Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

CMP FEDERAL SECURITY AGENCY, INC. and/or MS. CAROLINA MABANTA-PIAD, *Petitioners,*	**G.R. No. 223082**
	Present:
- versus -	BERSAMIN, *C.J.*, DEL CASTILLO, JARDELEZA,* GESMUNDO, *and* CARANDANG, *JJ.*
NOEL T. REYES, SR., *Respondent.*	Promulgated: JUN 26 2019

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DECISION

DEL CASTILLO, *J.*:

This Petition for Review assails the August 28, 2015 Decision[1] and January 26, 2016 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 138291 finding no grave abuse of discretion on the part of the National Labor Relations Commission (NLRC) in ruling that petitioner CMP Federal Security Agency, Inc. (CMP Federal) had illegally dismissed respondent Noel T. Reyes, Sr. (Reyes) from service.

Factual Antecedents

CMP Federal is a duly licensed security agency with petitioner Carolina Mabanta-Piad as its President and Chief Executive Officer (collectively, petitioners).

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* On Official leave.

1 *Rollo*, pp. 32-42; penned by Associate Justice Japar B. Dimaampao and concurred in by Associate Justices Carmelita Salandanan-Manahan and Ma. Luisa C. Quijano-Padilla.

2 Id. at 44-45.

Sometime in August 2010, CMP Federal hired respondent Reyes as Security Guard and assigned him at the Mariveles Grain Terminal (MG Terminal) in Mariveles, Bataan. He was twice promoted, first as Shift-in-Charge, and then on September 15, 2015, as Detachment Commander.[3]

According to Reyes, petitioners were not in favor of his promotion as Detachment Commander because they wanted a certain Robert Sagun (Sagun) for the position, but they had to accede to the request of MG Terminal, one of CMP Federal's valued clients.[4] Reyes himself was reluctant to accept the promotion because he was only a high school graduate with little knowledge about operating computers and thus believed that he was ill-equipped to accomplish the written reports that the new position entailed.[5] Thus, it was arranged that Sagun would assist Reyes in the preparation and submission of reports.[6]

Reyes claimed that, from then on, CMP Federal would treat him unaffably and that he would be rebuked incessantly by his superiors, who told him that he was not fit for the job. He would also be invariably snubbed by CMP Federal's Operations Manager, Arnel Maningat (Maningat), who would relay orders and instructions from the main office to Sagun, and not to him, for implementation.[7]

He also claimed that he received *via* e-mail various complaints from Maningat, as follows:

i. A complaint in February 2013 for non-observance of the rule on timely submission of the Daily Situation Reports;

ii. A complaint on April 11, 2013 for failure to comply with the client's instruction that led to the complaint of Mr. Albert G. Bautista, General Manager of MG Terminal;

iii. A complaint on April 16, 2013 regarding his direct transaction with Ed and Racquel Garments for the procurement of uniforms for the MG Terminal Detachment;

iv. Two (2) complaints on May 9, 2013 for the incomplete data of MG Terminal's Daily Situation Report for the month of April 2013, and for failure to report to Maningat the incident pertaining to two (2) CMP Federal security personnel who were confronted by the personnel of Personajes Trucking; and

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3 Id. at 32-33.
4 Id. at 140.
5 Id. at 141.
6 Id. at 141.
7 Id.

v. A complaint on May 23, 2013 for failure to follow Maningat's instruction to designate Sagun as Shift-in-Charge.[8]

On June 1, 2013, Reyes formally received Offence Notices[9] pertaining to the complaints from CMP Federal and was ordered immediately suspended until July 20, 2013.[10] Upon the expiry of the suspension period, Reyes reported back to work, only to be confronted by additional complaints against him contained in the Reply by Indorsement dated July 20, 2013, which states:

> You are hereby directed to explain in writing within FIVE (5) days upon receipt hereof why you should not be charged [with] the following:
>
> 1. **Insubordination:** For not following the instruction of Mr. Arnel Maningat, Operations Manager[,] to designate SO Robert Sagun as Shift-in-Charge effective 01 May 2013, and designated him as ordinary guard instead;
>
> 2. **Negligence (4th Offense):** For failure to report to the Operations Manager the incident pertaining to the two (2) security personnel in the persons of SG Rommy Ramiterre and SG Jesus Sumalbag who were confronted by the Personajes Trucking Personnel, wherein as Detachment Commander, [you] are duty-bound to report to the latter all matters pertaining to the [o]perations;
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> 3. **Violation of Section 1.B.c, Rule X of RA 5487:** For providing confidential information relative to the Cabcaben Vacant Lot takeover, wherein this office has received a reports [sic] that you allegedly leak [sic] the information to your subordinates on the drinking session last 02 December 2012 that eventually reached the knowledge of the [MG Terminal] General Manager.
>
> Failure to comply within the prescribed period shall be construed as [a] waiver of your right to be heard.
>
> For your strict compliance.[11]

On July 22, 2013, Reyes timely submitted his explanation,[12] controverting the accusations against him. Nevertheless, CMP Federal barred Reyes from reporting to work, and told him instead to await the decision of the management regarding the complaints.[13]

Reyes claimed that he kept on reporting for duty until July 30, 2013[14] when he was verbally informed of his termination. Indeed, on this very date (July 30, 2013), he received a Notice of Termination, that reads:[15]

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8 Id. at 141-142.
9 Id. at 62, 65, 72, and 75.
10 Id. at 33.
11 Id. at 79. Emphasis in the original.
12 Id. at 80.
13 Id. at 33-34.
14 Id. at 143.
15 Id. at 34.

After due investigation, you are hereby found liable for the following:

1. **Insubordination** – For failure to follow the instruction of the Operations Manager last 01 May 2013;

2. **Negligence (4th Offense)** – For failure to report to the Operations Manager the incident involving two (2) security personnel [who were] confronted by the personnel of Personajes Trucking; and

3. **Violation of Ethical Standard (Sec.1.B.c, Rule X of RA 5487)** – For revealing confidential information to unauthorized persons relative to takeover of Cabcaben Vacant Lot.

Such acts are punishable by dismissal under items No. 1.15, 3.24, and 1.2 of the Agency's Table of Offenses, Administrative Charges & Penalties.

In view of the foregoing, **YOU ARE HEREBY DISMISSED FROM CMP FEDERAL SECURITY AGENCY, INC. FOR SERIOUS MISCONDUCT.**[16]

Reyes thereafter lodged a complaint for illegal dismissal, non-payment of service incentive leave, separation pay, reimbursement of expenditures for supplies and cash bond, with a prayer for payment of moral and exemplary damages, as well as attorney's fees.[17]

Petitioners denied the complaint and averred that, starting January 2013, Reyes had been remiss in the discharge of his duties as Detachment Commander at MG Terminal;[18] that Reyes' dismissal was justified because Reyes was negligent in the performance of his duties as shown by his repeated disregard of company rules; that Reyes' position was one of trust and confidence, to which Reyes proved untrustworthy when he leaked confidential information. This breach, according to the petitioners, stymied CMP Federal's planned takeover of the vacant Cabcaben property.[19]

The petitioners likewise asserted that they observed procedural due process in dismissing Reyes from service; that through the e-mails and Reply by Indorsement that he received, Reyes was sufficiently apprised of the specific incidents that led to the charges against him and was provided ample opportunity to explain himself and controvert the charges; that an investigation was then conducted wherein, based on Reyes' own admission and from the statements obtained from his fellow security guards, Reyes was found guilty of the violations charged. Thus, the Notice of Termination dated July 30, 2013 was served upon him on even date.[20]

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[16] Id. at 81. Emphasis and underscoring in the original.
[17] Id. at 34.
[18] Id. at 144.
[19] Id. at 146.
[20] Id. at 210.

On the claim for service incentive leave pay, the petitioners denied liability for the same, contending that they were not remiss in paying this benefit. Anent Reyes's claim for damages, the petitioners argued that Reyes failed to present any clear and convincing evidence to show that the petitioners acted in bad faith.[21]

Ruling of the Labor Arbiter

On June 26, 2014, Labor Arbiter Fe S. Cellan rendered a Decision,[22] the dispositive portion of which reads:

> WHEREFORE, premises considered, respondent CMP Federal Security Agency, Inc. is hereby ordered to pay complainant the amount of ₱5,220.00 representing his service incentive leave pay.
>
> All other claims are denied.
>
> The complaint against individual respondent Ms. Carolina Mabanta-Piad is dismissed for lack of merit.
>
> SO ORDERED.[23]

In so ruling, the Labor Arbiter ratiocinated that the just cause for Reyes' dismissal was adequately substantiated by the petitioners who also proved that they complied with the due process requirements for termination of employment. The claim for illegal dismissal and separation pay, therefore, must necessarily fail, according to the Labor Arbiter. Nevertheless, the Labor Arbiter held that Reyes was entitled to service incentive leave pay for the years 2011 and 2012, in the aggregate amount of Php5,220.00, since the petitioners failed to establish prior payment thereof.[24]

Ruling of the National Labor Relations Commission

Finding merit in the appeal, the NLRC, through its September 24, 2014 Decision,[25] reversed the Labor Arbiter's ruling in this wise:

> WHEREFORE, premises considered, the Appeal is GRANTED and the assailed Decision dated 26 June 2014 is REVERSED and SET ASIDE. Respondent CMP Federal Security Agency, Inc. is directed to:

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[21] Id. at 126
[22] Id. at 122-130.
[23] Id. at 129-130.
[24] Id. at 128-129.
[25] Id. at 139-155; penned by Commissioner Isabel G. Panganiban-Ortiguerra and concurred in by Presiding Commissioner Joseph Gerard E. Mabilog and Commissioner Nieves E. Vivar-De Castro.

a) Pay complainant separation pay in lieu of reinstatement in [an] amount equivalent to one (1) month pay for every year of service reckoned from his employment up to finality of this Decision;

b) Pay full backwages to complainant from the time he was illegally dismissed on 20 July 2013 up to finality of this Decision;

c) Pay the amount of Php 5,220.00 to complainant representing his service incentive pay;

d) Pay the amount of Php 8,900.00 to complainant representing reimbursement of expenditures for supplies;

e) Pay the amount of Php 3,400.00 to complainant for the cash bond; and

f) Pay the amount corresponding to 10% of the judgment award to complainant as and by way of attorney's fees.

SO ORDERED.[26]

Diametrically opposed to the Labor Arbiter's findings, the NLRC held that Reyes committed no serious misconduct that could have warranted his dismissal. Moreover, the NLRC held, that in dismissing Reyes,[27] the petitioners did not comply with the detailed steps of procedural due process, as laid down in *United Tourist Promotions v. Kemplin*.[28]

The NLRC elucidated that wrongful intent, an indispensable element of serious misconduct, was not duly established by the petitioners; and that on the contrary, Reyes' Written Explanation dated July 22, 2013 clearly showed that there was no deliberate intent on his part to violate CMP Federal's rules and regulations.[29] Furthermore, the NLRC noted that a perusal of the Reply by Indorsement dated July 20, 2013 would show that no hearing or conference was scheduled and conducted by petitioners to give Reyes an opportunity to explain and clarify his defenses from the charges against him, to present evidence in support of his defenses, and to rebut the evidence presented against him.[30] Without the benefit of a hearing prior to his dismissal and absent just cause for his termination, Reyes's dismissal was struck down by the NLRC as illegal.[31]

Consequently, the NLRC awarded Reyes with full backwages and separation pay, in lieu of reinstatement, under the doctrine of strained relations. On the claims for non-payment of service incentive leave and reimbursement for expenditures of supplies and cash bond, the NLRC ruled that Reyes was entitled to

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[26] Id. at 154.
[27] Id. at 151.
[28] 726 Phil. 337, 350-352 (2014).
[29] *Rollo*, pp. 149-151.
[30] Id. at 151.
[31] Id.

the same because the petitioners had failed to overcome the burden, which rests on the employer, of proving payment of the said monetary claims. However, considering that no malice or bad faith could be attributed to the petitioners, the NLRC dismissed the claim for moral and exemplary damages. Finally, the NLRC awarded attorney's fees since Reyes was compelled to litigate to seek redress for his grievances.[32]

The petitioners moved for reconsideration but this motion was denied through the NLRC's October 20, 2014 Resolution.[33]

Ruling of the Court of Appeals

Ascribing grave abuse of discretion on the part of the NLRC for reversing the Labor Arbiter's finding, the petitioners filed with the CA a Petition for *Certiorari* with Prayer for Issuance of Temporary Restraining Order. Unfortunately for the petitioners, the CA, in its assailed Decision, upheld the NLRC's rulings thus:

> WHEREFORE, the assailed Decision dated 24 September 2014 and the challenged Resolution dated 20 October 2014 of the National Labor Relations Commission in NLRC LAC NO. 08-001993-14 are AFFIRMED.
>
> SO ORDERED.[34]

The CA sustained the NLRC's findings on the ground that the standards of due process were not strictly complied with; that, absent proof that an investigation was conducted by the petitioners or that Reyes was given an opportunity to be heard and present his countervailing evidence, it would be unfair for the CA to reverse the NLRC's Decision.[35] The appellate court also held that, even if the perceived procedural lapses were to be brushed aside, the petitioners' recourse would still have been dismissible for there was no sufficient cause to terminate Reyes on the ground of serious misconduct, because Reyes committed the alleged infractions without deliberate and wrongful intent to violate CMP Federal's rules and regulations.[36]

Petitioners moved for reconsideration, but the CA affirmed its August 28, 2015 Decision through its January 26, 2016 Resolution.[37]

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[32] Id. at 152-154.
[33] Id. at 171-173.
[34] Id. at 41.
[35] Id. at 37.
[36] Id. at 39.
[37] Id. at 44-45.

Issue

Hence, this instant recourse, in support of which this sole error is assigned:

> Whether or not THE HONORABLE COURT OF APPEALS ERRED in affirming the Decision of the NLRC, reversing the Decision of the Labor Arbiter Fe Cellan in finding that the Respondent Reyes was illegally dismissed.[38]

The Court's Ruling

The Petition is impressed with merit.

Procedural due process in illegal dismissal cases does not require formal hearing or conference

In determining whether an employee's dismissal has been legal, the inquiry focuses on whether the dismissal violated the employee's right to both substantial and procedural due process.[39] The sufficiency of the cause for the dismissal is covered by substantial due process, while procedural due process pertains to compliance with the procedural standards enshrined in the Labor Code before termination can be effected.

In this case, Reyes bewailed that he was allegedly deprived of the opportunity to be heard because no hearing or conference was conducted by the petitioners regarding the disciplinary charges against him, in violation of Section 2(d), Rule I, Book VI of the Omnibus Rules Implementing the Labor Code, which provides:

> Section 2. *Security of Tenure.* x x x
>
> x x x x
>
> (d) In all cases of termination of employment, the following standards of due process shall be substantially observed:
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> For termination of employment based on just cases as defined in Article 282 of the Labor Code:
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> (i) A written notice served on the employee specifying the ground or grounds for termination, and giving said employee reasonable opportunity within which to explain his side.

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[38] Id. at 8.

[39] *Brown Madonna Press, Inc. v. Casas,* 759 Phil 479, 491 (2015).

> (ii) **A hearing or conference during which the employee concerned, with the assistance of counsel if he so desires, is given an opportunity to respond to the charge, present his evidence, or rebut the evidence presented against him.**
>
> (iii) A written notice of termination served on the employee, indicating that upon due consideration of all the circumstances, grounds have been established to justify his termination. (Emphasis added)

Harping on the above-quoted rule, both the NLRC and the CA gave credence to Reyes' argument.

We cannot concur.

The 2017 case of *Maula v. Ximex Delivery Express, Inc.*,[40] citing the *En Banc* ruling in *Perez v. Phil. Telegraph and Telephone Company*,[41] reiterated the hornbook doctrine that actual hearing or conference is not a condition *sine qua non* for procedural due process in labor cases because the provisions of the Labor Code prevail over its implementing rules. Pertinently, Article 277(b) of the Labor Code states:

> ART. 277. *Miscellaneous provisions.* x x x
>
> (b) Subject to the constitutional right of workers to security of tenure and their right to be protected against dismissal except for a just and authorized cause and without prejudice to the requirement of notice under Article 283 of this Code, 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 Department of Labor and Employment. x x x[42] (Emphasis supplied)

As the Court *En Banc* explained in *Maula:*

> x x x The test for the fair procedure guaranteed under Article 277(b) cannot be whether there has been a formal pre-termination confrontation between the employer and the employee. **The 'ample opportunity to be heard' standard is neither synonymous nor similar to a formal hearing.** To confine the employee's right to be heard to a solitary form narrows down that right. It deprives him of other equally effective forms of adducing evidence in his defense. Certainly, such an exclusivist and absolutist interpretation is overly restrictive. *The 'very nature of due process negates any concept of inflexible procedures universally applicable to every imaginable situation.'*

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[40] 804 Phil. 365 (2017).
[41] 602 Phil. 522, 537-542 (2009).
[42] LABOR CODE, Article 292 as renumbered.

> The standard for the hearing requirement, ample opportunity, is couched in general language revealing the legislative intent to give some degree of flexibility or adaptability to meet the peculiarities of a given situation. To confine it to a single rigid proceeding such as a formal hearing will defeat its spirit.
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> **Significantly, Section 2(d), Rule I of the Implementing Rules of Book VI of the Labor Code itself provides that the so-called standards of due process outlined therein shall be observed 'substantially,' not strictly. This is a recognition that *while a formal hearing or conference is ideal, it is not an absolute, mandatory or exclusive avenue of due process.***
>
> An employee's right to be heard in termination cases under Article 277(b) as implemented by Section 2(d), Rule I of the Implementing Rules of Book VI of the Labor Code should be interpreted in broad strokes. It is satisfied not only by a formal face to face confrontation but by any meaningful opportunity to controvert the charges against him and to submit evidence in support thereof.
>
> A hearing means that a party should be given a chance to adduce his evidence to support his side of the case and that the evidence should be taken into account in the adjudication of the controversy. ***'To be heard' does not mean verbal argumentation alone inasmuch as one may be heard just as effectively through written explanations, submissions or pleadings.*** Therefore, while the phrase 'ample opportunity to be heard' may in fact include an actual hearing, it is not limited to a formal hearing only. In other words, the existence of an actual, formal 'trial-type' hearing, although preferred, is not absolutely necessary to satisfy the employee's right to be heard.
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> x x x x
>
> In sum, the following are the guiding principles in connection with the hearing requirement in dismissal cases:
>
> (a) 'ample opportunity to be heard' means any meaningful opportunity (verbal or written) given to the employee to answer the charges against him and submit evidence in support of his defense, whether in a hearing, conference or some other fair, just and reasonable way.
>
> (b) a formal hearing or conference becomes mandatory only when requested by the employee in writing or substantial evidentiary disputes exist or a company rule or practice requires it, or when similar circumstances justify it.
>
> (c) the "ample opportunity to be heard" standard in the Labor Code prevails over the 'hearing or conference' requirement in the implementing rules and regulations.[43]

Bearing in mind these guiding principles, the Court will now determine whether or not Reyes was denied procedural due process of law.

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[43] *Maula v. Ximex Delivery Express, Inc.*, supra note 40 at 383-385. Italics in the original. Emphasis added.

Reyes was afforded ample opportunity to be heard

To recall, Reyes received two sets of complaints in this case: the first set he received in various dates *via* e-mail, and the second he received on July 20, 2013 after his suspension had lapsed.

Anent the first set of complaints, the CA opined that they did not clearly specify the charges hurled against Reyes. It also made much of the purported delayed decision of the management and the uncertainty of whether Reyes actually received copies thereof.[44]

This Court finds otherwise.

The petitioners established that Reyes was not denied due process of law as he was in fact able to answer the charges against him. To clarify, the petitioners attached to its petition filed before this Court copies of Reyes' Written Explanations dated February 5, April 12, 15 and 17, and May 10 and 24, 2013[45] answering the first set of complaints.

In response to the complaint in February 2013 for non-observance of the rule on timely submission of the Daily Situation Report, Reyes stated in his February 5, 2013 Written Explanation that it was because the Detachment's computer was defective and, at that time, was turned over to CMP Federal's headquarters. Nonetheless, Reyes apologized and admitted his fault for not finding another way to comply with his obligation to submit the required report.[46]

Regarding the complaint dated April 11, 2013, for failure to comply with the client's instruction that led to the complaint of Mr. Albert G. Bautista, General Manager of MG Terminal, Reyes was able to raise a defense in his April 12, 2013 Written Explanation.[47]

In relation to the April 16, 2013 complaint for failure to coordinate with any member of the Operations Team of CMP Federal and in directly transacting with Ed and Racquel Garments for the procurement of uniforms for the MG Terminal Detachment, Reyes countered in his April 17, 2013 Written Explanation that this was the practice of the former detachment commander, and that it was moreover

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[44] *Rollo*, p 38.
[45] Id. at 61, 64, 66, 71, 74 and 116.
[46] Id. at 61.
[47] Id. at 64.

due to the prodding of subordinates who were unsatisfied by the fit of their uniform.[48]

Insofar as the May 8, 2013 complaints are concerned, for the incomplete data of MG Terminal's Daily Situation Report for the month of April 2013, Reyes admitted in his May 10, 2013 Written Explanation that he simply failed to recheck all the details in the Daily Situation Report that he submitted.[49] As for the confrontation between the two CMP Federal security guards and the personnel of Personajes Trucking, Reyes apologized for not contacting Maningat because he forgot the standard operating procedure to report such incidents to his superior. Instead, he merely reported the altercation to the *barangay* hall and asked the *barangay* chairman to resolve the conflict.[50]

Lastly, in his Written Explanation dated May 24, 2013 in response to the May 23, 2013 complaint, Reyes apologized for his failure to designate Sagun as Shift-in-Charge as instructed by the petitioners on May 18, 2013, a Saturday. According to Reyes, he was unable to comply with the instruction because Sagun was in Manila at that time and the latter needed to open an account with a bank on May 20, 2013. Thus, Sagun could have only taken the night shift for that day and could not immediately be designated as the Shift-in-Charge.[51]

Succinctly, a perusal of Reyes' Written Explanations would reveal that the allegations in the complaints were specific enough for Reyes to comprehend what the charges against him were, belying the CA's observation that they were allegedly lacking in particulars. On the contrary, Reyes was afforded more than enough chances to raise intelligent defenses, except that he mostly admitted his infractions and apologized for them in his Written Explanations.

It is because of these admissions that CMP Federal served Reyes with four Notices of Offense on June 1, 2013, informing him of the penalty imposed by his erstwhile employer for violating company rules and policies. CMP Federal imposed the following penalties on Reyes: a stern warning for Reyes' first negligent act of failing to comply with the rule on the submission of Daily Situation Reports;[52] a five-day suspension from June 1 to 5, 2013 for failure to follow a client's instruction;[53] a 15-day suspension from June 6 to 20, 2013 for failure to coordinate for the procurement of uniforms, Reyes' second act of negligence; and a 30-day suspension from June 21 to July 20, 2013 for incomplete data of daily status reports, his third infraction for negligence.[54]

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[48] Id. at 71.
[49] Id. at 74.
[50] Id. at 113.
[51] Id. at 116.
[52] Id. at 62.
[53] Id. at 65.
[54] Id. at 75.

When the period of suspension lapsed on July 20, 2013, Reyes returned to work only to be served by CMP Federal with the second set of complaints embodied in the Reply by Indorsement of even date.[55]

On July 22, 2013, Reyes submitted his Written Explanation,[56] wherein he reiterated his defenses in his May 10 and 24, 2013 answers regarding his failure to designate Sagun as Shift-in-Charge and for failure to report the incident with the Personajes Trucking personnel. Regarding the alleged violation of Section 1.B.c, Rule X of RA 5487, Reyes countered that it was Sagun who actually breached the rule on confidentiality, claiming that he instructed Sagun to list down 18 security guards for the new posts in the vacant Cabcaben lot; but that, despite his clear instruction to Sagun to keep the information confidential, the latter allegedly still divulged the plan to other security guards.

Upon evaluating the evidence adduced, including Reyes' written explanation and written statements from other security guards,[57] CMP Federal issued a Notice of Termination dated July 30, 2013, dismissing Reyes from his employment.[58]

At this point, it becomes fairly obvious that the petitioners afforded Reyes with ample opportunity to be heard regarding the complaints leveled against him. A formal hearing or conference was not necessary since nowhere in any of his Written Explanations did Reyes request for one. Few facts were also disputed since his justifications were replete with admissions and apologies. Thus, without first going into the merits of the administrative complaints against Reyes, and his defenses, the Court finds that Reyes was not denied procedural due process of law. The CA therefore erred in ruling that the NLRC did not act with grave abuse of discretion when it reversed the Decision of the Labor Arbiter.

Just cause for Reyes's termination

Article 297[59] of the Labor Code enumerates the just causes for the termination of employment, *viz.*:

> **Art. 297. Termination by employer.** An employer may terminate an employment for any of the following causes:
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> **a. Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;**
>
> **b. Gross and habitual neglect by the employee of his duties;**

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55 Id. at 79.
56 Id. at 80.
57 Id. at 83-84.
58 Id. at 81.
59 Formerly Article 282.

> c. Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
>
> d. Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representatives; and
>
> **e. Other causes analogous to the foregoing**. (Emphasis added)

Preliminarily, the Court agrees with the NLRC and the CA that Reyes' infractions did not constitute "serious misconduct" as contemplated under the first paragraph of Article 282 of the Labor Code. As held in *Imasen Philippine Manufacturing Corporation v. Alcon*:[60]

> Misconduct is defined as an improper or wrong conduct. It is a transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies wrongful intent and not mere error in judgment. To constitute a valid cause for the dismissal within the text and meaning of Article 282 of the Labor Code, the employee's misconduct **must be serious**, *i.e.*, **of such grave and aggravated character** and not merely trivial or unimportant.[61]

In the case at bar, the explanations proffered by Reyes showed that he was not animated by any wrongful intent when he committed the infractions complained of. Moreover, the finding that he was guilty of serious misconduct was incompatible with the charges for negligence which, by definition, requires lack of wrongful intent.

The Court cannot also consider negligence as a valid ground for Reyes' dismissal. To be a valid ground for dismissal, the neglect of duty must be both gross and habitual. Gross negligence implies want of care in the performance of one's duties. Habitual neglect, on the other hand, implies repeated failure to perform one's duties for a period of time.[62]

Under the circumstances obtaining in the case, the Court finds that, although Reyes' negligence was habitual, they could in no way be considered gross in nature. It cannot be said that Reyes was wanting in care. For, based on his explanations, his infractions were the result of either simple negligence or errors in judgment.

Nevertheless, the Court rules that there was still just cause for Reyes' termination – gross inefficiency.

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60 746 Phil. 172 (2014).

61 Id. at 181. Emphasis in the original.

62 *Noblado v. Alfonso*, 773 Phil. 271, 283 (2015).

In the leading case of *Lim v. National Labor Relations Commission*,[63] the Court considered inefficiency as an analogous just cause for termination of employment under Article 282 of the Labor Code. The Court held:

> We cannot but agree with PEPSI that gross inefficiency falls within the purview of 'other causes analogous to the foregoing,' and constitutes, therefore, just cause to terminate an employee under Article 282 of the Labor Code. One is analogous to another if it is susceptible of comparison with the latter either in general or in some specific detail; or has a close relationship with the latter. 'Gross inefficiency' is closely related to 'gross neglect,' for both involve specific acts of omission on the part of the employee resulting in damage to the employer or to his business. In *Buiser v. Leogardo*, this Court ruled that failure to observe prescribed standards of work, or to fulfill reasonable work assignments due to inefficiency may constitute just cause for dismissal.[64]

This doctrine had been applied in *International School Manila v. International School Alliance of Educators*[65] when this Court held:

> What can be gathered from a thorough review of the records of this case is that the inadequacies of Santos as a teacher did not stem from a reckless disregard of the welfare of her students or of the issues raised by the School regarding her teaching. Far from being tainted with bad faith, Santos's failings appeared to have resulted from her lack of necessary skills, in-depth knowledge, and expertise to teach the Filipino language at the standards required of her by the School.
>
> Be that as it may, we find that the petitioners had sufficiently proved the charge of gross inefficiency, which warranted the dismissal of Santos from the School.
>
> The Court enunciated in *Peña v. National Labor Relations Commission* that 'it is the prerogative of the school to set high standards of efficiency for its teachers since quality education is a mandate of the Constitution. As long as the standards fixed are reasonable and not arbitrary, courts are not at liberty to set them aside.' x x x
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> x x x x
>
> Contrary to the ruling of the Labor Arbiter, it is not accurate to state that Santos was dismissed by the School for inefficiency on account of the fact that she was caught only once without a lesson plan. The documentary evidence submitted by petitioners, the contents of which we laid down in detail in our statement of facts, pointed to the numerous instances when Santos failed to observe the prescribed standards of performance set by the School in several areas of concern, not the least of which was her lack of adequate planning for her Filipino classes. Said evidence established that the School administrators informed Santos of her inadequacies as soon as they became apparent; that they provided constructive

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[63] 328 Phil. 843 (1996).
[64] Id. at 858.
[65] 726 Phil. 147 (2014).

> criticism of her planning process and teaching performance; and that regular conferences were held between Santos and the administrators in order to address the latter's concerns. In view of her slow progress, the School required her to undergo the remediation phase of the evaluation process through a Professional Growth Plan. Despite the efforts of the School administrators, Santos failed to show any substantial improvement in her planning process. Having failed to exit the remediation process successfully, the School was left with no choice but to terminate her employment.
>
> The Court finds that, not only did the petitioners' documentary evidence sufficiently prove Santos's inefficient performance of duties, but the same also remained unrebutted by respondents' own evidence. On the contrary, Santos admits in her pleadings that her performance as a teacher of Filipino had not been satisfactory but she prays for leniency on account of her prior good record as a Spanish teacher at the School. Indeed, even the Labor Arbiter, the NLRC and the Court of Appeals agreed that Santos was not without fault but the lower tribunals deemed that termination was too harsh a penalty.[66]

The ruling in *International School Manila* is squarely applicable herein. As with any private corporation, CMP Federal had the prerogative to set standards, within legal bounds, to be observed by its employees. In the exercise of this right, CMP Federal promulgated a Table of Offenses, Administrative Charges and Penalties, which prescribed a norm of conduct at work.[67] Based on the admissions of Reyes in his Written Explanations, he was repeatedly remiss in complying with the standards set therein. In view of his repeated unsatisfactory performance, CMP Federal had justifiable reasons to terminate Reyes from its employ.

The CA thus erred in ruling that the NLRC did not act with grave abuse of discretion in invalidating Reyes' dismissal for lack of just cause. The NLRC and the CA should not have fixated itself with the designation of the offense as serious misconduct when it is clear from the complaints and Reply by Indorsement that Reyes was actually being made to answer for his violation of company policies and standards. Compounded with the earlier finding that the NLRC similarly gravely abused its discretion in finding that the procedural due process requirements were not complied with, the Court is constrained to reverse the ruling of the CA. The reinstatement of the Labor Arbiter's ruling is therefore in order.

WHEREFORE, premises considered, the petition is hereby **GRANTED**. The August 28, 2015 Decision and January 26, 2016 Resolution of the Court of Appeals in CA-G.R. SP No. 138291 are hereby **REVERSED and SET ASIDE**. The June 26, 2014 Decision of Labor Arbiter Fe S. Cellan in NLRC Case No. NCR-08-11069-13 is **REINSTATED**.

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[66] Id. at 175-177.

[67] *Rollo*, pp. 76-78.

SO ORDERED.

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:

LUCAS P. BERSAMIN
Chief Justice

(On official leave)
FRANCIS H. JARDELEZA
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

LUCAS P. BERSAMIN
Chief Justice