SUPREME COURT
SECOND DIVISION

FELICITO SAJONAS and VICTOR SANTOS,
***Petitioners*,**

-versus-

G.R. No. 49286
March 15, 1990

NATIONAL LABOR RELATIONS COMMISSION (FIRST DIVISION), MARSMAN & CO., INC. and E.G. VITO,
***Respondents*.**
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D E C I S I O N

REGALADO, *J.*:

This case underscores what should be the sentient role and conduct of supervisors who, by the nature of their positions, should assume and evince a high degree of responsibility and loyalty to their employer in the performance of their duties.

Petitioners were supervisory employees of private respondent Marsman & Co., Inc., the first-named petitioner having been in the service of said respondent for seven (7) years and eleven (11) months, and the second, for six (6) years and nine (9) months.[1]

Sometime in the first week of April, 1974, petitioners and the Supervisors and Managers Association of Marsman jointly filed charges of unfair labor practice against respondent company.

On April 30, 1974, Sajonas was invited to attend a conference with said private respondent's management committee. Thereafter, in the same conference, he was charged and an investigation was conducted involving his alleged acts of insubordination, unsatisfactory attendance record, gross disrespect to company officials, fraud and deceit, and making false and malicious statements concerning the company. Said investigation was reduced to writing and a corresponding report was duly submitted which recommended the termination of Sajonas from his employment.[2]

In a separate conference on the same day, Santos was also investigated by said management committee on charges of insubordination, habitual tardiness, gross disrespect of company officials, fraud and deceit, and misrepresentation about the company, the result of which was an order for the termination of his services.[3]

On May 2, 1974, petitioners were placed under preventive suspension. On May 7, 1974, private respondent filed with the National Labor Relations Commission a request for clearance to terminate the services of petitioners.[4]

The aforesaid clearance application and the opposition thereto were docketed as NLRC Case No. LR-3675 and forthwith certified for compulsory arbitration before Labor Arbiter Ceferina Diosana who conducted a hearing wherein the parties adduced their respective evidence.[5] After hearing, Arbiter Diosana rendered a decision, dated November 28, 1977, in favor of petitioners, recommending the denial of the request for clearance to terminate their services and ordering the reinstatement of petitioners to their former positions without loss of seniority rights and other privileges appertaining to them during

the period of their suspension and dismissal to the date of their actual reinstatement. The unfair labor practice charge against respondent company was dismissed in the same decision.[6]

From the aforesaid decision, private respondents appealed to respondent commission which rendered a decision, dated September 15, 1978, with the following dispositive portion:

> "WHEREFORE, the Decision appealed from is hereby set aside, except with respect to the dismissal of the unfair labor practice charge which we hereby affirm, and clearance is hereby granted to dismiss the complainants effective on the date they were placed under preventive suspension, subject to payment of separation pay as indicated above."[7]

Inexplicably, petitioners filed a notice of appeal to this Court, dated November 16, 1978, allegedly on a question of law.[8] However, in this petition for review, the following grounds are invoked and relied upon:

> "A. The judgment of the Hon. National Labor Relations Commission is not supported by evidence on record, much less substantial evidence.
>
> "B. The judgment of the Hon. National Labor Relations Commission is not in accord with law or the applicable decisions of the Supreme Court."[9]

There is, of course, no law which allows an appeal from the decision of public respondent. Also, as correctly pointed out by private respondents, petitioners would invite the Court to a factual inquiry, that is, the calibration of the whole evidence, the examination of its probative value, and the consideration of the credibility of witnesses, the existence and relevancy of specific surrounding circumstances, their interrelationship and situational probabilities.[10]

Petitioners insist, however, that the Labor Code of the Philippines does not eliminate or prohibit appeals to this Court.[11] Considering that this case goes back to 1978, we will repeat the doctrinal rules that have become settled since then.

In John Clement Consultants, Inc., et. al. vs. National Labor Relations Commission et. al.,[12] we held:

> "As is well known, no law provides for an appeal from decisions of the National Labor Relations Commission; hence, there can be no review and reversal on appeal by higher authority of its factual or legal conclusions. When, however, it decides a case without or in excess of its jurisdiction or with grave abuse of discretion, the party thereby adversely affected may obtain a review and nullification of that decision by this Court through the extraordinary writ of *certiorari*."

Our original and exclusive jurisdiction to review a decision of public respondent, in a petition for *certiorari* under Rule 65 of the Rules of Court, nonetheless does not normally include the correctness of its evaluation of the evidence but is confined to issues of jurisdiction or grave abuse of discretion. It is thus incumbent upon petitioners to satisfactorily establish that respondent commission acted capriciously and whimsically, in total disregard of evidence material to or even decisive of the controversy, in order that the extraordinary writ of *certiorari* will lie. However, nowhere in both the petition and the reply of petitioners can we find any acceptable demonstration that respondent commission acted either with grave abuse of discretion or without or in excess of its jurisdiction.

The Solicitor General observed, and we agree, that petitioners in assailing the decision of public respondent merely repeated the findings and pronouncements of the labor arbiter in her decision and quoted abundantly therefrom.[13] In fact, in their reply,[14] petitioners devoted themselves to an extensive refutation of the charges against them by presenting and discussing their own evidence. However, after a thorough review of the records, we are satisfied that the conclusions of fact of public respondent are warranted by the evidence.

On the charge of unsatisfactory attendance or habitual tardiness, there is no dispute that private respondent had a standing requirement that all supervisors and detailmen of its Leo Pharmaceuticals department, which include petitioners, should

report to the office at 8:00 o'clock in the morning but, as found by respondent commission, this rule was habitually violated by petitioners.[15]

On the charge of insubordination, the failure of petitioners to follow the instructions of their superior is inexcusable. They cannot exculpate themselves therefrom on the puerile and obviously contrived pretext that they were confused as to who their superior was. The appointment of one Romeo Real, Jr., as overall coordinator of Leo products operations and, as such, the immediate superior of petitioners, was contained in writing and duly made known to the personnel of the department where petitioners were assigned. At the very least, petitioners could have readily inquired and ascertained the fact of which they now affect lack of knowledge.

We agree with public respondent that the acts of insubordination, coupled with habitual tardiness, are sufficient causes for petitioners' dismissal, especially considering the fact that the employees involved in this case were not mere rank and file employees but supervisors who owed more than the usual fealty to the organization and were, therefore, expected to adhere to its rules in an exemplary manner. Petitioners did not even reflect upon and consider the undesirable example that they were setting to those who were under their supervision.

We need not further disturb the factual findings of public respondent regarding the other charges against petitioners which, we are convinced, are adequately supported by evidence. Suffice it to say that all these other proven charges, taken collectively, ineluctably indicate further that there are more than sufficient bases for the loss of trust and confidence which also justifies the termination of petitioners' employment.

In the recent case of Reyes vs. Minister of Labor, et al.,[16] we reiterated the accepted rule that —

> "Loss of confidence is a valid ground for dismissing an employee and proof beyond reasonable doubt of the employee's misconduct is not required. It is sufficient if there is some basis for such loss of confidence or if the employer has reasonable

> ground to believe or to entertain the moral conviction that the employee concerned is responsible for the misconduct and that the nature of his participation therein rendered him unworthy of the trust and confidence demanded by his position (City Trust Finance Corporation vs. NLRC, 157 SCRA 87 [1988]; Tabacalera Insurance Co. vs. NLRC, 152 SCRA 667 [1967]).”

Finally, on the matter of due process which petitioners claim was denied them by private respondent during the investigations which led to their dismissal, we agree with respondents that although the aforesaid investigations were not conducted in the manner of a regular trial in court, the elements of due process, namely, the right to be informed of the charges, to be present and to be heard, were accorded petitioners. In said investigations, petitioners freely and voluntarily answered the questions and even made further statements in their defense during the concluding stages thereof. At any rate, any defect therein was cured when the parties were duly heard before the labor arbiter.

WHEREFORE, the Petition is **DISMISSED** and the Decision of respondent National Labor Relations Commission is **AFFIRMED.**

SO ORDERED.

Melencio-Herrera, *J.*, *(Chairman)*, Padilla and Sarmiento, *JJ.*, concur.
Paras, *J.*, No part. Son is a partner of Sycip Law Office.

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[1] Rollo, 50.
[2] Ibid., 53.
[3] Ibid., id.
[4] Ibid., 46-47.
[5] Ibid., 206.
[6] Ibid., id.
[7] Ibid., 47-48.
[8] Ibid., 49.
[9] Ibid., 20.
[10] Ibid., 102-103.
[11] Ibid., 229-230.
[12] 157 SCRA 635 (1988).

[13] Rollo, 207.
[14] Ibid., 229.
[15] Ibid., 68.
[16] G.R. No. 18705, February 9, 1989.