from going out of the premises as long as they return to their posts on time. Private respondent's act, therefore, of going home to take his dinner does not constitute abandonment.

We now go to the award of moral damages to private respondent.

Not every employee who is illegally dismissed or suspended is entitled to damages. As a rule, moral damages are recoverable only where the dismissal or suspension of the employee was attended by bad faith or fraud, or constituted an act oppressive to labor, or was done in a manner contrary to morals, good customs or public policy.<sup>[6]</sup> Bad faith does not simply mean negligence or bad judgment. It involves a state of mind dominated by ill will or motive. It implies a conscious and intentional design to do a wrongful act for a dishonest purpose or some moral obliquity.<sup>[7]</sup> The person claiming moral damages must prove the existence of bad faith by clear and convincing evidence for the law always presumes good faith.<sup>[8]</sup>

In the case at bar, there is no showing that the management of petitioner company was moved by some evil motive in suspending private respondent. It suspended private respondent on an honest, albeit erroneous, belief that private respondent's act of leaving the company premises to take his meal at home constituted abandonment of post which warrants the penalty of suspension. Also, it is evident from the facts that petitioner gave private respondent all the opportunity to refute the charge against him and to defend himself. These negate the existence of bad faith on the part of petitioner. Under the circumstances, we hold that private respondent is not entitled to moral damages.

**IN VIEW WHEREOF**, the Petition is **PARTIALLY GRANTED**. The portion of the assailed Decision awarding moral damages to private respondent is **DELETED**. All other aspects of the decision are **AFFIRMED**.

**SO ORDERED.**

**Bellosillo, Mendoza, Quisumbing and Buena, JJ., concur.**

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[1] Rollo, pp. 19-32.

[2] Rollo, p. 32.

[3] Rollo, p. 43.

[4] Rollo, p. 46.

[5] Rollo, p. 8.

[6] *Ford Philippines, Inc. vs. Court of Appeals*, 267 SCRA 320 (1997); *Equitable Banking Corporation vs. NLRC*, 273 SCRA 352 (1997); *Tumbiga vs. NLRC*, 274 SCRA 338 (1997).

[7] *Ibid.*; citing *Far East Bank and Trust Co. vs. Court of Appeals*, 241 SCRA 671 (1996).

[8] *Ibid.*