Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

YOLANDO T. BRAVO, Petitioner,	**G.R. No. 198066**
	Present:
-versus-	CARPIO, *J., Chairperson,* PERALTA, MENDOZA,* LEONEN, and MARTIRES,** *JJ.*
URIOS COLLEGE (NOW FATHER SATURNINO URIOS UNIVERSITY) and/or FR. JOHN CHRISTIAN U. YOUNG, Respondents.	**Promulgated:** 07 JUN 2017

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DECISION

LEONEN, *J.*:

The employer must adduce proof of actual involvement in the alleged misconduct for loss of trust and confidence to warrant the dismissal of fiduciary rank-and-file employees. However, "mere existence of a basis for believing that [the] employee has breached the trust [and confidence] of [the] employer" is sufficient for managerial employees.[1]

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* On official leave.

** On official leave.

1 *Caoile v. National Labor Relations Commission,* 359 Phil. 399, 406 (1998) [Per J. Quisumbing, First Division].

Through this Petition for Review,[2] Yolando T. Bravo (Bravo) challenges the Decision[3] dated January 31, 2011 and Resolution[4] dated July 14, 2011 of the Court of Appeals in CA-G.R. SP No. 02407-MIN. The Court of Appeals reinstated the Executive Labor Arbiter's decision, which upheld petitioner's dismissal from service.[5]

Bravo was employed as a part-time teacher[6] in 1988 by Urios College, now called Father Saturnino Urios University.[7] In addition to his duties as a part-time teacher, Bravo was designated as the school's comptroller from June 1, 2002 to May 31, 2002.[8]

Urios College organized a committee to formulate a new "ranking system for non-academic employees for school year 2001–2002." The committee was composed of the Vice-President for Academic Affairs, Dr. Aldefa Yumo; the Human Resources Department Head, Atty. Josefe C. Sorrera-Ty; and the Vice-President for Administration, Dr. Wilma Balmocena. "[U]nder [the proposed ranking] system, the position of Comptroller was classified as an office [h]ead while the position of Vice-President for Finance was classified as [m]iddle [m]anagement."[9]

The proposed ranking system for school year 2001–2002 was presented to Bravo for comments.[10] Bravo recommended that "the position of Comptroller should be classified as a middle management position [because it was] . . . informally merged with . . . the position of [V]ice-[P]resident for [F]inance."[11] In addition, the Comptroller and the Vice-President for Finance performed similar functions, which included follow up of payroll preparation, verification of daily cash vouchers, and certification of checks issued by the school. Moreover, they were responsible for the control of checkbooks issuance to the Cashier, preparation of departmental budget guidelines, supervision of reports and payments to various government agencies, and analysis and interpretation of financial statements.[12] Bravo further suggested that since he assumed the duties of Comptroller and Vice-President for Finance, his salary scale should be upgraded.[13]

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2 *Rollo*, pp. 14–50, Petition for Review under Rule 45 of the 1997 Rules of Civil Procedure as amended.

3 Id. at 52–74. The Decision was penned by Associate Justice Angelita A. Gacutan and concurred in by Associate Justices Rodrigo F. Lim, Jr. and Nina G. Antonio-Valenzuela of the Twenty-Third Division, Court of Appeals, Cagayan de Oro City.

4 Id. at 76–78. The Resolution was penned by Associate Justice Rodrigo F. Lim, Jr. and concurred in by Associate Justices Edgardo A. Camello and Pamela Ann Abella Maxino of the Special Twenty-Third Division, Court of Appeals, Cagayan de Oro City.

5 Id. at 73.

6 Id. at 53.

7 Id. at 21.

8 Id.

9 Id.

10 Id. at 22.

11 Id.

12 Id. at 34–35.

13 Id. at 22.

The committee allegedly agreed with Bravo and accepted his recommendations.[14] Bravo was then directed to arrange a salary adjustment schedule for the new ranking system.[15]

Later, Bravo obtained his employee ranking slip which showed his evaluation score and the change of his rank "from office head to middle manager-level IV."[16] The change, however, was merely superimposed. The employee ranking slip bore the signatures of the Human Resources Department Head, the Vice-President for Administration, and the President of Urios College.[17]

The implementation of the new ranking system for non-academic employees and administrators for school year 2001-2002 and the corresponding schedule of salary adjustments were reflected on the October 15, 2001 payroll. This was opposed by several individuals within the school.[18]

Urios College formed another committee to adopt a new ranking system for school year 2002–2003. After deliberation, the committee decided to maintain the ranking system used in the previous school year for school year 2002–2003. In the employee's ranking profile report, the position of Comptroller was classified as middle management.[19]

Meanwhile, Urios College decided to undertake a structural reorganization.[20] During this period, Bravo occupied the Comptroller position in a "hold-over" capacity until May 31, 2003. He was reappointed to the same position, which expired on May 31, 2004. Bravo was then designated as a full-time teacher[21] in the college department for school year 2004–2005.[22]

In October 2004, Urios College organized a committee to review the ranking system implemented during school year 2001–2002.[23] In its report, the committee found that the ranking system for school year 2001–2002 caused salary distortions among several employees.[24] There were also discrepancies in the salary adjustments of Bravo and of two (2) other

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14 Id. at 22–23.
15 Id. at 23.
16 Id.
17 Id. at 86.
18 Id. at 23.
19 Id. at 24.
20 Id.
21 Id. at 25.
22 Id. at 155.
23 Id. at 25.
24 Id. at 54.

employees, namely, Nena A. Turgo and Cherry I. Tabada.[25] The committee discovered that "the Comptroller's Office solely prepared and implemented the [s]alary [a]djustment [s]chedule" without prior approval from the Human Resources Department.[26]

The committee recommended, among others, that Bravo be administratively charged for serious misconduct or willful breach of trust under Article 282[27] of the Labor Code.[28] Bravo allegedly misclassified several positions and miscomputed his and other employees' salaries.[29]

On March 16, 2005, Bravo received a show cause memo requiring him to explain in writing why his services should not be terminated for his alleged acts of serious misconduct:

> The committee noted a discrepancy in the Schedule of Salary Adjustments, the implementation of which was entirely based on the computation that was then the responsibility of your office (Comptroller). For this reason, you are advised to explain or show cause why your employment with Urios College will not be terminated for Serious Misconduct due to intentional misclassification/miscomputation of your salary and some employees named hereunder, thereby causing prejudice not only to the school but also to said employees as well.
>
> 1. As Comptroller then, you belong to Office Heads classification. However, in the Schedule of Salary Adjustment, you are misclassified as Middle Manager, that resulted to overpayment in your salary by PhP 3,651.76 per month since June 2001.
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>   Also, having passed the comprehensive exam and oral defense for your master's degree, your salary adjustment based on your educational qualification ought to be is (sic) PhP 800.00 only. However, what is reflected in the Schedule of Salary Adjustment is PhP 1,000.00, which amount is appropriately given to Master's Degree holders. Considering that you have not even finished the degree up to the present, such circumstance resulted to overpayment in your salary by PhP 200.00 per month since June 2001.
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>   This means that you have been receiving a monthly salary more than what is due to you. The overpayment therefore of PhP 3,851.76 per month (PhP 3,651.76 plus PhP 200.00) from June 2001 up to February 2005 presently amounts to PhP 185,131.34.

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25 Id. at 55–56.
26 Id. at 55.
27 Renumbered as Article 297 of the Labor Code.
28 *Rollo*, p. 56.
29 Id. at 57.

> 2. As Community Extension Service Officer then, Mrs. Nena A. Turgo belongs to Office Heads classification. However, in the Schedule of Salary Adjustment, she was misclassified as Office Staff, which resulted to underpayment by PhP 2,888.99 on her monthly salary. From June 2001 to February 2005 the underpayment is in the total amount of PhP 140,356.76.
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> 3. Ms. Cherry I. Tabada only passed the comprehensive examination for Master of Arts in Educational Management in Urios College. This entitled her [to] PhP 500.00 adjustment in salary due to Educational Qualification (E.Q.). However, what is reflected in the Schedule of Salary Adjustment is PhP 1,000.00, which resulted to overpayment in salary by PhP 500.00 from June 2001 to March 2003, or in the total amount of PhP 11,000.00.
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> The foregoing actuations would necessarily affect your character as a teacher in the Commerce Program, and as an employee of the school, whose honesty and integrity ought to be beyond reproach to serve as role model for the students in this institution.
>
> We are therefore requesting for your written explanation relative to these matters within three (3) days from receipt of this memorandum. Documentary evidence, if there be any, [may be] attached to the written explanation. You may avail the aid of a legal counsel.
>
> Your failure to submit your written explanation as requested will be construed as a waiver on your part, as a consequence of which the school may take such appropriate action on the bases of the available records in connection with the matters made subject of this memorandum.
>
> For your compliance.[30]

A committee was organized to investigate the matter.[31] Hearings were conducted on April 5, 2005, April 9, 2005, and once in May 2005, after which the parties submitted their respective position papers.[32] In his Position Paper, Bravo alleged that he did not prepare the ranking system for school year 2001–2002. It was the ranking committee which categorized the position of Comptroller as middle management.[33]

The committee found that Bravo floated the idea of his salary adjustment, which Urios College never formally approved.[34] The committee also discovered an irregularity in the implementation of the ranking system for school year 2001–2002.[35] Flordeliz V. Rosero (Rosero) of the Human Resources Department attested that Bravo failed to follow the school's protocol in computing employees' salaries.[36]

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30 Id. at 57–59.
31 Id. at 26.
32 Id. at 26–27.
33 Id. at 27.
34 Id. at 63–64.
35 Id. at 66–67.
36 Id. at 65–67.

According to Rosero, the Human Resources Department would prepare a summary table for each department containing the names of employees, their respective ranks, and the points they earned from their regular evaluation.[37] The accomplished summary tables were forwarded to the Comptroller's Office, which would then designate each employee's salary based on a salary scale.[38] When the ranking system for school year 2001–2002 was implemented, the Comptroller's Office prepared its own summary table,[39] which did not indicate each employee's rank or bear the signature of the Human Resources Department Head.[40]

Bravo was found guilty of serious misconduct for which he was ordered to return the sum of ₱179,319.16, representing overpayment of his monthly salary.[41] He received a copy of the investigation committee's decision on July 15, 2005.[42]

On July 25, 2005, Urios College notified Bravo of its decision to terminate his services[43] for serious misconduct and loss of trust and confidence.[44] Upon receipt of the termination letter, Bravo immediately filed before Executive Labor Arbiter Benjamin E. Pelaez (Executive Labor Arbiter Pelaez) a complaint for illegal dismissal with a prayer for the payment of separation pay, damages, and attorney's fees.[45]

In the Decision[46] dated December 27, 2005, Executive Labor Arbiter Pelaez dismissed the complaint for lack of merit.[47] Bravo's act of "assigning to himself an excessive and unauthorized salary rate while working as a [C]omptroller" constituted serious misconduct and willful breach of trust and confidence for which he may be dismissed.[48]

Bravo appealed the Decision of Executive Labor Arbiter Pelaez.[49] In the Resolution[50] dated January 31, 2007, the National Labor Relations Commission found that Bravo's dismissal from service was illegal. There

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37 Id. at 66.
38 Id. at 66–67.
39 Id.
40 Id. at 67.
41 Id. at 59–60.
42 Id. at 59.
43 Id. at 27.
44 Id. at 68–69.
45 Id. at 28.
46 Id. at 97–102. The Decision was penned by Executive Labor Arbiter Benjamin E. Pelaez.
47 Id. at 102.
48 Id. at 99–100.
49 Id. at 103.
50 Id. at 103–111. The Resolution, docketed as NLRC CA No. M-008932-06, was penned by Commissioner Jovito C. Cagaanan and concurred in by Presiding Commissioner Salic B. Dumarpa and Commissioner Proculo T. Sarmen of the Fifth Division, National Labor Relations Commission, Cagayan de Oro City.

was no clear showing that Bravo violated any school policy.[51] Moreover, Bravo received the increased salary in good faith.[52] The National Labor Relations Commission also found that Urios College "failed to afford [Bravo] the opportunity to be heard and to defend himself with the assistance of counsel."[53] Urios College was ordered to pay Bravo separation pay instead of reinstating him to his former position due to strained relations. Full backwages and attorney's fees were likewise awarded.[54]

Urios College assailed National Labor Relations Commission's Resolution dated January 31, 2007 through a petition for certiorari before the Court of Appeals.[55]

In the Decision dated January 31, 2011, the Court of Appeals reversed the National Labor Relations Commission's Resolution and reinstated the decision of Executive Labor Arbiter Pelaez.[56]

The Court of Appeals ruled that Urios College had substantial basis to dismiss Bravo from service on the ground of serious misconduct and loss of trust and confidence.[57] Bravo occupied a highly sensitive position as the school's Comptroller. "[I]n the course of his duties, [he] granted himself additional salaries" without proper authorization.[58] Rank-and-file employees may only be dismissed from service for loss of trust and confidence if the employer presents proof that the employee participated in the alleged misconduct. However, for managerial employees, it is sufficient that the employer has reasonable ground to believe that the employee is responsible for the alleged misconduct.[59]

Bravo moved for reconsideration but his motion was denied in the Resolution[60] dated July 14, 2011.

Bravo filed a Petition for Review[61] before this Court on August 31, 2011 to which respondent filed a Comment on January 6, 2012.[62] In the Resolution dated January 30, 2013, this Court gave due course to the Petition and required the parties to submit their respective memoranda.[63]

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51 Id. at 107.
52 Id. at 108.
53 Id. at 109.
54 Id. at 110–111.
55 Id. at 29.
56 Id. at 52–74.
57 Id. at 67–68.
58 Id. at 68.
59 Id. at 70–71.
60 Id. at 76–78.
61 Id. at 14.
62 Id. at 146–178, Comment of Respondents on the Petition for Review.
63 Id. at 181–182.

Petitioner asserts that he acted in good faith. He insists that key school officials, including the Human Resources Department Head,[64] classified the position of Comptroller as middle management.[65] Thus, he cannot be held accountable for the change in the rank of Comptroller from that of office head to middle management.[66]

Petitioner argues that suggesting an upgrade in his rank and salary cannot be considered serious misconduct.[67] He claims that he did not transgress any established rule or policy as "he was duly authorized . . . to receive the benefits of a middle[-]management employee."[68] Petitioner further argues that a dismissal based on loss of trust and confidence must rest on an actual breach of duty.[69] It may not be invoked by an employer without any factual basis.[70]

Petitioner adds that he was not given ample opportunity to be heard and defend himself.[71] Respondent refused to furnish petitioner the minutes of the investigation proceedings and copies of official documents, all of which respondent had in its custody.[72] Moreover, petitioner was not given the opportunity to comment on the selection of the members of the investigating committee.[73]

On the other hand, respondent asserts that there was substantial evidence to dismiss petitioner on the ground of serious misconduct and loss of trust and confidence under the Labor Code.[74] Petitioner failed to follow regular protocol with respect to the computation of his and other employees' salaries.[75] Respondent emphasizes that petitioner occupies a highly sensitive position. Hence, his integrity should be beyond reproach.[76] Proof beyond reasonable doubt is not required in termination cases based on loss of trust and confidence[77] as long as there is reasonable ground to believe that the employee committed an act of dishonesty.[78]

Respondent contends that petitioner's right to procedural due process was not violated.[79] Petitioner was present during the hearings and was even

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64 Id. at 37.
65 Id. at 39.
66 Id. at 33–35.
67 Id. at 41–42.
68 Id. at 42.
69 Id.
70 Id.
71 Id. at 44.
72 Id.
73 Id. at 26.
74 Id. at 163–166.
75 Id. at 163–164.
76 Id. at 166.
77 Id. at 170.
78 Id. at 164.
79 Id. at 166.

given copies of the documents presented against him. Moreover, respondent required petitioner to submit his position paper after the investigation.[80]

The case presents the following issues for this Court's resolution:

First, whether petitioner's employment was terminated for a just cause;[81]

Second, whether petitioner was deprived of procedural due process;[82] and

Finally, whether petitioner is entitled to the payment of separation pay, backwages, and attorney's fees.[83]

Petitioner's dismissal from employment was valid.

I

Under Article 297 of the Labor Code, an employer may terminate the services of an employee for the following just causes:

> Article 297. [282] *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;
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> (b) Gross and habitual neglect by the employee of his duties;
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> (c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
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> (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
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> (e) Other causes analogous to the foregoing.

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80 Id. at 167.
81 Id. at 36.
82 Id. at 44.
83 Id. at 30.

To warrant termination of employment under Article 297(a) of the Labor Code, the misconduct must be serious or "of such grave and aggravated character."[84] Trivial and unimportant acts are not contemplated under Article 297(a) of the Labor Code.[85]

In addition, the misconduct must "relate to the performance of the employee's duties" that would render the employee "unfit to continue working for the employer."[86] Gambling during office hours,[87] sexual intercourse within company premises,[88] sexual harassment,[89] sleeping while on duty,[90] and contracting work in competition with the business of one's employer[91] are among those considered as serious misconduct for which an employee's services may be terminated.

Recently, this Court has emphasized that the rank-and-file employee's act must have been "performed with wrongful intent" to warrant dismissal based on serious misconduct.[92] Dismissal is deemed too harsh a penalty to be imposed on employees who are not induced by any perverse or wrongful motive despite having committed some form of misconduct.

Hence, in *Moreno v. San Sebastian College-Recoletos,*[93] this Court deemed the penalty of dismissal as disproportionate to the committed offense[94] because the employee was neither induced by nor motivated by a perverse or wrongful intent in violating the school's policy on external teaching engagements.[95]

The same line of reasoning was applied in *Universal Robina Sugar Milling Corp. v. Albay*[96] wherein union members assisted the

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84 *Lopez v. National Labor Relations Commission,* 513 Phil. 731, 736 (2005) [Per J. Ynares-Santiago, First Division].

85 *Woodridge School v. Benito*, 591 Phil. 154, 170 (2008) [Per J. Nachura, Third Division].

86 *Lopez v. National Labor Relations Commission,* 513 Phil. 737, 736 (2005) [Per J. Ynares-Santiago, First Division].

87 *Universal Canning, Inc. v. Court of Appeals*, G.R. No. 215047, November 23, 2016 <sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/november2016/215047.pdf> [Per J. Perez, Third Division].

88 *Imasen v. Alcon*, 746 Phil. 172 (2014) [Per J. Brion, Second Division].

89 *Villarama v. National Labor Relations Commission,* 306 Phil. 310 (1994) [Per J. Puno, Second Division].

90 *Tomada, Sr., v. RFM Corp.,* 615 Phil. 449 (2009) [Per J. Carpio, First Division].

91 *Lopez v. National Labor Relations Commission*, 513 Phil. 731 (2005) [Per J. Ynares-Santiago, First Division].

92 *Imasen v. Alcon*, 746 Phil. 172, 181 (2014) [Per J. Brion, Second Division]; *Universal Robina Sugar Milling Corp. v. Albay,* G.R. No. 218172, March 16, 2016 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/march2016/218172.pdf> 6 [Per J. Perlas-Bernabe, First Division]; *Gurango v. Best Chemicals and Plastics, Inc.*, 643 Phil. 520, 531 (2010) [Per J. Carpio, Second Division]; *Woodridge School v. Benito*, 591 Phil. 154, 170 (2008) [Per J. Nachura, Third Division]; *Moreno v. San Sebastian College-Recoletos,* 573 Phil. 533, 547 (2008) [Per J. Chico-Nazario, Third Division].

93 573 Phil. 533 (2008) [Per J. Chico-Nazario, Third Division].

94 Id. at 548.

95 Id. at 547.

96 G.R. No. 218172, March 16, 2016

implementation of a writ of execution issued in their favor without proper authority. This Court found that the union members did not act "with intent to gain or with wrongful intent." Instead, they were impelled by their desire to collect the balance of their unpaid benefits, which the Department of Labor and Employment awarded to them.[97]

Thus, to warrant the dismissal from service of a rank-and-file employee under Article 297(a) of the Labor Code, the misconduct (1) must be serious, (2) should "relate to the performance of the employee's duties," (3) should render the employee "unfit to continue working for the employer," and (4) should "have been performed with wrongful intent."[98]

There is no evidence that the position of Comptroller was officially reclassified as middle management by respondent. Petitioner's employment ranking slip, if at all, only constituted proof of petitioner's evaluation score. It hardly represented the formal act of respondent in reclassifying the position of Comptroller. Hence, petitioner could not summarily assign to himself a higher salary rate without rendering himself unfit to continue working for respondent.

However, it appears that petitioner was neither induced nor motivated by any wrongful intent. He believed in good faith that respondent had accepted and approved his recommendations on the proposed ranking scale for school year 2001–2002.

Nevertheless, due to the nature of his occupation, petitioner's employment may be terminated for willful breach of trust under Article 297(c), not Article 297(a), of the Labor Code.

A dismissal based on willful breach of trust or loss of trust and confidence under Article 297 of the Labor Code entails the concurrence of two (2) conditions.

First, the employee whose services are to be terminated must occupy a position of trust and confidence.[99]

There are two (2) types of positions in which trust and confidence are reposed by the employer, namely, managerial employees and fiduciary rank-and-file employees.[100] Managerial employees are considered to occupy

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<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/march2016/218172.pdf> [Per J. Perlas-Bernabe, First Division].

97 Id. at 7.

98 *Imasen v. Alcon*, 746 Phil. 172, 181 (2014) [Per J. Brion, Second Division].

99 *Baguio Central University v. Gallente*, 722 Phil. 494, 505 (2013) [Per J. Brion, Second Division].

100 Id.

positions of trust and confidence because they are "entrusted with confidential and delicate matters."[101] On the other hand, fiduciary rank-and-file employees refer to those employees, who, "in the normal and routine exercise of their functions, regularly handle significant amounts of [the employer's] money or property."[102] Examples of fiduciary rank-and-file employees are "cashiers, auditors, property custodians,"[103] selling tellers,[104] and sales managers.[105] It must be emphasized, however, that the nature and scope of work and not the job title or designation determine whether an employee holds a position of trust and confidence.[106]

The second condition that must be satisfied is the presence of some basis for the loss of trust and confidence. This means that "the employer must establish the existence of an act justifying the loss of trust and confidence."[107] Otherwise, employees will be left at the mercy of their employers.[108]

Different rules apply in determining whether loss of trust and confidence may validly be used as a justification in termination cases. Managerial employees are treated differently than fiduciary rank-and-file employees.[109] In *Caoile v. National Labor Relations Commission*:[110]

> [W]ith respect to rank-and-file personnel, loss of trust and confidence as ground for valid dismissal requires proof of involvement in the alleged events in question, and that mere uncorroborated assertions and accusations by the employer will not be sufficient. But, as regards a managerial employee, mere existence of a basis for believing that such employee has breached the trust of his employer would suffice for his dismissal. Hence, in the case of managerial employees, proof beyond reasonable doubt is not required, it being sufficient that there is some basis for such loss of confidence, such as when the employer has reasonable ground to believe that the employee concerned is responsible for the purported misconduct, and the nature of his participation therein renders him unworthy of the trust and confidence demanded by his position.[111] (Citations omitted)

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101 Id.
102 Id.
103 Id.
104 *Manila Jockey Club, Inc. v. Trajano,* 712 Phil. 254, 268 (2013) [Per J. Bersamin, First Division].
105 *Lagahit v. Pacific Concord Container Lines,* G.R. No. 177680, January 13, 2016 < http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/january2016/177680.pdf> 12 [Per J. Bersamin, First Division].
106 Id.
107 *Baguio Central University v. Gallente,* 722 Phil. 494, 505 (2013) [Per J. Brion, Second Division].
108 *Manila Jockey Club, Inc. v. Trajano,* 712 Phil. 254, 267 (2013) [Per J. Bersamin, First Division].
109 *Caoile v. National Labor Relations Commission,* 359 Phil. 399, 406 (1998) [Per J. Quisumbing, First Division].
110 *Caoile v. National Labor Relations Commission,* 359 Phil. 399 (1998) [Per J. Quisumbing, First Division].
111 Id. at 406.

Although a less stringent degree of proof is required in termination cases involving managerial employees, employers may not invoke the ground of loss of trust and confidence arbitrarily.[112] The prerogative of employers in dismissing a managerial employee "must be exercised without abuse of discretion."[113]

Set against these parameters, this Court holds that petitioner was validly dismissed based on loss of trust and confidence. Petitioner was not an ordinary rank-and-file employee. His position of responsibility on delicate financial matters entailed a substantial amount of trust from respondent. The entire payroll account depended on the accuracy of the classifications made by the Comptroller. It was reasonable for the employer to trust that he had basis for his computations especially with respect to his own compensation. The preparation of the payroll is a sensitive matter requiring attention to detail. Not only does the payroll involve the company's finances, it also affects the welfare of all other employees who rely on their monthly salaries.

Petitioner's act in assigning to himself a higher salary rate without proper authorization is a clear breach of the trust and confidence reposed in him. In addition, there was no reason for the Comptroller's Office to undertake the preparation of its own summary table because this was a function that exclusively pertained to the Human Resources Department. Petitioner offered no explanation about the Comptroller's Office's deviation from company procedure and the discrepancies in the computation of other employees' salaries.[114] Petitioner's position made him accountable in ensuring that the Comptroller's Office observed the company's established procedures. It was reasonable that he should be held liable by respondent on the basis of command responsibility.[115]

II

In termination based on just causes, the employer must comply with procedural due process by furnishing the employee a written notice containing the specific grounds or causes for dismissal.[116] The notice must also direct the employee to submit his or her written explanation within a reasonable period from the receipt of the notice.[117] Afterwards, the employer must give the employee ample opportunity to be heard and defend himself or herself. A hearing, however, is not a condition *sine qua non*.[118]

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[112] *Lima Land, Inc. v. Cuevas*, 635 Phil. 36, 53–54 (2010) [Per J. Peralta, Second Division].
[113] Id.
[114] *Rollo*, pp. 14–50.
[115] *See Muaje-Tuazon v. Wenphil Corporation*, 540 Phil. 516, 526–527 (2006) [Per J. Quisumbing, Third Division].
[116] *King of Kings Transport, Inc. v. Mamac*, 553 Phil. 108, 115–117 (2007) [Per J. Velasco, Second Division].
[117] Id.
[118] *Perez v. Philippine Telegraph and Telephone Co.*, 602 Phil. 522, 537–538 (2009) [Per J. Corona, En

A formal hearing only becomes mandatory in termination cases when so required under company rules or when the employee requests for it.[119]

Previously, a formal hearing was considered as an indispensable component of procedural due process in dismissal cases.[120] However, in *Perez v. Philippine Telegraph and Telephone Co.*, this Court clarified:[121]

> The test for the fair procedure guaranteed under Article 277 (b) [now, Article 292(b)] cannot be whether there has been a formal pretermination 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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> 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.*
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> 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.
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> ... *"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.[122] (Emphasis in the original, citations omitted)

Banc].

119 Id. at 542.

120 *King of Kings Transport, Inc. v. Mamac*, 553 Phil. 108, 115–118 (2007) [Per J. Velasco, Second Division].

121 602 Phil. 522 (2009) [Per J. Corona, En Banc].

122 Id. at 538–539.

Any meaningful opportunity for the employee to present evidence and address the charges against him or her satisfies the requirement of ample opportunity to be heard.[123]

Finally, the employer must serve a notice informing the employee of his or her dismissal from employment.

In this case, respondent complied with all the requirements of procedural due process in terminating petitioner's employment. Respondent furnished petitioner a show cause memo stating the specific grounds for dismissal. The show cause memo also required petitioner to answer the charges by submitting a written explanation.[124] Respondent even informed petitioner that he may avail the services of counsel. Respondent then conducted a thorough investigation. Three (3) hearings were conducted on separate occasions.[125] The findings of the investigation committee were then sent to petitioner.[126] Lastly, petitioner was given a notice of termination containing respondent's final decision.[127]

Ordinarily, employees play no part in selecting the members of the investigating committee. That petitioner was not given the chance to comment on the selection of the members of the investigating committee does not mean that he was deprived of due process. In addition, there is no evidence indicating that the investigating committee was biased against petitioner. Hence, there is no merit in petitioner's claim that he was deprived of due process.

Under Article 294 of the Labor Code,[128] the reliefs of an illegally dismissed employee are reinstatement and full backwages. "Backwages is a form of relief that restores the income that was lost by reason of [the employee's] dismissal" from employment.[129] It is "computed from the time that [the employee's] compensation was withheld . . . [until] his [or her] actual reinstatement."[130] However, when reinstatement is no longer feasible, separation pay is awarded.[131]

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123 Id. at 542.
124 *Rollo*, p. 59.
125 Id. at 26.
126 Id. at 71.
127 Id.
128 Labor Code, art. 294 provides:
Article 294. [279] *Security of Tenure.* — In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.
129 *Buhain v. Court of Appeals,* 433 Phil. 94, 102 (2002) [Per J. Puno, Third Division].
130 LABOR CODE, art. 294.
131 *Hinatuan Mining Corp. v. National Labor Relations Commission,* 335 Phil. 1090, 1093–1094 (1997) [Per J. Puno, Second Division].

Considering that there was a just cause for terminating petitioner from employment, there is no basis to award him separation pay and backwages. There are also no factual and legal bases to award attorney's fees to petitioner.

WHEREFORE, the Petition for Review is **DENIED**. The Court of Appeals' Decision dated January 31, 2011 in CA-G.R. SP No. 02407-MIN is **AFFIRMED**.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

DIOSDADO M. PERALTA
Associate Justice

On official leave
JOSE CATRAL MENDOZA
Associate Justice

On official leave
SAMUEL R. MARTIRES
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.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second 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.

MARIA LOURDES P. A. SERENO
Chief Justice