



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated March 6, 2023, which reads as follows:*

**“G.R. No. 263381 (John Peter Kiselis, *Petitioner*, vs. Talentium, Inc., [formerly Appsource, Inc.], Asian Development Bank, Juan Miguel Cantero, Takehiko Nakao, Steffen Minkmar, Radhakrishnan Srinivasan, Mary Clarke, Anthony Tuason and Johnny Rannel Mina, *Respondents*). –** Acting on the instant Petition for Review on *Certiorari*,<sup>1</sup> the Court resolves to deny the petition for failure to sufficiently show that the Court of Appeals (CA) committed any reversible error in its Decision<sup>2</sup> dated February 9, 2022 and the Resolution<sup>3</sup> dated August 18, 2022 in CA-G.R. SP No. 161378.

It is well settled that only questions of law may be raised and resolved by the Court in petitions under Rule 45 of the Rules of Court, because the Court, not being a trier of facts, is not duty-bound to reexamine and calibrate the evidence on record.<sup>4</sup> Though the Court admits of a few exceptions, none of those are present in this case. The issue of whether John Peter Kiselis (petitioner) was validly dismissed from employment due to gross and habitual neglect of duty is a question of fact which is not proper to be raised in this petition as this requires the reexamination and reappraisal of the evidence.

In labor cases, a Rule 45 petition is limited to reviewing whether the CA correctly determined the presence or absence of grave abuse of discretion and deciding other jurisdictional errors of the National Labor Relations Commission (NLRC).<sup>5</sup> In labor disputes, grave abuse of discretion may be ascribed to the NLRC when, *inter alia*, its findings and the conclusions reached thereby are not supported by substantial evidence,

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<sup>1</sup> *Rollo*, pp. 12-43.

<sup>2</sup> *Id.* at 44-63.

<sup>3</sup> *Id.* at 65-69.

<sup>4</sup> *Ortiz v. Forever Richsons Trading Corporation, et al.*, G.R. No. 238289, January 20, 2021, citing *Deocariza v. Fleet Management Services Phils., Inc.*, 836 Phil 1087, 1097 (2018); *Quintanar v. Coca-Cola Bottlers, Philippines, Inc.*, 788 Phil. 385, 401 (2016).

<sup>5</sup> See *Fuji Television Network, Inc. v. Espiritu*, 749 Phil. 388 (2014).

or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.<sup>6</sup>

Guided by the foregoing, the Court finds that the CA was correct in ruling that the NLRC did not commit grave abuse of discretion in upholding the validity of petitioner's dismissal. Jurisprudence provides that in order to constitute a valid cause for dismissal, neglect of duties must be both gross and habitual.<sup>7</sup> Gross negligence has been defined as "the want or absence of or failure to exercise slight care or diligence, or the entire absence of care. It evinces a thoughtless disregard of consequences without exerting any effort to avoid them."<sup>8</sup> On the other hand, habitual neglect "imparts repeated failure to perform one's duties for a period of time, depending on the circumstances."<sup>9</sup>

As aptly observed by the labor tribunals, petitioner was guilty of gross and habitual neglect of duty when he failed to report for work without any notice to Talentium, Inc. (Talentium) and to his team Asian Development Bank. He was absent from work for eight straight days thereby neglecting the tasks he was specifically assigned to perform. His absence effectively hampered the services that he was supposed to deliver and impaired the work being handled by the team he was coordinating with. The work being rendered by petitioner as IT Security Analyst was very crucial to respondent Talentium's client as reflected in his scope of duties. Moreover, considering that petitioner only had three months to accomplish his tasks and duties, an absence of eight days is already gross and habitual negligence since it indicates a thoughtless regard of consequences without exerting any effort to avoid them. Thus, petitioner's dismissal from employment was valid and for a just cause. The Court finds no compelling reason to disturb these findings which are supported by substantial evidence. Factual findings of labor officials who are deemed to have acquired expertise on matter within their jurisdiction, are generally accorded not only respect but even finality when supported by substantial evidence.

The Court affirms the modification by the CA of the nominal damages awarded to petitioner. The law and jurisprudence allows the award of nominal damages in favor of an employee in a case where a valid cause for dismissal exists but the employer fails to observe procedural due process in dismissing the employee.<sup>10</sup> For failure of respondents to comply with the notice requirement, the CA correctly awarded the amount of ₱30,000.00 in accordance with the prevailing jurisprudence. However, the Court imposes legal interest on the amount at the rate of 6% *per annum* reckoned from the finality of this Resolution.

<sup>6</sup> Id.

<sup>7</sup> *Villanueva v. Ganco Resort and Recreation, Inc.*, G.R. No. 227175, January 8, 2020.

<sup>8</sup> Id., citing *National Bookstore, Inc. v. Court of Appeals*, 428 Phil. 235, 246 (2002).

<sup>9</sup> Id., citing *Cavite Apparel, Inc. v. Marquez*, 703 Phil. 46, 55 (2013).

<sup>10</sup> *Del Pilar v. Batangas II Electric Cooperative, Inc.*, G.R. Nos. 160090 & 160121, February 19, 2020, 932 SCRA 619, 640.

Further, the Court notes that the petition lacks payment of ₱1,000.00 for the Sheriff's Trust Fund as required under A.M. No. 17-12-09-SC.<sup>11</sup>

**WHEREFORE**, the petition for review on *certiorari* is **DENIED**. The Decision dated February 9, 2022 and the Resolution dated August 18, 2022 of the Court of Appeals in CA-G.R. SP No. 161378 are **AFFIRMED** with **MODIFICATION** in that respondent Talentium, Inc. [formerly Appsource, Inc.] is ordered to pay petitioner John Peter Kiselis the amount of ₱30,000.00 as nominal damages, with legal interest at the rate of 6% *per annum* computed from the promulgation of this Resolution until fully paid.

**SO ORDERED.**"

By authority of the Court:

*Misa DC Batt*  
**MISAEAL DOMINGO C. BATTUNG III**  
Division Clerk of Court  
*10/11/23*

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<sup>11</sup> Entitled, "Re: Initial Recommendations on Administrative Adjustments from the Judiciary-Wide Committee on Legal Fees," dated January 10, 2018.

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1184 Quezon Avenue,  
1103 Quezon City  
(NLRC NCR Case No. 09-14190-17)  
(NLRC LAC No. 09-003385-18)

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**G.R. No. 263381**

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