



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated 23 February 2022 which reads as follows:*

**“G.R. No. 229741 (Genesis Transport Service, Inc. v. Marcelo L. De Guzman)** – This Petition for Review on *Certiorari* (Petition)<sup>1</sup> seeks the reversal of the Amended Decision<sup>2</sup> dated 26 January 2017 and Decision<sup>3</sup> dated 29 February 2016 of the Seventh Division of the Court of Appeals (CA) in CA-G.R. SP No. 142118. The CA granted the petition for *certiorari* filed by private respondent Marcelo L. De Guzman (De Guzman). In so doing, it annulled the Resolution<sup>4</sup> dated 18 May 2015 issued by the National Labor Relations Commission (NLRC) in NLRC LAC No. 04-001086-15, and reinstated the Decision<sup>5</sup> dated 29 January 2015 issued by the Labor Arbiter (LA) declaring De Guzman’s termination from employment illegal.

**Antecedents**

On 23 June 2006, Genesis Transport Service, Inc. (Genesis Transport) employed De Guzman as a bus driver on probationary status. On 22 December 2006, he became a regular employee and plied the Manila – Baguio route. On 05 March 2014, De Guzman was dismissed from service for violation of company policy and gross and habitual neglect of duties. According to Genesis Transport, on 02 February 2014, while travelling along Mac Arthur Highway, San Manuel, Tarlac, on her way to Manila, Atty. Anelyn Ciudadano (Atty. Ciudadano), head of its Human Resource and Legal Departments, witnessed a Genesis Transport bus being driven recklessly.<sup>6</sup> In the Notice to Explain dated 03 February 2014 sent to De Guzman, Atty. Ciudadano described the incident as follows:

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<sup>1</sup> *Rollo*, pp. 21-53.

<sup>2</sup> *Id.* at 337-346; Penned by Associate Justice Magdangal M. De Leon and concurred in by Associate Justices Elihu A. Ybañez and Victoria Isabel A. Paredes of the Seventh (7<sup>th</sup>) Division, Court of Appeals, Manila.

<sup>3</sup> *Id.* at 58-60.

<sup>4</sup> *Id.* at 73-77.

<sup>5</sup> *Id.* at 80-87.

<sup>6</sup> *Id.* at 24.

Habang ako ay sakay sa Service Vehicle ng Kumpanya at binabaybay ang Mac Arthur Highway, San Manuel, Tarlac, ikaw ay una kong namataan dala ang Bus # 81840 bandang alas 830 ng gabi ng lampasanan mo ako sa kanan ng sinasakyan kong sasakyan. Hindi nagtagal, kapansin-pansin ang hindi maayos mong pagpapatakbo dahil gumigiwang ang bus habang lumilipat-lipat ka ng linya. Tinangka kang habulin ngunit sa di-kalayuan, ikaw ay lumusot sa kabilang linya sa hindi bababa na limang (5) sasakyan, na sa mga panahon na iyon ay may kabagalan ang mga pagpapatakbo dulot ng maraming motorist sa daan. Napilitan ang sinasakyan ko na magpa-iwan sa iyo. Gayonpaman, tanaw na tanaw na may kasalubong kang mga sasakyan kung kaya't nagmamadali kang makabalik sa linya mo.

Muli kang naabutan sa Moncada, Tarlac, ng mabagal na naman ang daloy ng trapiko. Maya-maya, todo arangkada ka na naman habang lumulusot sa kanan sa tulay at sa kabila ng tangkang habulin ka sa pananakbo na 110KPH, hindi ka maabut-abutan.

Pagdating ng Paniqui, Tarlac, maraming nakahinto na mga sasakyan dahil sa stoplight intersection. Ang haba ng pila ng mga sasakyan ay umabot lampas ng kurbada at interseksiyon ng Brgy. Estacio. Ang ginawa mo ay lumihis pakaliwa sa kabilang kalsada at lumusot sa mahabang pila ng mga sasakyan. Sa takot na maaaring ikaw ay maaksidente, pinilit na sinundan ka sa likuran para matawag ang iyong pansin. Bago dumating ng kurbada (pakanan), napilitan kang sumampa sa kabilang shoulder o dirt road dahil sa parating o pasalubong na truck hanggang sa mapilitan ka uling lumihis sa Mac Arthur Highway at pumasok sa Municipal Road sa Brgy. Estaion, Paniqui, Tarlac. Sa labis na kawalan mo ng ingat sa pagmamaneho, sinundan kita sa at doon ka kumanan sa intersection at pagkatapos ay kumaliwa para makabalik ka sa Mac Arthur Highway. Doon kita naabutan habang paarangkada ka. Ikaw ay nagbagal na lamang ng bilis ng malalampasan ka at makuha ko ang iyong pansin.<sup>7</sup>

De Guzman was placed on preventive suspension effective 03 February 2014.<sup>8</sup>

In his letter dated 10 February 2014, De Guzman claimed that he had no intention to drive recklessly and that he was only trying to comply with the order from his Area Supervisor to travel fast and look for the quickest routes so that they could return to Baguio to meet the heavy influx of passengers. De Guzman did not deny overtaking vehicles several times; he explained that he did so because “maluwag naman po... at wala naman akong kasalubong xxx” and “4 lines (sic) naman po ito at sadya naman po kasing napakaraming mga sasakyan ng mga panahon na yon.”<sup>9</sup>

<sup>7</sup> *Id.* at 25.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 26.

In the course of its investigation into the matter, and as part of its standard operating procedure in resolving cases of reckless driving, Genesis Transport sought to verify De Guzman's license records with the Land Transportation Office (LTO). There, it found that De Guzman had been apprehended three (3) times for reckless driving between January 2010 to June 2013. From its own records, Genesis Transport also found three (3) incidents of overspeeding/accident involving De Guzman between 2010-2012 for which he was suspended for at least thirty (30) days.<sup>10</sup>

Thus, after conduct of hearing, Genesis Transport sent De Guzman a Notice dated 06 March 2014 informing him that he was terminated from employment due to repeated violations of company policy and gross neglect of duty. In particular, it cited its Employee Handbook Policy No. VIII, No. 16, which provides the following penalties for reckless driving:<sup>11</sup>

Mabilis o walang ingat na pagmamaneho na walang aksidente (RECKLESS DRIVING)
Unang pagkakasala
Pangalawang pagkakasala

In an undated letter received by Genesis Transport on 10 March 2014, De Guzman sought reconsideration of the decision to terminate him from employment. When his plea was denied, De Guzman, on 21 May 2014, filed a complaint for Illegal Dismissal against Genesis Transport.<sup>12</sup>

### LA Ruling

In a Decision<sup>13</sup> dated 29 January 2015, the LA found that while De Guzman did commit repeated violations of company policy and/or gross and habitual neglect of duties, these violations have been reasonably explained and were appropriately sanctioned (either through memorandum warnings and/or suspensions). It thus found that dismissal was too harsh a penalty considering only the account of his reckless driving witnessed by Atty. Ciudadano. The dispositive portion of LA's Decision reads:

**WHEREFORE**, premises above considered, judgment is hereby rendered declaring [De Guzman]'s dismissal illegal and ordering [Genesis Transport] to reinstate him as driver, to pay his full backwages, moral and exemplary damages of fifty thousand Pesos (P50,00.00) (sic), plus 10%

<sup>10</sup> *Id.* at 32-33.

<sup>11</sup> *Id.* at 33.

<sup>12</sup> *Id.* at 33-34.

<sup>13</sup> *Rollo*, pp. 80-87; Penned by Labor Arbiter Madjayran H. Ajan.

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attorney's fees.

**SO RODERED (sic).<sup>14</sup>**

Genesis Transport filed an appeal with the NLRC. It argued that the LA erred in finding that De Guzman was illegally dismissed, thus:

[De Guzman]'s repeated violation of the company policy against reckless driving xxx was all made known to him and/or gross habitual neglect of duties under Article 282(b) of the Labor Code of the Philippines. [De Guzman] was duly notified of his termination and that due process was duly observed. [De Guzman] received at least thirty-four (34) memorandums (sic) for his infraction (sic). It must also be noted that [de Guzman] failed to controvert the LTO license records of his violations xxx the[se] previous infractions of reckless driving must be considered xxx The Labor Arbiter failed to take into account the justification for the dismissal came from ensuring the lives and safety of the passengers on board. There is nothing more important in this realm that preserving life and limb.<sup>15</sup>

**NLRC Ruling**

On 18 May 2015, the NLRC rendered a Resolution<sup>16</sup> granting the appeal filed by Genesis Transport. The dispositive portion of this Resolution states:

**WHEREFORE**, premises considered, [Genesis Transport]'s appeal is hereby **GRANTED**. The January 29, 2015 Decision of Labor Arbiter Madjayran H. Ajan is hereby **REVERSED** and **SET ASIDE**. The complaint is **DISMISSED** for want of merit.

**SO ORDERED.<sup>17</sup>**

After examination of all the evidence presented, the NLRC found that Genesis Transport "has sufficiently shown that there are valid and legal cause for the termination xxx based on the totality of all the infractions and violations."<sup>18</sup>

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<sup>14</sup> *Id.* at 87.

<sup>15</sup> *Id.* at 75-76.

<sup>16</sup> *Id.* at 73-77; Penned by Commissioner Pablo C. Espiritu, Jr. and concurred in by Presiding Commissioner Alex A. Lopez of the Third (3<sup>rd</sup>) Division, National Labor Relations Commission, Quezon City.

<sup>17</sup> *Id.* at 77.

<sup>18</sup> *Id.* at 76.

De Guzman filed a motion for reconsideration but this was denied by the NLRC in its Resolution<sup>19</sup> dated 30 June 2015. Aggrieved, De Guzman filed a special civil action for *certiorari* against the NLRC's Resolutions before the CA.

### CA Ruling

On 29 February 2016, the CA issued a Decision<sup>20</sup> granting De Guzman's petition. It held that Genesis Transport failed to discharge its burden of proving that De Guzman's dismissal was for a lawful cause. The CA further held that even granting that De Guzman *was* overspeeding, "termination is so harsh a penalty considering the length of time that he served the company."<sup>21</sup>

Genesis Transport filed a motion for reconsideration maintaining that De Guzman's termination from employment was warranted under the circumstances. It argued that as "a driver of a public utility bus in whose hands the life and limb of his passengers, co-employee and the motorist are at stake," it is De Guzman's responsibility to drive safely. Genesis Transport posited that it is a common carrier bound by law to observe extraordinary diligence; it cannot possibly comply with this obligation by knowingly employing a driver who had been fined and suspended several times for driving recklessly.<sup>22</sup>

On 26 January 2017, the CA issued an Amended Decision partly granting Genesis Transport's motion. Although it maintained that De Guzman was illegally dismissed, the CA considered the primary responsibility lodged by law upon employers for the negligence of their employees in the performance of their duties and held that it would be unfair to require Genesis Transport to continue employing De Guzman given the loss of trust and confidence between the parties.<sup>23</sup> Thus, the dispositive portion of the Amended Decision now reads:

**WHEREFORE**, the instant motion is **PARTIALLY GRANTED**.

The Decision dated January 29, 2015 of the Labor Arbiter in NLRC-NRC Case No. 05-06052-14 is hereby **MODIFIED**. Instead of reinstatement, [Genesis Transport] are hereby ordered to pay [De Guzman] separation

<sup>19</sup> *Id.* at 78-79.

<sup>20</sup> *Id.* at 292-304; Penned by Associate Justice Magdangal M. De Leon and concurred in by Associate Justices Elihu A. Ybañez and Victoria Isabel A. Paredes of the Seventh (7<sup>th</sup>) Division, Court of Appeals, Manila.

<sup>21</sup> *Id.* at 300-303.

<sup>22</sup> *Id.* at 305-334.

<sup>23</sup> *Id.* at 341-345.

pay computed from [his] first day of employment up to the finality of this Decision, at the rate of one (1) month salary per year of service.

**SO ORDERED.**<sup>24</sup>

Unsatisfied with the Decision as amended, Genesis Transport filed this Petition for Review on *Certiorari*.

### **Issues**

Genesis Transport claims the CA committed reversible error in finding that: (1) De Guzman's dismissal was without cause on the ground of lack of evidence to prove that he was overspeeding; and (2) termination was too harsh a penalty under the circumstances.<sup>25</sup>

### **Ruling of the Court**

In *Montoya v. Transmed Manila Corp.*,<sup>26</sup> this Court had occasion to discuss the particular parameters of a Rule 45 appeal from the CA's Rule 65 decision on a labor case. Thus:

In a Rule 45 review, we consider the correctness of the assailed CA decision, in contrast with the review for jurisdictional error that we undertake under Rule 65. Furthermore, Rule 45 limits us to the review of questions of law raised against the assailed CA decision. In ruling for legal correctness, we have to view the CA decision in the same context that the petition for certiorari it ruled upon was presented to it; **we have to examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, not on the basis of whether the NLRC decision on the merits of the case was correct.** In other words, we have to be keenly aware that the CA undertook a Rule 65 review, not a review on appeal, of the NLRC decision challenged before it. This is the approach that should be basic in a Rule 45 review of a CA ruling in a labor case. **In question form, the question to ask is: Did the CA correctly determine whether the NLRC committed grave abuse of discretion in ruling on the case?** (Emphases supplied)

Applying the foregoing principles, We find that the CA gravely erred when it annulled and set aside the Decision of the NLRC.

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<sup>24</sup> *Id.* at 345.

<sup>25</sup> *Id.* at 35-36.

<sup>26</sup> 613 Phil. 696 (2009).

*First*, there is nothing in the assailed CA Decision and Amended Decision which even remotely discussed the concept of grave abuse of discretion.

*Second*, a cursory reading of the Decision would readily show that the CA actually resolved the case from the perspective of a Rule 43, and not a Rule 65, review. In fact, the CA framed the sole issue for resolution as “whether or not [De Guzman] was illegally dismissed.”<sup>27</sup> This is hardly an issue of jurisdiction against which the writ of *certiorari* can lie.<sup>28</sup> The writ of *certiorari* is an extraordinary remedy, and *certiorari* jurisdiction should not be equated with appellate jurisdiction.<sup>29</sup>

*Third*, in reversing the NLRC, the CA went beyond the factual assessments of the NLRC and, based on its re-evaluation of the evidence, disagreed that there was sufficient proof that De Guzman’s dismissal was for a valid cause. To this Court’s mind, this further supports the view that the errors attributed to the NLRC were merely errors of judgment which cannot be the proper subject of *certiorari*.<sup>30</sup>

As this Court oftenly reminded, the supervisory jurisdiction of a court over the issuance of a writ of *certiorari* cannot be exercised for the purpose of reviewing the intrinsic correctness of a judgment of the lower court — on the basis either of the law or the facts of the case, or of the wisdom or legal soundness of the decision.

*Fourth*, even granting that a review of factual matters was called for given the conflicting conclusions of the LA and the NLRC,<sup>31</sup> we find no grave abuse of discretion on the part of the NLRC as its findings are supported by substantial evidence.<sup>32</sup>

Jurisprudence defines substantial evidence as such amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion.<sup>33</sup>

Here, in finding that De Guzman’s termination from employment was

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<sup>27</sup> *Rollo*, p. 300.

<sup>28</sup> See *Moomba Mining Exploration Co. v. Court of Appeals*, 375 Phil. 818 (1999).

<sup>29</sup> *Palomado v. National Labor Relations Commission*, 327 Phil. 472 (1996).

<sup>30</sup> See *Moomba Mining Exploration Co. v. Court of Appeals*, *supra* note 28.

<sup>31</sup> See *Italkarat 18, Inc. v. Gerasmio*, G.R. No. 221411, 28 September 2020.

<sup>32</sup> *Heritage Hotel, Manila v. Sio*, G.R. No. 217896, 26 June 2019.

<sup>33</sup> *Eagle Clare Shipping Philippines, Inc. v. National Labor Relations Commission (Fourth Division)*, G.R. No. 245370, 13 July 2020.

for a valid and legal cause, the NLRC considered evidence presented by Genesis Transport to show that the totality of his infractions and violations warranted his dismissal. We quote:

xxx The repeated violations for reckless driving of [De Guzman] is a serious violation especially in the field of transportation where countless of lives are at stake on a daily basis. As an employer, [Genesis Transport] have the prerogative to instill discipline among its drivers being in the transport business where the safety and lives of its passengers is paramount. We would be sending the wrong signals to the errant drivers of bus companies who have been found to be driving recklessly in our highways if we would sustain the assailed decision. [De Guzman]'s reckless driving has been proved by competent evidence.<sup>34</sup>

The NLRC considered the fact that De Guzman, prior to his termination, received at least thirty-four (34) memoranda for his reckless driving. It also noted that de Guzman did not present any evidence to controvert the records (procured from the LTO) regarding his violations.

In contrast, the LA's findings that De Guman had not disregarded the company policy against reckless driving were based simply on the fact that De Guzman appeared to have attended various seminars conducted by Genesis Transport and has been "reminded through memorandum to observe traffic rules, road courtesy, drive safely and most importantly to refrain from driving recklessly."<sup>35</sup>

On the other hand, the CA, despite its acknowledgment of De Guzman's previous infractions, refused to consider the same for purposes of justifying the penalty on dismissal meted upon him. It reasoned:

xxx, as to the other violations that [De Guzman] committed, the appropriate sanction was already meted by the company by suspending him and [de Guzman] duly served the penalty imposed upon him. While previous infractions may be used to support an employee's dismissal from work in connection with a subsequent similar offense, the Supreme Court cautioned employers in an earlier case that although they enjoy a wide latitude of discretion in the formulation of work-related policies, rules and regulations, their directives and the implementation of their policies must be fair and reasonable; at the very least, their penalties must be commensurate to the offense involved and to the degree of the infraction.<sup>36</sup>

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<sup>34</sup> *Rollo*, p. 76.

<sup>35</sup> *Id.* at 86.

<sup>36</sup> *Id.* at 302.

In *Merin v. National Labor Relations Commission*,<sup>37</sup> the Court explained the principle of totality of infractions in the following wise:

**The totality of infractions or the number of violations committed during the period of employment shall be considered in determining the penalty to be imposed upon an erring employee.** The offenses committed by petitioner should not be taken singly and separately. Fitness for continued employment cannot be compartmentalized into tight little cubicles of aspects of character, conduct and ability separate and independent of each other. **While it may be true that petitioner was penalized for his previous infractions, this does not and should not mean that his employment record would be wiped clean of his infractions. After all, the record of an employee is a relevant consideration in determining the penalty that should be meted out since an employee's past misconduct and present behavior must be taken together in determining the proper imposable penalty.** Despite the sanctions imposed upon petitioner, he continued to commit misconduct and exhibit undesirable behavior on board. Indeed, the employer cannot be compelled to retain a misbehaving employee, or one who is guilty of acts inimical to its interests. It has the right to dismiss such an employee if only as a measure of self-protection.<sup>38</sup> (Emphases supplied)

This doctrine is applicable when, as in this case, the employee's infractions are directly related to the performance of his functions. In other words, the previous offenses must be related or have a bearing on the subsequent offense which will be used as the basis for dismissal.<sup>39</sup>

The CA, in refusing to apply the totality of infractions principle, cited as its basis our ruling in *Cavite Apparel, Inc. v. Marquez*,<sup>40</sup> wherein this Court disregarded a penalty that it found to be **disproportionate** to the infraction committed.

Unfortunately, the CA's application of our foregoing ruling is misplaced.

A distinction must be made between the circumstances in *Cavite Apparel* and those obtaining in this case. The employee in *Cavite Apparel* was dismissed by the company for "habitual absenteeism." The Court, in ruling for the employee, considered that she had been in Cavite Apparel's employ for six (6) years, with no derogatory record *other than the four (4) absences without official leave in question*, and that she had already been penalized for the first three (3) absences.

<sup>37</sup> 590 Phil. 596 (2008).

<sup>38</sup> *Id.*

<sup>39</sup> See *Sy v. Neat, Inc.*, 821 Phil. 751 (2017).

<sup>40</sup> See 703 Phil. 46 (2013).

On the other hand, de Guzman was terminated due to his *repeated violations of the company policy against reckless driving*. As noted by the NLRC, De Guzman was warned and reprimanded no less than thirty-four (34) times for reckless driving. There was also evidence presented to show that he had been involved in several incidents and, in three (3) cases, was even apprehended by officials of the LTO. We also note from the records an Information<sup>41</sup> for Reckless Imprudence Resulting in Serious Physical Injuries and Damage to Property filed against De Guzman in 2007 on account of an accident he figured in with a tricycle in Pozorrubio, Pangasinan, while driving a Genesis Transport bus.

In sum, this case reminds of our ruling in *Mariano v. G.V. Florida Transport*,<sup>42</sup> wherein We took judicial notice of the gross negligence and the appalling disregard of the physical safety and property of others so commonly exhibited today by the drivers of passenger buses. As in *Mariano*, and taking into account the nature of his job, De Guzman's infractions as proven by the evidence on record are far too numerous to be ignored or treated lightly. We thus agree with the NLRC that De Guzman was validly dismissed from the service.

WHEREFORE, premises considered, the Petition is hereby **GRANTED**. The Amended Decision dated 26 January 2017 of the Seventh Division of the Court of Appeals in CA-G.R. SP No. 142118 is **REVERSED** and **SET ASIDE**. The Resolutions dated 18 May 2015 and 30 June 2015 of the National Labor Relations Commission in NLRC LAC No. 04-001086-15/NLRC NCR Case No. 05-06052-14 are hereby **REINSTATED**. Marcelo L. De Guzman's complaint for Illegal Dismissal is **DISMISSED** for lack of merit.

**SO ORDERED."**

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court

<sup>41</sup> *Rollo*, p. 130.

<sup>42</sup> See G.R. No. 240882, 16 September 2020.

16 SEP 2022

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