SUPREME COURT
SECOND DIVISION

DIOSDADO V. RUFFY,
***Petitioner*,**

-versus-

G.R. No. 84193
February 15, 1990

NATIONAL LABOR RELATIONS COMMISSION, and CENTRAL AZUCARERA DON PEDRO,
***Respondents*.**
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D E C I S I O N

SARMIENTO, *J.*:

This refers to the application of the provisions of Section 13 of Batas Blg. 130 prescribing the procedure for the dismissal of workers. The facts are undisputed.

x x x

The complainant was employed in December 1977 by the respondent with the salary of P37.31 a day. He was assigned in the Materials and Supply Section, Supply and Warehousing Department of the respondent. His duties, among others, were to verify and check incoming materials and supplies and issuing requisitioned materials and supplies to authorized personnel of the various departments.

On November 3, 1984, complainant issued twenty-five (25) sets of roller bearings valued at P15,650.00 covered by Material Issue Slip (M.I.S.) No. 121676 to a person who signed his name as a "Role." These bearings were never received by the requisitioning section concerned.

In the investigation that ensued, it was gathered by the respondent that the bearings were sold to Factoria de Nasugbu for P8,250.00 by Anastacio Maulleon, Jr., an employee of the respondent whose employment was terminated in connection with this case. In the process, the complainant was asked whether Alfredo Role, also an employee of respondent, was the same person who received said bearings. In reply, complainant answered that he could not remember. Role on his part denied having received said bearings. Consequently, on December 31, 1984, the complainant was dismissed from the service for breach of trust, gross negligence and flagrant inefficiency with forfeiture of all rights and privileges.[1]

On April 21, 1986, the labor arbiter rendered judgment, the dispositive part of which reads:

> WHEREFORE, premises considered, judgment is hereby rendered as follows — that the dismissal of complainant is legal, the respondent having substantially complied with the law as envisioned under Batas Pambansa Blg. 130, as amended, and hence the claims for damages — actual, moral and exemplary plus attorney's fees are hereby dismissed for lack of merit. However, respondent thru its Resident Manager is requested to give complainant the amount of One Thousand One Hundred Nineteen Pesos and Thirty Centavos (P1,119.30), the cash equivalent of his pay for 30 days using his daily rate of P37.31 as the multiplicand in the form of financial assistance. Further, the

> respondent, thru the Resident Manager is ordered to pay the said mentioned amount to the complainant thru this office within a period of fifteen (15) days from receipt of this decision.
>
> SO ORDERED.[2]

The petitioner, the complainant below, appealed to the respondent National Labor Relations Commission, which however, affirmed the decision of the labor arbiter. The dispositive portion of the Commission's decision reads as follows:

> WHEREFORE, the appealed Decision is affirmed and the appeal is dismissed for lack of merit.[3]

In this special civil action for *certiorari*, the petitioner accuses the respondent Commission of grave abuse of discretion, and holds it, in disposing of the appeal, to have been in error, thus:

1. THE DECISION OF RESPONDENT NLRC, ANNEX "A", IS PATENTLY VOID AB INITIO, HAVING BEEN RENDERED WITHOUT DUE PROCESS OF LAW AND IN VIOLATION OF THE BP BLG. 130, AS AMENDED, AND ITS IMPLEMENTING RULES AND REGULATIONS.

2. THE DECISION OF RESPONDENT NLRC, ANNEX "A", AFFIRMING THE DECISION OF THE LABOR ARBITER, IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE AND RENDERED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF AND/OR IN EXCESS OF JURISDICTION.[4]

Anent the first ground, it can not be gainsaid that the petitioner was given the notice of dismissal prior to investigation proper.[5] The petitioner submits that the procedure was "the reverse of what was promulgated by BP Blg. 130."[6] On the other hand, the respondent Commission held that the company's act was "adequate and substantial compliance with legal prescription,"[7] which the petitioner contests as we have seen.

The petition has merit.

Under Section 13 of Batas Blg. 130:

> SUBJECT TO THE CONSTITUTIONAL RIGHT OF WORKERS TO SECURITY OF TENURE AND THEIR RIGHT TO BE PROTECTED AGAINST DISMISSAL EXCEPT FOR A JUST OR AUTHORIZED CAUSE AND WITHOUT PREJUDICE TO THE REQUIREMENT OF NOTICE UNDER ARTICLE 284 OF THIS CODE, THE CLEARANCE TO TERMINATE EMPLOYMENT SHALL NO LONGER BE NECESSARY."
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> "HOWEVER, THE EMPLOYER SHALL FURNISH THE WORKER WHOSE EMPLOYMENT IS SOUGHT TO BE TERMINATED A WRITTEN NOTICE CONTAINING A STATEMENT OF THE CAUSES FOR TERMINATION AND SHALL AFFORD THE LATTER AMPLE OPPORTUNITY TO BE HEARD AND TO DEFEND HIMSELF WITH THE ASSISTANCE OF HIS REPRESENTATIVE IF HE SO DESIRES IN ACCORDANCE WITH COMPANY RULES AND REGULATIONS PROMULGATED PURSUANT TO GUIDELINES SET BY THE MINISTRY OF LABOR AND EMPLOYMENT. ANY DECISION TAKEN BY THE EMPLOYER SHALL BE WITHOUT PREJUDICE TO THE RIGHT OF THE WORKER TO CONTEST THE VALIDITY OR LEGALITY OF HIS DISMISSAL BY FILING A COMPLAINT WITH THE REGIONAL BRANCH OF THE NATIONAL LABOR RELATIONS COMMISSION. THE BURDEN OF PROVING THAT THE TERMINATION WAS FOR A VALID OR AUTHORIZED CAUSE SHALL REST ON THE EMPLOYER. THE MINISTRY MAY SUSPEND THE EFFECTS OF THE TERMINATION PENDING RESOLUTION OF THE CASE IN THE EVENT OF A PRIMA FACIE FINDING BY THE MINISTRY THAT THE TERMINATION MAY CAUSE A SERIOUS LABOR DISPUTE OR IS IN IMPLEMENTATION OF A MASS LAY-OFF."[8]

Under the rules implementing the provision:

> SEC. 2. Notice of dismissal. — Any employer who seeks to dismiss a worker shall furnish him a written notice stating the

particular acts or omission constituting the grounds for his dismissal. In cases of abandonment of work, the notice shall be served at the worker's last known address.

x x x

SEC. 5. Answer and hearing. — The worker may answer the allegations stated against him in the notice of dismissal within a reasonable period from receipt of such notice. 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.

SEC. 6. Decision to dismiss. — The employer shall immediately notify a worker in writing of a decision to dismiss him stating clearly the reasons therefor.

SEC. 7. Right to contest dismissal. — Any decision taken by the employer shall be without prejudice to the right of the worker to contest the validity or legality of his dismissal by filing a complaint with the Regional Branch of the Commission.[9]

As we can see, the law lays down the procedure prior to the dismissal of an employee. It need not be observed to the letter, but at least, it must be done in the natural sequence of notice, hearing and judgment.

In the case at bar, there is no doubt that at the very outset, that is, prior to investigation, the petitioner was informed that his services had been terminated. He was made to air his side subsequently, it is true, yet the stubborn fact remains that notwithstanding such an opportunity, if an opportunity it was, he had been dismissed from the firm.

We have held that the procedure under Batas Blg. 130 and the rules implementing it are conditions sine qua non, before dismissal may be validly effected.[10]

It does not matter that the petitioner's termination, given on December 19, 1984, was effective on January 1, 1985, which, so the respondent Commission insists, gave him enough chance to present his side.[11] This is not the "ample opportunity" referred to by the labor relations law of 1981. By "ample opportunity" is meant every kind of assistance that management must accord to the employee to enable him to prepare adequately for his defense. Under the rules indeed, the worker may be provided with a representative. In this case, although the interregnum between the date or the notice of dismissal and the date of its effectivity ostensibly provided the petitioner time within which to defend himself, there really was nothing to defend, because the fact is, he had been fired. We can not countenance such a situation.

We reiterate that the process set forth by the law need not be obeyed according to its letter, but rather, according to its spirit, as a due process measure. "Fire the employee, and let him explain later" is not in accord with that expedient.

WHEREFORE, the Petition is **GRANTED**. The private respondent is **ORDERED** to **REINSTATE** the petitioner with backwages equivalent to three years without loss of seniority rights and other benefits, and without deductions and qualifications.

SO ORDERED.

Melencio-Herrera, *J.*, *(Chairman)*, Paras, Padilla and Regalado, *JJ.*, concur.

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[1] Rollo, 19-20.
[2] Id., 43.
[3] Id., 23.
[4] Id., 8.
[5] Id., 21-22.
[6] Id., 9.
[7] Id., 22.
[8] Batas Blg. 130, sec. 13.
[9] Rule XIV, Rules Implementing Batas Pambansa Blg. 130 (DOLE), September 4, 1981.

[10] Unitran/Bachelor Express, Inc. vs. Olvis, Nos. L-76724-6, August 31, 1988, 165 SCRA 254; Manila Midtown Commercial Corporation vs. National Labor Relations Commission, G.R. No. 80347, December 29, 1988; Metro Port Service, Inc. vs. National Labor Relations Commission, G.R. Nos. 71632-33, March 9, 1989.
[11] Rollo, id., 79.