Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

JERRY E. ALMOGERA, JR., *Petitioner,*	**G.R. No. 247428**
	Present:
- versus -	LEONEN, *J.*, Chairperson, HERNANDO, INTING, DELOS SANTOS, and GAERLAN,* *JJ.*
A & L FISHPOND AND HATCHERY, INC. and AUGUSTO TYCANGCO, *Respondents.*	Promulgated: **February 17, 2021**

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DECISION

DELOS SANTOS, *J.*:

Before this Court is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court assailing the Decision[2] dated November 12, 2018 and the Resolution[3] dated May 21, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 155442.

The Facts

Respondent A & L Fishpond and Hatchery, Inc. (A & L) is a corporation engaged in the business of breeding, production, and distribution

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* Designated as additional member in lieu of Associate Justice Jhosep Y. Lopez per Raffle dated February 10, 2021.

1 *Rollo*, pp. 12-37.

2 Id. at 38-47. Penned by Associate Justice Manuel M. Barrios, with Associate Justices Japar B. Dimaampao and Jhosep Y. Lopez (now a Member of the Court), concurring.

3 Id. at 49-50.

of different kinds of aquatic products, operating in *Barangay* Sampaloc, Apalit, Pampanga. Respondent Augusto Tycangco (Tycangco) is A & L's owner and proprietor (collectively, respondents).[4]

In October 2013, petitioner Jerry E. Almogera, Jr. (petitioner) was hired by A & L as an all-around harvester with a daily wage of ₱318.00. Petitioner alleged that sometime on January 5, 2017, he verbally sought permission from his immediate supervisor, Manuel Cruzada (Cruzada), to take a leave of absence for 11 days beginning January 6, 2017 until January 16, 2017 as he had to attend to a family emergency in Naga. According to petitioner, his immediate supervisor signified his approval on the request and committed to relay the same to higher management. Thereafter, petitioner left the workplace and went to Naga.[5]

On January 25, 2017, upon reporting for work, petitioner received a letter from A & L requiring him to explain within five days why he should not be terminated for his absences without official leave covering the period January 6 to 16, 2017 pursuant to its Code of Discipline. On that same day, petitioner was also placed under preventive suspension for the period January 25 to 29, 2017. Petitioner opted not to submit any explanation. Subsequently, a formal advice of termination was served on petitioner informing him of his dismissal from employment effective January 30, 2017, for violation of A & L's Code of Discipline.[6]

Aggrieved, petitioner filed a Complaint[7] for illegal dismissal and underpayment/non-payment of salaries, overtime pay, holiday pay, rest day premium pay, service incentive leave pay, and separation pay, with claims for moral and exemplary damages, and attorney's fees, against respondents before the National Labor Relations Commission (NLRC)-Regional Arbitration, Branch No. III, San Fernando, Pampanga.

Petitioner contended that his dismissal was illegal and for which reason, he is entitled to his entire monetary claim.[8] Respondents countered that petitioner's dismissal was valid considering that A & L observed substantive and procedural due process before he was terminated. They added that petitioner never submitted an explanation for his absences, whether written or verbal.[9]

Ruling of the Labor Arbiter

On August 24, 2017, the Labor Arbiter (LA) rendered a Decision[10] in

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4 Id. at 13.
5 Id. at 39-40.
6 Id. at 40.
7 Id. at 100.
8 Id. at 104-111.
9 Id. at 121-122.
10 Id. at 200-207.

favor of petitioner. The LA ruled that petitioner was illegally dismissed for respondents' failure to prove that he was furnished with a copy of the Code of Discipline or its contents made known to him at the time of his employment to be binding upon him; that petitioner was not underpaid of his wages; that petitioner failed to provide the particulars regarding his claims for overtime pay, holiday pay and rest day premium; and that petitioner is entitled to service incentive leave pay because respondents failed to prove payment thereof. The dispositive portion of the Decision reads:

> WHEREFORE, premises considered, complainant is found to have been illegally dismissed even as respondents are held liable therefor.
>
> Consequently, respondent corporation is hereby ordered to pay complainant's full backwages from the time of his illegal dismissal until the finality of this decision, initially computed at this time at Php72,635.96.
>
> Respondent corporation is likewise ordered to pay complainant's separation pay of Php33,072.00, and a service incentive leave pay of Php4,770.00.
>
> All other claims are hereby dismissed for lack of merit.
>
> SO ORDERED.[11]

Respondents appealed to the NLRC imputing error on the part of the LA in ruling that petitioner was illegally terminated and adjudging respondents liable for backwages, separation pay and service incentive leave pay.

Ruling of the NLRC

In a Decision[12] dated December 29, 2017, the NLRC reversed and set aside the LA's Decision, except with respect to the award of service incentive leave pay. It ruled that petitioner was validly dismissed for a just cause, for violation of a reasonable company rule and regulation duly made known to him at the time of his employment. His failure to comply with the requirements of vacation leave as he never accomplished and filed the required Vacation Leave Form which made him on Absence Without Official Leave (AWOL) during the 11 days he did not report for work, according to it, justified his dismissal. Moreover, it found that petitioner was accorded due process as he was given an opportunity to be heard and to defend himself, but he chose to ignore and did not submit his explanation. The NLRC disposed of the case as follows:

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[11] Id. at 207.
[12] Id. at 81-92.

> WHEREFORE, respondents' appeal is PARTLY GRANTED. The 24 August 2017-Decision is MODIFIED by DECLARING complainant as having been validly dismissed and REVERSING AND SETTING ASIDE the awards of backwages and separation pay.
>
> The rest of the Decision is AFFIRMED.
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> SO ORDERED.[13]

His motion for reconsideration having been denied, the petitioner filed a petition for *certiorari* before the CA.

Ruling of the CA

In its assailed Decision[14] dated November 12, 2018, the CA upheld the NLRC's findings that petitioner was validly dismissed for cause by A & L for being on AWOL for 11 days. It found support to the NLRC's ruling that petitioner's failure to comply with the company rules and regulations on the application for vacation leaves amounted to willful disobedience which is a just cause for termination of employment.

On the procedural aspect, the CA noted that it has been established that A & L had given petitioner the requisite notices, first notice which informed him of his infraction and gave him reasonable opportunity to explain; not having received any response from him, issued the second notice of termination. As such, the CA concluded that petitioner was deemed to have admitted his guilt for the infraction, and that the prescribed penalty was rightly imposed.[15]

The CA, thus, disposed:

> WHEREFORE, the foregoing considered, the instant Petition is DENIED. The Decision dated 29 December 2017 and Resolution dated 31 January 2018 in NLRC LAC No. 11-003613-17 are SUSTAINED.
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> SO ORDERED.[16]

Dissatisfied, petitioner filed his motion for reconsideration, but the same was denied in the assailed CA's Resolution[17] dated May 21, 2019.

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[13] Id. at 91-92.
[14] Supra note 2.
[15] *Rollo*, p. 46.
[16] Id.
[17] Supra note 3.

This prompted petitioner to file this Petition for Review on *Certiorari* anchored on the following:

Issues

I

WHETHER THE [CA GRAVELY] ERRED IN AFFIRMING THE RULING OF THE NLRC, FINDING THAT THE PETITIONER WAS NOT ILLEGALLY DISMISSED FROM WORK, AND THEREFORE, NOT ENTITLED TO ANY OF HIS MONETARY CLAIMS.

II

WHETHER THE [CA] GRAVELY ERRED IN AFFIRMING THE RULING OF THE NLRC SETTING ASIDE THE MONETARY AWARD GIVEN BY THE [LA].[18]

Petitioner argues that the CA committed a reversible error in denying the petition for *certiorari* filed by petitioner, which, if not corrected, will cause injustice and irreparable damage to him. He reiterates his claim of illegal dismissal from work. He vehemently denies that his absences were without official leave. He insists that he had sought authority from his immediate supervisor, Cruzada who approved his request and even committed to relay the same to the management. Thus, according to him, he cannot be faulted when he relied upon Cruzada's express approval. Petitioner further maintains that the authenticated copy of A & L's rules and regulations on leave application requirement, relied upon by respondents was not presented as evidence. There was also no proof that the said company policy was even communicated to him. As a consequence, he cannot be said to have committed a violation of such policy. Even assuming that the acts imputed to him constitute just causes for termination, petitioner argues that the imposition upon him of the penalty of dismissal is too harsh. Lastly, petitioner contends that he is entitled to his entire monetary claims.[19]

Respondents in their Comment,[20] assert that the petition must be denied as it failed to raise questions of law, but merely raises questions of facts already threshed out during the trial before the LA and appeal before the NLRC. They additionally submit that petitioner merely rehashed his previous arguments which have already been passed upon and found unmeritorious by the NLRC and the CA. Respondents maintain that the NLRC and the CA acted in accordance with law and jurisprudence in declaring that petitioner was validly dismissed from work.

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[18] *Rollo*, p. 20.
[19] Id. at 19-31.
[20] Id. at 385-411.

The Court's Ruling

The Petition has no merit.

At the outset, it should be stressed that the determination of whether petitioner was illegally dismissed from employment requires this Court to re-examine the facts and weigh the evidence on record, which is normally a task that is not for this Court to perform, for basic is the rule that the Court is not a trier of facts and this rule applies with greater force in labor cases. Questions of fact are for the labor tribunals to resolve. It is elementary that the scope of this Court's judicial review under Rule 45 of the Rules of Court is confined only to errors of law and does not extend to questions of fact. This case, however, falls under one of the recognized exceptions to the rule, that is, when the findings of the LA conflict with those of the NLRC and the CA.[21] Here, as the findings of the LA, on the one hand, and those of the NLRC and the CA, on the other hand, are conflicting, the Court finds sufficient basis to look into the issue of the validity of petitioner's dismissal.

Petitioner was validly dismissed.

It is settled that for a dismissal to be valid, the rule is that the employer must comply with both substantive and procedural due process requirements. Substantive due process requires that the dismissal must be pursuant to either a just or an authorized cause under Articles 297, 298, or 299 (formerly Articles 282, 283, and 284) of the Labor Code. Procedural due process, on the other hand, mandates that the employer must observe the twin requirements of notice and hearing before a dismissal can be effected.[22] Thus, to determine the validity of petitioner's dismissal, there is a need to discuss whether there was indeed a just cause for his termination.

In termination cases, the burden of proof to show that the dismissal was for a valid or authorized cause rests upon the employer.[23] The failure of the employer to discharge this burden of proof would necessarily mean that the dismissal was illegal.[24] Based on the assessment of the attending facts, however, the Court finds that this burden has been discharged by respondents.

A & L, like any other employers, in managing its business may promulgate policies, rules, and regulations on work-related activities of its employees. This includes the implementation of company rules and

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[21] *Raza v. Daikoku Electronics Phils., Inc.*, 765 Phil. 61, 79 (2015).
[22] *Puncia v. Toyota Shaw/Pasig, Inc.*, 788 Phil. 464, 478 (2016).
[23] LABOR CODE, Art. 292 [Art. 277(b)], as amended.
[24] *Distribution & Control Products, Inc. v. Santos*, 813 Phil. 423, 433 (2017).

regulations and the imposition of disciplinary measures on its workers.[25] On the matter of vacation leave applications of its workers, A & L's policies and regulations (A & L rules) specifically provide, *viz.*:

> II. WORK SCHEDULE
>
> x x x x
>
> 3. All personnel who will go on Vacation Leave (VL) should fill up a VL Form in two (2) copies at least five (5) days before his leave. The VL form should be approved by the Supervisor prior to the intended leave.
>
> x x x x
>
> VIOLATION OF ANY OF THE STATED POLICIES AND REGULATION WILL BE DEALT ACCORDINGLY AS PER THE COMPANY CODE OF DISCIPLINE WHICH IS HEREWITH ATTACHED.[26]

Section I of the Code of Discipline[27] clearly states the violations and corresponding penalties with regards to the attendance and punctuality of all personnel, thus:

> CODE OF DISCIPLINE
>
> I. ATTENDANCE

		PENALTY		
		1st	2nd	3rd
x x x	x x x	x x x	x x x	x x x
7	½ day to 2 days AWOL	3 days suspension	1 week suspension	dismissal
	3 to 4 days AWOL	1 week suspension	dismissal	
	5 or more days AWOL	Dismissal		

It should be recalled that petitioner failed to report for work on January 6 to 16, 2017 without prior approved leave of absence. Such act respondents considered as a violation of the express requirement of the A & L rules regarding the manner and process of taking a leave of absence. For this reason, Tycangco issued a Letter[28] dated January 24, 2017, received by petitioner on January 25, 2017,[29] requiring him to submit an explanation on why he should not be dismissed for his 11 days of AWOL. The pertinent portion of the letter reads:

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[25] *Raza v. Daikoku Electronics Phils., Inc.*, supra note 21, at 82.
[26] *Rollo*, pp. 161-163.
[27] Id. at 164.
[28] Id. at 83.
[29] Id. at 40; 43.

Ikaw ay hindi pumasok mula Enero 6-16, 2017 o sa loob ng labing-isang araw (11 days) sa hindi malamang dahilan at hindi nag file ng Vacation Leave (VL) o nagbigay ng Medical Certificate. Ito ay labag sa ating Company Code of Discipline na nagsasaad ng sumusunod:

I. Attendance
II. No. 7 "*Palagiang pag-absent sa trabaho ng walang paalam o pasabi; hindi pagsipot o pagbalik sa trabaho na walang pasabi ayon sa pinagkasunduang haba ng bakasyon.*"

PENALTY: 7 or more days AWOL – DISMISSAL

x x x x

Ikaw ay inaatasang magpaliwanag sa loob ng limang araw (5 days) kung bakit mo ginawa ito. Pansamantala kang suspendido sa loob ng limang (5) araw mula Enero 25-29, 2017.[30]

Despite receipt of the letter, petitioner did not submit any explanation. A hearing was then scheduled on January 28, 2017 to give him another opportunity to explain.[31] Again, he opted to ignore the said hearing. Thus, *sans* justification for the prolonged and unauthorized absences, Tycangco was constrained to issue a Memorandum dated January 30, 2017, informing petitioner of his termination for violation of Section 7 of the Code of Discipline.

SUBJECT: FORMAL ADVICE FOR TERMINATION

Pagtapos ng masusing pag-aaral sa lahat ng sirkumstansya [patungkol] sa iyong paglabag sa Company Code of Discipline (I. Attendance No. 7 – AWOL), *malinaw sa* Management *ang iyong nagawang paglabag at ikaw ay pinatawan ng* TERMINATION *epektibo ngayong araw, Enero 30, 2017.*[32]

Under the Labor Code,[33] an employer may terminate the services of an employee for a just cause. Here, respondents dismissed petitioner based on allegations of willful disobedience.

One of the fundamental duties of an employee is to obey all reasonable rules, orders, and instructions of the employer.[34] Willful disobedience of the employer's lawful orders, as a just cause for dismissal of an employee, envisages the concurrence of at least two requisites: (1) the

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30 Id. at 43-44.
31 Supra note 28.
32 *Rollo*, pp. 40; 88.
33 Art. 282. *Termination by employer.* – An employer may terminate an employment for any of the following causes:
(a) Serious misconduct or **willful disobedience** by the employee of the lawful orders of his employer or representative in connection with his work[.] (Emphasis supplied)
34 *Nissan Motors Phils. Inc. v. Angelo*, 673 Phil. 150, 160 (2011).

employee's assailed conduct must have been willful, that is, characterized by a wrongful and perverse attitude; and (2) the order violated must have been reasonable, lawful, made known to the employee and must pertain to the duties which he had been engaged to discharge.[35] These requisites obtain in this case.

Undoubtedly, the collective acts of petitioner in disregarding the afore-quoted A & L rules by failing to prepare and submit the appropriate leave application form in absenting himself from work for a prolonged period, failing to comply with the notice to explain, and refusing to appear before the management for a hearing, are clear manifestations of his inclination on disregarding A & L rules and Code of Discipline. Verily, petitioner's conduct is indicative of a wrongful act and perverse attitude which constitute willful disobedience, a just cause for termination under Article 282(a) [now Article 297(a)] of the Labor Code.

The A & L rules and Code of Discipline are reasonable and lawful. As sufficiently explained by respondents, A & L imposed filing of leave application prior to the absence in order to maintain work efficiency in its premises. Otherwise, its business of production and distribution of different kinds of fish would be prejudiced. The existence of its business relies heavily on the presence of workers assigned in harvesting of fish. Thus, the policy of leave application requirement for limited number of days is reasonable to protect its business interest. There is also no question that the A & L rules are relevant to petitioner's duties as all-around harvester.

Contrary to the findings of the LA, the A & L rules were made-known and binding upon petitioner. As declared by respondents, the A & L rules and the contents of the Code of Discipline were discussed, explained and duly made known to all their workers, including petitioner, at the time of employment. In fact, it is apparent that the Code of Discipline even contains a translation in Filipino to enable all employees to understand the matters stated therein.

As properly observed by the NLRC and affirmed by the CA, petitioner did not controvert the fact that he was furnished a copy and was made aware of the A & L rules and Code of Discipline. Given his failure to refute respondents' claim, he is deemed to know the requirements for leave.

Petitioner, however, now claims otherwise. His assertion of lack of knowledge deserves scant consideration for being an afterthought. Records reveal and as correctly noted by the NLRC, petitioner never raised such

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[35] *Coca-Cola Bottlers Phils., Inc. v. IBM Local I*, 800 Phil. 645, 663 (2016), citing *Bascon v. Court of Appeals*, 466 Phil. 719, 730 (2004).

issue in his pleadings before the LA and in his answer to respondents' appeal. Notably, it was raised for the first time only in his motion for reconsideration before the NLRC and reiterated in his petition for *certiorari* before the CA, as well as in the present petition. It is well established that issues raised for the first time on appeal and not raised in the proceedings in the lower court are barred by estoppel. Points of law, theories, issues, and arguments not brought to the attention of the trial court ought not to be considered by a reviewing court, as these cannot be raised for the first time on appeal. To consider the alleged facts and arguments belatedly raised would amount to trampling on the basic principles of fair play, justice, and due process.[36] Here, such claim of lack of knowledge of A & L rules having been belatedly raised cannot be appreciated in his favor as the Court is precluded from entertaining the same. Petitioner, therefore, was bound by the said A & L rules which he was duty-bound to obey.

Petitioner's insistence that his absences were authorized as he had verbally asked permission from his supervisor, as aptly found by the CA, has not been substantiated and is obviously self-serving. To be sure, the manner by which he secured authority from his supervisor in availing his leave of absence was in direct contravention of the express provision of the A & L rules requiring leave application in written form. His non-compliance with the requirement is clearly willful in character and implies a wrongful intent. Thus, as aptly concluded by the NLRC and the CA, the respondents were able to discharge the burden of proving that petitioner was dismissed due to willful disobedience.

On petitioner's argument as regard the other causes for his termination, the Court subscribes with the NLRC's view that respondents' claim of serious misconduct, as well as gross and habitual neglect of duty were mere afterthoughts. Thus, these grounds find no application in this case. A perusal of the afore-quoted January 30, 2017 Memorandum of Tycangco shows that it was categorically stated that petitioner's dismissal was solely due to his violation of Item 7, Section I of the Code of Discipline.

The dismissal imposed by respondents is not too harsh a penalty.

On the penalty of dismissal, the Court agrees with the CA that the same was proper and justified as respondents merely applied the penalty provided under Item 7, Section I of the Code of Discipline. This is in line with the respondents' exercise of management prerogative having been established that the Code of Discipline is lawful and reasonable.

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[36] *Leus v. St. Scholastica's College Westgrove*, 752 Phil. 186, 202-203 (2015).

More than the fact that an employee's right to security of tenure does not give him a vested right to his position, petitioner should also be reminded of respondents' prerogative to prescribe reasonable rules and regulations necessary or proper for the conduct of its business and to provide certain disciplinary measures in order to implement said rules and to assure that the same would be complied with. Although the State affords the constitutional blanket of affording protection to labor, the rule is settled that it must also protect the right of employers to exercise what are clearly management prerogatives, so long as the exercise is without abuse of discretion.[37]

In this case, there was no abuse of discretion on the part of respondents in the exercise of its management prerogative. Petitioner's dismissal from the service was due to his unauthorized prolonged absence from work amounting to willful disobedience which is a sufficient ground for termination authorized by law. His argument, that the penalty of termination is not commensurate with the offense committed it being his first infraction does not convince. On the contrary, respondents' evidence shows that he had previously committed the same infraction when he was also absent without official leave on December 26 and 29, 2016 and January 4, 2017.[38]

In *Villeno v. National Labor Relations Commission*,[39] the Court brushed aside the same plea of first offense, thus:

> The **offenses cannot be excused upon a plea of their being "first offenses,"** or have not resulted in prejudice to the company in any way. [That] **no employer may rationally be expected to continue in employment a person whose lack of** morals, respect and loyalty to his employer, **regard for his employer's rules**, and appreciation of the dignity and responsibility of his office, has so plainly and completely been bared. (Emphases supplied)

Indeed, respondents complied with the substantive due process requirement as there was a just cause for petitioner's termination.

On the procedural aspect, the settled rule is that in termination proceedings of employees, procedural due process consists of the twin requirements of notice and hearing. The employer must furnish the employee with two written notices before the termination of employment can be effected: (1) the first apprises the employee of the particular acts or omissions for which his dismissal is sought; and (2) the second informs the

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[37] *Sy v. Neat, Inc.*, 821 Phil. 751, 774 (2017).

[38] *Rollo*, p. 203.

[39] 321 Phil. 880, 886 (1995), citing *Stanford Microsystems, Inc. v. National Labor Relations Commission*, 241 Phil. 426, 431 (1988).

employee of the employer's decision to dismiss him. The requirement of a hearing is complied with as long as there was an opportunity to be heard, and not necessarily that an actual hearing was conducted.[40]

The procedural due process standard to be observed in terminating the services of employees was further clarified in the case of *Unilever Philippines, Inc. v. Rivera*,[41] *viz.*:

> (1) The **first written notice** to be served on the employees should contain the specific causes or grounds for termination against them, and a directive that the employees are given the opportunity to submit their written explanation within a reasonable period. "Reasonable opportunity" under the Omnibus Rules means every kind of assistance that management must accord to the employees to enable them to prepare adequately for their defense. This should be construed as a period of at least five (5) calendar days from receipt of the notice to give the employees an opportunity to study the accusation against them, consult a union official or lawyer, gather data and evidence, and decide on the defenses they will raise against the complaint. Moreover, in order to enable the employees to intelligently prepare their explanation and defenses, the notice should contain a detailed narration of the facts and circumstances that will serve as basis for the charge against the employees. A general description of the charge will not suffice. Lastly, the notice should specifically mention which company rules, if any, are violated and/or which among the grounds under Art. 282 is being charged against the employees.
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> (2) After serving the first notice, the employers should schedule and conduct a **hearing or conference** wherein the employees will be given the opportunity to: (1) explain and clarify their defenses to the charge against them; (2) present evidence in support of their defenses; and (3) rebut the evidence presented against them by the management. During the hearing or conference, the employees are given the chance to defend themselves personally, with the assistance of a representative or counsel of their choice. Moreover, this conference or hearing could be used by the parties as an opportunity to come to an amicable settlement.
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> (3) After determining that termination of employment is justified, the employers shall serve the employees a **written notice of termination** indicating that: (1) all circumstances involving the charge against the employees have been considered; and (2) grounds have been established to justify the severance of their employment.

In this case, petitioner was accorded the required standard of procedural due process. Tycangco's January 24, 2017 Letter previously quoted constituted the requisite first notice containing a detailed description of the charge against him. It clearly informed petitioner of the specific provision of the Code of Discipline which he violated and gave him a reasonable opportunity to explain his side within five days from receipt

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[40] *Distribution & Control Products, Inc. v. Santos*, supra note 24, at 436.
[41] 710 Phil. 124, 136-137 (2013).

thereof. Not having received any explanation from petitioner, Tycangco issued the January 30, 2017 Memorandum, the requisite second notice informing him of the management's decision to terminate his employment after adequate consideration of the facts and circumstances. Evidently, respondents have satisfactorily complied with the twin-notice requirement.

It should be noted that petitioner was afforded two opportunities to defend himself. For reasons only known to him, however, he chose not to submit any explanation which is tantamount to an admission of guilt for his infraction. Had he heed the call for a hearing he could have the chance to a possible settlement to prevent his dismissal. Unfortunately, he reneged on these opportunities.

Petitioner is not entitled to the monetary award adjudged in his favor by the LA; he is only entitled to service incentive leave pay.

As petitioner had been validly dismissed, it becomes apparent that the monetary awards granted to him by the LA, were not proper. The awards for full backwages and separation pay cannot be sustained as these awards are reserved by law, and jurisprudence, for employees who were illegally dismissed.[42]

The award of service incentive leave pay, however, must be upheld. The LA and the NLRC, and as sustained by the CA unanimously found that respondents failed to present evidence to prove payment thereof. The Court finds no cogent reason to depart from such finding.

As to petitioner's prayer for the award of attorney's fees on the ground that he was constrained to secure the legal services of the Public Attorney's Office, the claim must also necessarily fail as a consequence of the finding that his dismissal was for a just cause and that the respondents acted in good faith when they terminated his services.[43]

Additionally, legal interest shall be imposed on the monetary award herein granted at the rate of 6% per annum from the finality of this judgment until fully paid.[44]

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[42] *Veterans Federations of the Philippines v. Montenejo*, 821 Phil. 788, 808 (2017), citing Art. 279 of P.D. No. 442, as amended.

[43] *Deoferio v. Intel Technology Philippines, Inc.*, 736 Phil. 625, 643 (2014).

[44] *Leus v. St. Scholastica's College Westgrove*, supra note 36, at 220.

In fine, the CA committed no reversible error when it sustained the Decision of the NLRC declaring petitioner as having been validly dismissed and not entitled to the awards of backwages and separation pay.

WHEREFORE, the Petition is **DENIED**. The Decision dated November 12, 2018 and the Resolution dated May 21, 2019 of the Court of Appeals in CA-G.R. SP No. 155442 are hereby **AFFIRMED**.

SO ORDERED.

EDGARDO L. DELOS SANTOS
Associate Justice

WE CONCUR:

MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson

RAMON PAUL L. HERNANDO
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

ATTESTATION

I attest 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.

MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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.

DIOSDADO M. PERALTA
Chief Justice