



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 31, 2023, which reads as follows:

“G.R. No. 264656 (Michelle E. Mantele, Petitioner v. Uni-Fab Metal Industries and Adrian Camacho, Respondents).— Before this Court is a Petition for Review on *Certiorari*¹ filed by Michelle E. Mantele (petitioner), assailing the Decision² and the Resolution³ of the Court of Appeals (CA) in CA-G.R. SP No. 165408.

The CA upheld the Resolution⁴ of the National Labor Relations Commission (NLRC) dismissing petitioner’s Complaint⁵ against respondents Uni-Fab Metal Industries (Uni-Fab) and Adrian Camacho for illegal dismissal and monetary claims.

Upon judicious perustration of the records brought to this Court and the law applicable to the facts therein, the Court finds the instant petition unmeritorious.

Before all else, this Court is not unaware that in Rule 45 petitions assailing the decisions of the CA arising from labor cases brought before it, the mode of review undertaken by the latter is through a special civil action for *certiorari*. As such, the CA’s power to review the NLRC’s findings is confined only to jurisdictional errors committed by the latter, whose decision may only be set aside if it committed grave abuse of discretion amounting to lack or excess of jurisdiction.⁶ Procedurally, this Court thereby probes into the legal errors that the CA may have committed in determining the presence

¹ *Rollo*, pp. 11-33.

² *Id.* at 35-55. The Decision dated March 4, 2022 was penned by Associate Justice Walter S. Ong with the concurrence of Associate Justices Nina G. Antonio-Valenzuela and Alfonso C. Ruiz II.

³ *Id.* at 57-63. Dated November 15, 2022.

⁴ *Id.* at 87-99. The Resolution dated August 30, 2019 in NLRC LAC CN 08-002944-19(4) was penned by Presiding Commissioner Julia Cecily Coching Sosito with the concurrence of Commissioner Erlinda T. Agus.

⁵ *Id.* at 113.

⁶ See *Site for Eyes, Inc. v. Dr. Daming*, G.R. No. 241814, June 20, 2021.

or the absence of grave abuse of discretion in the NLRC decision that it reviewed.⁷

Applying these legal parameters, the Court concludes that the CA aptly found that the NLRC did not commit grave abuse of discretion, as its findings are consistent with law and applicable jurisprudence.

The general principle is that for an employee's dismissal to be justified, there must be a just or authorized cause and the employee must have been afforded due process prior to his or her dismissal. As appropriately ruled by the CA, the due process requirements, both procedural and substantive, were complied with by Uni-Fab in terminating petitioner's services.

With respect to procedural due process, the records evince that the twin requirements of notice and hearing were strictly observed. On August 3, 2018, petitioner received two initial notices, instructing her to explain the various infractions listed therein. In response, she submitted her written explanation in an attempt to exculpate herself from said infractions. Finally, on August 9, 2018, Uni-Fab sent her a Memorandum⁸ terminating her employment. It is therefore beyond cavil that there was substantial compliance with the procedural requirements under the law.

On the matter of substantive due process, petitioner was dismissed on account of her repeated tardiness and unauthorized absences, as well as loitering and sleeping during working hours.

Anent the first two infractions — tardiness and unauthorized absences, this Court agrees with the CA that the same may be considered *gross or habitual neglect of duty* under Article 297(b) of the Labor Code. As duly pronounced by the CA, **habitual absenteeism without leave** constitutes gross negligence and is sufficient to justify termination of an employee.⁹ Similarly, **habitual tardiness** alone is a just cause for termination of employment since punctuality is a reasonable standard imposed on every employee, whether in government or private sector; thus habitual tardiness is a serious offense that may very well constitute gross or habitual neglect of duty, which is a just cause to dismiss a regular employee.¹⁰

⁷ See *Magsaysay Maritime Corporation v. Heirs of Buenaflor*, G.R. No. 227447, June 23, 2020, 940 SCRA 1, 11.

⁸ *Rollo*, pp. 158-159.

⁹ See *Challenge Socks Corp. v. Court of Appeals (Former First Division)*, 511 Phil. 4, 10-11 (2005). Emphasis supplied.

¹⁰ See *Sy v. Neat, Inc.*, 821 Phil. 751, 773 (2017).

Meanwhile, petitioner's act of loitering and sleeping during working hours may be considered *serious misconduct* or *willful disobedience* as provided under Article 297(a) of the Labor Code. This finds support in the case of *Tomada, Sr. v. RFM Corporation-Bakery Flour Division, et al.*,¹¹ as cited by the CA, wherein this Court upheld the dismissal of an employee for being guilty of serious misconduct. He was found to have slept on the job and left his work area without authorization.

Petitioner, however, harps on the supposed lack of substantiation of her infractions, as well as the company policy from which her violations were based. The Court notes that she has carefully omitted from her petition the admissions embedded in her written explanation. Nevertheless, these did not escape the cognizance of the CA. The pertinent pronouncement of the CA is quoted here with approbation—

A review of the record shows that [petitioner] was cited for having 22 counts of tardiness and 12 counts of absences from May to July 2018. While Uni-Fab may have failed to identify the dates when she incurred tardiness and absences, or to attach her daily time records to substantiate this allegation, this is rendered inconsequential because [petitioner] admitted these infractions in her written explanation. At any rate, this was corroborated by her payslips from March to August 2018 showing the deductions made against her salaries for her numerous tardiness and/or absences.

Uni-Fab also claimed that [petitioner] violated the company policy of notifying management of her leaves through the company phone. Although Uni-Fab failed to present proof of this policy, [petitioner] nonetheless acknowledged the existence of such a company policy. She then explained that, since her house is 450 meters away from the nearest loading station, she could not send Sharmaine Joy Mislant ("Mislant"), the Human Resources officer, the required text message and opted to simply send notices through other unauthorized channels. [Petitioner] even acknowledged that the notices she sent may not have been read by Mislant.

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[Petitioner] was found to be loitering around the company premises and leaving her workstation without authorization. She was also found sleeping while on duty in different areas in the company. The Memorandum dated 01 August 2018 alleged that CCTV footages showed [petitioner] repeatedly loitering around the company premises and sleeping during working hours. While no copies of the footages or photographs of the footages were submitted, [petitioner], notably, admitted all such infractions in her handwritten response.¹²

¹¹ 615 Phil. 449 (2009).

¹² *Rollo*, pp. 49-52. Decision dated March 4, 2022.

Moreover, the CA rightly gave credence to the testimonies of petitioner's co-workers, who narrated her habit of leaving her work station, dawdling in other departments, and gossiping with another employee.¹³

Guided by the foregoing disquisition, the Court finds no cogent reason to depart from the ruling of the CA that petitioner was not illegally dismissed by Uni-Fab.

WHEREFORE, the Petition for Review on *Certiorari* is hereby **DENIED**. The Decision dated March 4, 2022 and the Resolution dated November 15, 2022 of the Court of Appeals in CA-G.R. SP No. 165408 are **AFFIRMED**.

SO ORDERED."

By authority of the Court:

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 NLRC Case No. RAB-IV-0-1690-18-C]

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¹³ Id. at 52-53.