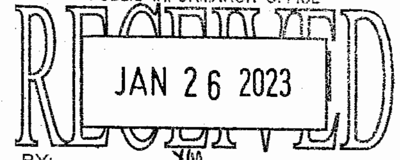

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

RUBEN M. BUENAFLOR,
Petitioner,

- versus -

STOLT-NIELSEN PHILIPPINES, INC., and STOLT-NIELSEN ITS GMBH,
Respondents.

G.R. No. 221664

Present:

LEONEN, *S.A.J.*, Chairperson,
LAZARO-JAVIER,
LOPEZ, M.
LOPEZ, J., and
KHO, JR., *JJ.*

Promulgated:

JUN 27 2022

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D E C I S I O N

KHO, JR., *J.*:

For the Court's resolution is the Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court dated December 17, 2015 filed by seafarer Ruben M. Buenaflor (petitioner), seeking to set aside the Decision[2] dated October 28, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 129462 and praying for the reinstatement of the Resolutions dated August 30, 2012[3] and January 17, 2013[4] of the National Labor Relations Commission (NLRC) in NLRC LAC Case No. 07-000589-11-OFW. The foregoing NLRC

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[1] *Rollo*, pp. 2–26 (disarranged pagination from pages 6–12).
[2] Id. at 30–43. Penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Fernanda Lampas Peralta and Jane Aurora C. Lantion.
[3] Id. at 71–76. Penned by Presiding Commissioner Jospeh Gerard E. Mabilog and concurred in by Commissioner Isabel G. Panganiban-Ortiguerra.
[4] Id. at 78–83.

Resolutions affirmed the Decision[5] of the Labor Arbiter (LA) dated May 10, 2011 in NLRC Case No. NCR-09-13072-10 OFW (M), which found the respondents Stolt-Nielsen Philippines, Inc. (SNP) and its principal, Stolt-Nielsen ITS GMBH[6] (Stolt-Nielsen; collectively, respondents) liable for illegally dismissing petitioner.

The Facts

The antecedents of this case go back to July 8, 2010, when petitioner was hired by the respondents as Second Officer of the vessel Stolt Shearwater. He signed on the vessel to begin his employment on July 25, 2010.[7]

Two (2) days after signing on, or on July 27, 2010,[8] Marine Pollution (MARPOL) inspectors boarded the Stolt Shearwater for routine inspection to check the vessel's compliance with MARPOL Rules[9] at the Port of Rotterdam in Netherlands.[10] Subsequent thereto, according to petitioner, he was questioned by the Russian captain or master of the vessel, A. Kuzins (Captain Kuzins),[11] as to the remarks and observations made by the MARPOL inspectors.[12] Petitioner averred that, at that time, Captain Kuzins shouted at him in front of the chief officer and did not allow him to explain what had happened.[13]

Less than a month after the foregoing incident, or on August 22, 2010, petitioner claimed he was verbally informed by Captain Kuzins that he will be sent home — without any written notice given or formal investigation conducted — because he was supposedly incapable of doing his job. Thus, petitioner was repatriated on August 26, 2010.[14]

Upon his arrival, petitioner contended that he immediately asked Stolt Nielsen's Agent in the Philippines, SNP, to review his case; and it was decided that he would be reinstated and transferred to another vessel. Stolt-Nielsen, however, reversed SNP's decision and upheld his dismissal by Captain Kuzins.[15]

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5 Id. at 46–69. Penned by Labor Arbiter Fe S. Cellan.
6 Together with Zosimo B. Olalia (Olalia), who was not named or identified in the instant Petition and Comment as a respondent (see id. at 2–3 and 277). Olalia, however, is on record as a party to the case filed before the CA, the NLRC, and the LA (see id. at 30, 46, 71, 78, 84, 116, 139, 168, 188, and 197).
7 See id. at 4–5 and 278. See also petitioner's Contract of Employment (id. at 135).
8 The incident was only recorded in the Official Log (logbook) on July 29, 2010 (id. at 231).
9 International Convention for the Prevention of Maritime Pollution for Ships (November 2, 1973).
10 See *rollo*, pp. 5, 32, 49, 278–279, and 304–305.
11 Also Identified in the records as "A. Kuzins", "Kuzins", "Captain Kuzins", or "Master Kuzins", without reference to any first name.
12 See *rollo*, pp. 5, 48–49, and 304–305.
13 See id. at 5 and 48–49.
14 See id. at 5–6 and 49.
15 See id. at 6 and 49.

Aggrieved, petitioner filed a complaint for illegal dismissal,[16] alleging that his employment was terminated without just, valid, or authorized cause and in violation of Section 17 of the Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships (Standard Employment Contract),[17] which provides the required procedure for disciplinary proceedings against seafarers. He prayed for the payment of his salaries for the unexpired portion of his contract, moral and exemplary damages, as well as attorney's fees.[18]

For their part, the respondents maintained that petitioner's employment was validly terminated. Respondents explained that petitioner was reprimanded by Captain Kuzins after the MARPOL inspection conducted on July 27, 2010 because he was unable to answer the inspectors' inquiries and did not inform the senior management of such incident, which supposedly led to incorrect observations and derogatory remarks against the vessel.[19] The incident was recorded on July 29, 2010 on **page 41** of the vessel's logbook as follows:

> 2off. R. Buenaflor has been given Formal Verbal Warning in witness of Ch. Off. D. Filipovs by Capt. A. Kuzins. Reasons:
>
> - unauthori[z]ed overriding of his authority/duties in respect of dealing with MARPOL inspectors of Port of Rotterdam
>
> - non calling/non reporting to Capt or Ch. Off. in due time as required, above failures had leaded [*sic*] to incorrect observation done by inspector which was not clarified at a [*sic*] time of inspection.
>
> Master (sgd.)[20]

In addition to this incident, the respondents claimed that two (2) other instances as documented in the Near Miss Incident Reports (NIRs)[21] — one wherein petitioner did not properly conduct the discharge operations of a highly inflammable cargo on August 11, 2010, and the other wherein petitioner failed to take action to prevent the extreme build-up of pressure in the cargo tank on August 14, 2010 — led to petitioner's eventual dismissal due to his carelessness, lack of safety awareness, ignorance of operational safety procedures, inefficiency, and incompetence.[22] The respondents further contended that petitioner was notified of the charges against him and was

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16 The case was docketed as NLRC Case No. NCR-09-13072-10 OFW (M) (see id. at 6, 31, 46, 116, and 283).

17 See Department of Labor and Employment DEPARTMENT ORDER NO. 4, Series of 2000 (May 31, 2000) and Philippine Overseas Employment Administration (POEA) MEMORANDUM CIRCULAR NO. 09, Series of 2000, entitled "AMENDED STANDARD TERMS AND CONDITIONS GOVERNING THE EMPLOYMENT OF FILIPINO SEAFARERS ON BOARD OCEAN-GOING VESSELS" issued on June 14, 2000. The latter has been amended by POEA MEMORANDUM CIRCULAR NO. 10, series 2010 issued on October 26, 2010.

18 See *rollo*, pp. 31, 39, and 46.

19 See id. at 32 and 51.

20 Id. at 231. The logbook entry was replicated substantially in the records with minor corrections (see id. at 13–14, 40–41, 51–52, and 279).

21 Mentioned as "Ship's Report of the Near Miss Incident" in the *rollo*.

22 See *rollo*, pp. 32–33 and 52–56.

given a chance to explain, but he failed to provide a satisfactory explanation.[23] Moreover, petitioner was served a written notice of dismissal on August 22, 2010 but he refused to receive the same.[24]

The Labor Arbiter's Ruling

In a Decision[25] dated May 10, 2011, the LA found the respondents liable for illegal dismissal,[26] holding that they failed to discharge their responsibility of proving that the termination of petitioner's employment was valid.[27] Accordingly, the LA ordered the respondents to pay petitioner the following: (1) USD19,060.64, representing petitioner's salaries for the unexpired portion of his contract;[28] (2) USD538.69 as vacation leave pay; (3) USD550.00 as bonus;[29] (4) PHP100,000.00 as moral damages for bad faith and malice in causing the illegal dismissal; (5) PHP100,000.00 as exemplary damages, likewise for bad faith and malice in causing the illegal dismissal; and (6) USD3,867.12 as attorney's fees, equivalent to ten percent (10%) of the total award.[30]

First, the LA did not give credence to the alleged acts and omissions of petitioner purportedly showing his inefficiency and incompetence as related by the respondents, finding these as mere allegations unsupported by evidence.[31]

Second, the LA likewise held that the logbook entry of the July 27, 2010 incident cannot, by itself, be considered conclusive evidence against petitioner since its authenticity has been assailed by the latter.[32] On this point, the LA agreed with petitioner's observations as to the copy of page 41 of the vessel's logbook, noting that the gap of almost two (2) months, as well as the blank space, between the entry regarding the MARPOL incident recorded on July 29, 2010 and the succeeding entry dated September 4, 2010 is not the usual mode of writing entries on the logbook.[33] The LA thus also agreed that it was possible that the logbook entry dated July 29, 2010 was merely inserted, since there was no evidence on record showing the entries on the pages before and after.[34]

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[23] See id. at 33, 54–55, and 57.
[24] See id. at 33, 55, and 66.
[25] Id. at 46–69. Penned by Labor Arbiter Fe S. Cellan.
[26] Id. at 68.
[27] See id. at 63–64.
[28] Computed by the LA by adding petitioner's basic monthly salary of USD1,469.16 to his fixed overtime pay of USD913.42, and then, multiplying the sum of USD2,382.58 by the remaining period of eight (8) months (see id. at 67 and 135).
[29] See id. at 135.
[30] No exact computation was provided by the LA for the basis of the attorney's fees (see id. at 68–69).
[31] See id. at 64.
[32] See id. at 59 and 65.
[33] See id. at 65–66.
[34] See id. at 66.

Third, the LA did not give probative value to the printouts of the two (2) NIRs submitted by the respondents, finding that these were not signed by either the author thereof or petitioner, and therefore could have easily been prepared by anyone.[35]

Finally, the LA rejected the notice of dismissal allegedly served on petitioner as evidence, ruling that one of the supposed witnesses to the service of the notice and the refusal of petitioner to receive the same — Second Engineer B. Solodov[36] — seems to have already signed off the vessel on June 13, 2010, according to one of the entries appearing on page 41 of the logbook,[37] and yet no entry showed that he has signed on the vessel on or before August 22, 2010 in order for him to be a proper witness to the same.[38]

Dissatisfied, respondents appealed to the NLRC.

The NLRC Ruling

Initially, the NLRC issued a Decision[39] dated December 22, 2011 granting the appeal.[40] However, on motion filed by petitioner, the NLRC promulgated a Resolution[41] dated August 30, 2012 reversing its earlier ruling, and accordingly, affirming the LA ruling.[42]

In ruling that there is no substantial evidence proving petitioner's incompetence, the NLRC held that the logbook entry cannot be considered a substantial evidence of petitioner's alleged inefficiency or incompetence, not only because its authenticity is in question, but also because no clear and competent evidence was presented to bolster its contents.[43] The NLRC thus agreed with the observation of the LA that the gap in the entries on the logbook makes the document unreliable,[44] and additionally observed that the witness to the incident, Chief Officer D. Filipovs (Chief Officer Filipovs),[45] signed off the vessel on May 11, 2010 per page 40 of the vessel's logbook[46] as submitted

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[35] See id.

[36] Identified in the records as only "2nd Eng. B. Solodov," without reference to any first name.

[37] *Rollo*, p. 231.

[38] See id. at 66–67.

[39] Not attached to the *rollo*.

[40] See *rollo*, pp. 11–12, 34, 71, and 284.

[41] Id. at 71–76.

[42] Id. at 75.

[43] See id. at 74.

[44] See id. at 75.

[45] Identified in the records only as "D. Filipov", "D. Filipovs", or "Filipovs", without reference to any first name.

[46] *Rollo*, p. 232.
The Court notes here that despite signing off on May 11, 2010 per the copy of page 40 of the vessel's logbook, and having no record of actually signing on prior to the July 27, 2010 incident, Chief Officer Filipovs did sign off at a later date, or on October 12, 2010, per the copy of page 42 of the logbook (see id. at 233). It is hence reasonable to assume that Chief Officer Filipovs was present during the incident, for as pointed out by the respondents, he could not have signed off for the second time, without signing on at an earlier date (see id. at 95). This is all the truer, considering that under the policy guidelines issued by the United Kingdom's Maritime & Coastguard Agency — it being claimed that the vessel Stolt Shearwater is registered in the British overseas territory of the Cayman Islands (see id. at 287) —"[i]t is not necessary to make an entry in the official [logbook] when a crew member signs-on" in contrast to

by the respondents, but did not sign on the vessel on or before July 29, 2010.[47] Lastly, the NLRC did not give credence to the purported Sworn Statement[48] executed by Captain Vladimirs Skrulis (Captain Skrulis), also as submitted by the respondents, attesting to the contents of page 41 of the vessel's logbook, pointing out that Captain Skrulis did not have firsthand information of the incident as he was not present and on board at that time.[49]

Respondents moved to reconsider the August 30, 2012 Resolution, but was denied by the NLRC in a Resolution[50] dated January 17, 2013. Citing Section 20, Rule 132 (B) of the Revised Rules on Evidence,[51] the NLRC stressed that the sworn statement of Captain Skrulis is not the proper proof of the due execution and authenticity of the vessel's logbook, as he was not on board at that time and therefore, in no position to have seen the entry being made or that it was made in Captain Kuzins' handwriting.[52] The NLRC also reiterated its finding that Chief Officer Filipovs could not have witnessed the actual incident as he has not signed on at that time, which further gave doubt to the veracity of the logbook entry on page 41.[53] Thus, according to the NLRC, the lack of counter-evidence on the part of petitioner is immaterial because it remains the duty of the respondents to show that an employee's termination is for a just and valid cause.[54]

Undeterred, the respondents filed a Petition for *Certiorari*[55] with the CA, alleging that the NLRC gravely abused its discretion in holding: (1) that the authenticity of the vessel's logbook was not proven; (2) that there was no substantial evidence proving the incompetence and inefficiency of petitioner; and (3) that petitioner was entitled to backwages and damages.[56]

The CA Ruling

In a Decision[57] dated October 28, 2015, the CA ruled in favor of the respondents, finding that the NLRC committed grave abuse of discretion in

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the requirement for each crew member signing off to make an entry in the official [logbook] on each occasion (*see* Clause 3.2.4, A Master's Guide to the UK Flag (February 2015) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/419480/mca_masters_guide_surv_46_short_rev5_feb15.pdf> (last visited June 3, 2022).

47 See id. at 75.

48 Id. at 234–235.

49 See id at 74–75.

50 Id. at 78–83.

51 Section 20, Rule 132 (B) of the 1989 REVISED RULES ON EVIDENCE (July 1, 1989) provides:

> Section 20. *Proof of private document.*—Before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved either:
>
> (1) By anyone who saw the document executed or written; or
>
> (2) By evidence of the genuineness of the signature or handwriting of the maker.
>
> Any other private document need only be identified as that which it is claimed to be.

52 See *rollo*, p. 81.

53 See id.

54 See id. at 82.

55 Not attached to the *rollo*.

56 See *rollo*, pp. 35 and 285–286.

57 Id. at 30–43.

issuing the January 17, 2013 and August 30, 2012 Resolutions.[58] Accordingly, the CA set aside the labor tribunals' rulings, but nevertheless ordered the respondents to pay petitioner the amount of PHP50,000.00 as nominal damages, which the CA deemed sufficient for violation of petitioner's right to due process.[59]

The CA held that there was a valid basis for the respondents' dismissal of petitioner, giving credence to the entry on page 41 of the vessel's logbook which recorded the formal verbal warning given by Captain Kuzins to petitioner. According to the CA, the entry on page 41 is a sufficient proof of petitioner's incompetence or inefficiency because a copy of an official entry on a vessel's logbook is legally binding and thus, it is a respectable record which can be relied upon to authenticate the charges filed and the procedure taken against employees prior to their dismissal.[60]

Like the LA, however, the CA did not give credence to the two (2) NIRs submitted by the respondents to show the other alleged violations of petitioner, declaring that the two (2) NIRs are not official records and should therefore be authenticated in order to be admissible in evidence.[61] The CA also found that the respondents did not comply with the requirements of procedural due process, ruling that the latter failed to show that they actually furnished petitioner with a written charge and that they conducted a formal investigation where they gave him the opportunity to defend himself.[62] As such, the CA ordered the award of nominal damages to petitioner in the abovementioned amount.

Hence, this Petition.

The Issue Before the Court

The sole issue presented in the Petition is whether the CA erred in holding that the NLRC committed grave abuse of discretion in finding that the petitioner was illegally dismissed by the respondents.

The Court's Ruling

The Petition has merit.

There was no grave abuse of discretion on the part of the NLRC.

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[58] Id. at 39.
[59] See id. at 42.
[60] See id. at 41.
[61] See id.
[62] See id. at 42.

The Court has held that a Rule 45 petition assailing the ruling of the CA in a labor case, which was brought to the latter via a Rule 65 petition, carries a distinct approach.[63] This is not only because Rule 45 limits this Court's review to questions of law, but more so because a review under Rule 45 requires the examination of the correctness of the CA decision as opposed to the review of jurisdictional errors under Rule 65.[64] The Court thus views the CA decision in the same context that the earlier petition for *certiorari* was presented to the CA, *i.e.*, whether the latter correctly determined the presence or absence of grave abuse of discretion in the findings of the NLRC.[65] As explained in *Telephilippines, Inc. v. Jacolbe*:[66]

> [T]he review in this Rule 45 petition of the CA's ruling in a labor case via a Rule 65 petition carries a distinct approach. In a Rule 45 review, the Court examines the correctness of the CA's decision in contrast with the review of jurisdictional errors under Rule 65. Further, Rule 45 limits the review to questions of law. In ruling for legal correctness, the Court views the CA decision in the same context that the petition for *certiorari* was presented to the CA. Hence, the Court has to examine the CA decision from the prism of whether the CA correctly determined the presence or absence of grave abuse of discretion in the NLRC [d]ecision.[67] (citations omitted)

"In labor cases, grave abuse of discretion may be ascribed to the NLRC when its findings and conclusions are not supported by substantial evidence,"[68] or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Grave abuse of discretion, amounting to lack or excess of jurisdiction, has been defined as the capricious and whimsical exercise of judgment, done in a despotic manner by reason of passion or personal hostility, the character of which is so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to either perform a duty enjoined by law or to act at all in contemplation of law. Hence, if the ruling of the NLRC has basis in evidence and the applicable law and jurisprudence, no grave abuse of discretion exists and the CA should accordingly dismiss the petition.[69]

With the foregoing in mind, the Court holds that the NLRC, in affirming the LA, did not gravely abuse its discretion. Its findings are supported by substantial evidence and are consistent with prevailing law and jurisprudence as to the issues raised. Consequently, the CA erred in ascribing grave abuse of discretion on the part of the NLRC when the latter ruled that petitioner was illegally dismissed. Thus, the Decision of the CA must be reversed and set aside, and the NLRC's Resolutions affirming the Decision of the LA must be reinstated.

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63 See *Telephilippines, Inc. v. Jacolbe*, G.R. No. 233999, February 18, 2019.
64 See id.
65 See id.
66 Id.
67 See id.
68 Id.
69 See id.

The respondents failed to prove that petitioner was incompetent and inefficient.

It is axiomatic in any illegal dismissal case that the employer has the burden of proving that the dismissal of an employee was for a just and authorized cause, and failure to show this would necessarily mean that the dismissal was unjustified, and therefore illegal.[70] To reiterate and stress once more, "the employer must affirmatively show rationally adequate evidence that the dismissal was for a justifiable cause."[71] In this case, the Court holds that the respondents have failed to discharge this burden. There is no substantial evidence to support the claim that petitioner was indeed incompetent or inefficient so as to justify his dismissal.

While the Court agrees with the respondents and the CA that the photocopy of the vessel's logbook is *prima facie* evidence of the facts contained therein and is therefore admissible in evidence, the Court finds that the same does not provide sufficient proof of the supposed incompetence or inefficiency of petitioner. **That singular incident as reported, without nothing more, does not warrant a finding that there was just cause for the termination of petitioner's employment on the ground of incompetence or inefficiency.**

A cursory appreciation of the logbook entry made on July 29, 2010 that was supposed to be the first of three (3) incidents that justified petitioner's dismissal shows that it is but a formal, recorded warning, along with a very brief summation as to why the formal warning was given. Notably, the record does not provide further details or specifics of the incident, or how it affected the operations of the vessel. **It is notable that the respondents did not even submit in evidence the alleged derogatory report by the MARPOL inspectors, as recorded on page 41 of the logbook.** Juxtaposed with jurisprudence providing what comprises incompetence or inefficiency in illegal dismissal cases, the Court finds that this incident, ***alone, and without further substantiation***, does not constitute substantial evidence to show that petitioner was inefficient and incompetent at his job.

The Court has stated in *Eagle Clarc Shipping Philippines, Inc. v. NLRC* (*Eagle Clarc*)[72] that incompetence or inefficiency, as a ground for dismissal, "contemplates the failure to attain work goals or work quotas, either by failing to complete the same within the allotted reasonable period, or by producing unsatisfactory results."[73]

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[70] See *Eagle Clarc Shipping Philippines, Inc. v. NLRC*, G.R. No. 245370, July 13, 2020; *Transglobal Maritime Agency, Inc. v. Chua, Jr.*, 817 Phil. 569, 579 (2017); *Evic Human Resource Management, Inc. v. Panahon*, 814 Phil. 1040, 1048 (2017); *De La Cruz v. Maersk Filipinas Crewing, Inc.*, 574 Phil. 441, 451 (2008); and *Skippers United Pacific, Inc. v. Maguad*, 530 Phil. 367, 387 (2006).

[71] *Dizon v. NLRC*, 259 Phil. 523, 529 (1989).

[72] *Eagle Clarc*, id.

[73] See id. *See also Telephilippines v. Jacolbe*, supra note 63 and *Evic Human Resource Management, Inc. v. Panahon*, supra.

As appearing on the logbook,[74] the record of the incident involving the MARPOL inspectors does not fully explain why petitioner's "unauthori[z]ed overriding of his authority/duties" and the "non calling/non reporting x x x in due time" contributed to a failure on the part of petitioner to attain his work goals or work quotas by not completing the work within the allotted period. While the logbook entry did allude to an apparent unsatisfactory result by stating that the "non calling/non reporting x x x in due time" has led to an "incorrect observation", it is similarly barren of any detail how the incorrect observations due to petitioner's perceived incompetence or inefficiency adversely affected the operations of the vessel or its safety, as well as the safety of the members of its crew. If petitioner was grossly negligent at all in this regard, then this should have been pointed out in the logbook entry, or at the very least the entry should have specifically indicated how he has failed to exercise, or lacked care, in the performance of his duties. However, the only matter of record in this case is Captain Kuzins' claim of an incorrect observation made by the MARPOL inspectors, and the Court reiterates that the actual report of this incorrect observation was not submitted in evidence by the respondents.

As it stands then, this single incident does not justify a finding of incompetence and inefficiency meriting petitioner's dismissal from employment. The record of the incident, or any extraneous evidence related thereto, should have specified the particular acts or omissions of petitioner which apparently displayed his alleged incompetence. As the Court has held in *Skippers United Pacific, Inc. v. Maguad*,[75] "**[s]uch details are vital in proving whether [an employee is] indeed incompetent to perform [his or her] assigned duties and responsibilities**."[76] Since a logbook contains entries of the daily events in the vessel, it is unusual that the acts or omissions of petitioner showing incompetence was not stated therein with particularity. To emphasize, an alleged incompetence should be specifically stated therein, and absent a more detailed narration in the logbook entry of the circumstances surrounding an alleged incompetence, the said logbook entry cannot constitute a valid justification for a dismissal.

In a bid to further justify the alleged incompetence and inefficiency of petitioner, the respondents submitted that there are two (2) other incidents which, though not recorded in the vessel's logbook, were recorded as NIRs using the ship's onboard computer system.[77] Printouts of the NIRs, denominated as Ship's ID Reports: SSHEA-N10010 and SSHEA-N10009,[78] were thereafter submitted by the respondents as evidence, along with a signed statement of Chief Officer Filipovs who supposedly confirmed and acknowledged therein that he was the one who signed the reports.[79]

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[74] *Rollo*, p. 231.
[75] Supra.
[76] Id. at 389, emphasis and underscoring supplied.
[77] See *rollo*, pp. 279-281 and 296.
[78] Not attached to the *rollo*.
[79] See *rollo*, p. 296.

The printouts of these NIRs, however, were rejected by the CA and both labor tribunals *a quo*. According to the LA, as affirmed by the NLRC, the NIRs were not signed by either the author thereof or petitioner, and therefore could have easily been prepared by anyone.[80] The CA, on the other hand, found that "[t]he NIRs are not considered official records, hence require authentication to be admissible in evidence."[81]

The Court agrees. Unlike a copy of the logbook, the printouts of the NIRs are neither assumed nor presumed as official records. The fact that it contains the official stamp of the ship does not make it an official document and does not obligate Philippine courts or tribunals to accept the same as such, even if it bears the ship captain's approval, absent the proper authentication required under prevailing rules. Although technical rules on evidence do not strictly apply to labor proceedings, the proper identification and authentication of these documents are necessary, "lest an injustice would result from a blind adoption of [their] contents."[82] These NIRs — being unauthenticated documents — are therefore rightly considered as self-serving, as is the signed statement of Chief Officer Filipovs purportedly confirming and acknowledging these NIRs. Hence, the CA and the labor tribunals *a quo* correctly disregarded these documents.

Anent petitioner's claim that the entry dated July 29, 2010 on page 41 of the vessel's logbook was merely inserted and fabricated by the respondents, or that the copy itself of page 41 is not genuine or authentic, the Court notes the finding of the CA that petitioner has not presented any proof to substantiate these contentions.[83] The Court finds nothing on record that petitioner has substantiated: (1) that the handwriting or signature thereon was not Captain Kuzins', similar to the findings in *Centennial Transmarine, Inc. v. Dela Cruz*;[84] (2) that the blank space or time gap between the entries on the copy of page 41 was a sign of fabrication; or (3) that he had actually made entries on the deck logbook every day but has not seen the questionable entry on page 41 as he so asserts. Be that as it may, whether the entry on page 41 was indeed inserted, or that the photocopy of page 41 of the logbook as submitted on record is not genuine or authentic, is no longer of any moment because the Court has found that petitioner was illegally dismissed, even on the assumption that the logbook entry was not inserted and that the copy of the logbook was genuine. Thus, if petitioner's claims of fabrication of entries on, or copies of, the logbook had been proven true, then there was no actual basis for his dismissal to begin with, and the Court would have arrived at the same conclusion, *i.e.*, that petitioner was illegally dismissed.

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[80] See id. at 66.

[81] Id. at 41.

[82] *Centennial Transmarine, Inc. v. Dela Cruz*, 585 Phil. 206, 220 (2008).

[83] See *rollo*, p. 41.

[84] In *Centennial Transmarine v. Dela Cruz*, respondent seafarer submitted three (3) official documents bearing the signature of the captain, which signature was different from the one appearing on record (see supra at 217).

The petitioner was not accorded due process in his illegal dismissal.

The CA and the labor tribunals *a quo* are all in agreement that petitioner was not accorded due process. The CA found that the respondents failed to show that they furnished petitioner with a written notice, and that they had conducted a formal investigation of the charges where they gave him the opportunity to defend himself.[85]

The Court again agrees. Records show that the respondents did not offer any proof that petitioner was furnished with a written notice of the charges against him, or that there was a formal investigation, or that he was furnished a written notice of the penalty imposed upon him. It thus appears that petitioner was merely told his employment is terminated, and ordered to disembark the vessel and repatriated without knowing of the actual reasons for his relief. On this score, petitioner is correct that the respondents violated Section 17 of the Standard Employment Contract, which mandates that all incidents leading to a disciplinary charge should be recorded in the vessel's logbook, to wit:

> SECTION 17. DISCIPLINARY PROCEDURES
>
> The Master shall comply with the following disciplinary procedures against an erring seafarer:
>
> A. The Master shall furnish the seafarer with a written notice containing the following:
>
> 1. Grounds for the charges as listed in Section 33 of this Contract or analogous act constituting the same.
>
> 2. Date, time and place for a formal investigation of the charges against the seafarer concerned.
>
> B. The Master or his authorized representative shall conduct the investigation or hearing, giving the seafarer the opportunity to explain or defend himself against the charges. **<u>These procedures must be duly documented and entered into the ship's logbook</u>**.
>
> C. If after investigation or hearing, the Master is convinced that imposition of a penalty is justified, the Master shall issue a written notice of penalty and the reasons for it to the seafarer, with copies furnished to the Philippine agent.
>
> D. Dismissal for just cause may be effected by the Master without furnishing the seafarer with a notice of dismissal if there is a clear and existing danger to the safety of the crew or the vessel. The Master shall send a complete report to the manning agency substantiated by witnesses, testimonies and any other documents in support thereof. (emphasis and underscoring supplied)

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[85] See *rollo*, p. 42.

There was no showing that the respondents complied with the foregoing procedures. It is immaterial that the respondents presented in evidence an alleged notice of dismissal,[86] it being clear under Section 17 above that this notice should also have been noted and recorded in the vessel's logbook but **was not**. Besides, a mere statement in the alleged notice of dismissal that an investigation has been conducted during which petitioner was given the opportunity to explain is not proof that it was actually conducted or that the opportunity was actually given. Moreover, an enumeration of the alleged offenses committed by petitioner without specification, even if briefly, as to how these offenses were perpetrated leading to an eventual dismissal does not inspire confidence that indeed, an investigation was actually conducted, and that petitioner was heard before he was dismissed. The Court takes note that the said notice of dismissal as reproduced in the Comment[87] — where no actual notice of dismissal was truly served on petitioner — is easy to produce and, using the words of petitioner, easy to fabricate.

Further, the Court finds nothing on record to suggest that the rightful basis for petitioner's dismissal and the lack of an actual notice thereof were because his acts or omissions resulted in a clear and existing danger to the safety of the crew or the vessel, as provided under Section 17 (D) above. If indeed the situation caused by petitioner on July 27, 2010 presented a clear and existing danger to the safety of the crew or vessel, then a complete report of the same, as substantiated by witnesses, testimonies, and other documents, should have been sent by Captain Kuzins or any of the other officers of Stolt Shearwater to the manning agency pursuant to Section 17 (D). No such report was submitted in evidence by the respondents in this case.

The propriety of monetary awards granted by the LA Decision is proper.

Since petitioner was illegally dismissed, he is therefore entitled to be paid his salaries for the unexpired portion of his employment contract.[88] This also includes the monthly vacation leave pay and other bonuses,[89] which are expressly provided and guaranteed in his employment contract[90] as part of his monthly salary and benefit package.

In the case at bar, petitioner was employed by Stolt-Nielsen as Second Officer under a nine (9)-month contract, with a basic salary of USD1,469.16, fixed monthly overtime pay of USD913.42, vacation leave pay of USD538.69, and bonus of USD 550.00.[91]

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86 See *rollo*, p. 282.
87 Id.
88 See *Eagle Clarc*, supra note 70; and *Meco Manning & Crewing Services, Inc. v. Cuyos*, G.R. No. 222939, July 3, 2019.
89 See *Eagle Clarc Shipping*, id.; and *Meco Manning & Crewing Services, Inc. v. Cuyos*, id.
90 *Rollo*, p. 135.
91 Id.

The LA, as affirmed by the NLRC, is therefore correct in ruling that petitioner is entitled to receive from the respondents the amount of USD19,060.64 representing his salaries for the unexpired portion of his employment contract, or the sum of USD1,469.16 and USD913.42, multiplied by eight (8) months. In all, petitioner is entitled to the payment of **USD20,149.33**, representing the sum of USD19,060.64, USD538.69, and USD550.00.[92]

The Court also finds that the LA correctly granted moral and exemplary damages as affirmed by the NLRC.[93] The award of moral damages is proper if the dismissal was tainted with bad faith or fraud, or where it constituted an act oppressive to labor, and done in a manner contrary to morals, good customs, or public policy.[94] Exemplary damages, meanwhile, may be recovered if the dismissal was done in a wanton, oppressive, or malevolent manner.[95] In this case, the Court finds no factual, legal, or equitable reason to overturn the LA Decision, as affirmed by the NLRC, granting PHP100,000.00 ***each*** as moral and exemplary damages, in view of the manner by which petitioner was dismissed, the lack of proof that he was duly notified of the charges and the conduct of the disciplinary hearing and investigation against him, and by way of example or correction for the public good.

On this point, the Court observes that in a catena of cases, moral and exemplary damages have been awarded to illegally dismissed employees once it has been shown, or the courts have found, that their dismissal or the acts of the employer relative to the dismissal are tainted with bad faith or fraud or where it constituted an act oppressive to labor, and done in a manner contrary to morals, good customs, or public policy or effected in a wanton, oppressive, or malevolent manner. Cases of recent vintage have consistently adopted these benchmarks, such as in *Eagle Clarc*, where the Court affirmed the ruling of the CA granting the award of moral and exemplary damages in the amount of PHP10,000.00 each.[96] The Court found no reason in *Eagle Clarc* to overturn the NLRC and CA rulings which awarded moral and exemplary damages in favor of the respondent-employee in view of the ship master's manner of dismissing him, who was forced to disembark the vessel when he refused to sign a certain document, the contents of which he did not know, and the lack of proof that the respondent-employee was duly notified of the charges and disciplinary hearing or investigation against him.[97] In *Montinola v. Philippines Airlines*,[98] on the other hand, the Court reinstated the award of moral and exemplary damages in the amount of PHP100,000.00 each. It found

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92 Id. at 68.

93 Id. at 69.

94 See *Eagle Clarc*, supra note 70; *Montinola v. Philippine Airlines*, 742 Phil. 487 (2014); *Park Hotel v. Soriano*, 694 Phil. 471 (2012); *Sarona v. NLRC*, 679 Phil. 394 (2012); *Norkis Trading Co., Inc. v. NLRC*, 504 Phil. 709 (2005); and *Permex, Inc. v. NLRC*, 380 Phil. 79 (2000). *Cf: Meco Manning & Crewing Services, Inc. v. Cuyos*, supra; and *Garcia v. NLRC*, 304 Phil. 798 (1994).

95 See *Eagle Clarc*, id.; *Montinola v. Philippine Airlines*, id.; *Park Hotel v. Soriano*, id.; *Sarona v. NLRC*, id.; *Norkis Trading Co., Inc. v. NLRC*, id.; and *Permex, Inc. v. NLRC*, id. *Cf: Meco Manning & Crewing Services, Inc. v.* Cuyos, id.; and *Garcia v. NLRC*, id.

96 See *Eagle Clarc*, id.

97 See *Eagle Clarc*, id.

98 *Montinola v. Philippine Airlines*, supra.

that the petitioner-employee was prevented from asking for clarification of the charges against her, and that she was penalized for no reason, it not being clearly shown that the employee was involved in pilfering the items listed by the airline.[99] The Court also affirmed the award of moral and exemplary damages in *Park Hotel v. Soriano*[100] (*Park Hotel*), where each of the three illegally dismissed employees were awarded PHP100,000.00 as moral and exemplary damages.[101] In *Park Hotel*, the Court found that not only were the employees unceremoniously dismissed from work by reason of their intent to form and organize a union, but also that the notices of their dismissal were fabricated as these were a mere afterthought to conceal the illegal dismissal. In *Sarona v. NLRC*[102] (*Sarona*), the Court awarded the illegally dismissed employee PHP25,000.00 each as moral and exemplary damages, finding that the manner by which the employee was made to resign from one company and how he became an employee of a supposed second company suggested the perverted use of the legal fiction of the separate corporate personality. The Court also found in *Sarona* that the company's managers took advantage of their ascendancy over the employee and the latter's lack of knowledge of his rights and the consequences of his actions.[103]

In contrast, the Court, in *Meco Manning & Crewing Services, Inc. v. Cuyos*[104] (*Meco Manning*) did not award moral and exemplary damages. Keeping in mind its pronouncement as to when moral and exemplary damages are appropriate and may be awarded in illegal dismissal cases, the Court in *Meco Manning* found that the employee failed to prove by substantial evidence that his relief was attended by clear, oppressive, or humiliating acts on the part of his employer. This ruling in *Meco Manning* that moral and exemplary damages cannot be awarded if there is a lack of substantial proof necessitating its award is similar to the holding in a much older case, *Garcia v. NLRC*.[105]

From these cases, it appears that moral and exemplary damages **should be automatically awarded** in illegal dismissal cases where it is shown, proved, or found that the dismissal or the acts of the employer relative to the dismissal was tainted with bad faith or fraud, constituted an act oppressive to labor, or done in a manner contrary to morals, good customs, or public policy, and effected in a wanton, oppressive, or malevolent manner. The Court has, however, always determined the amount of the award according to the circumstances of each case pursuant to Article 2216[106] of the Civil Code. In view of the foregoing, the Court deems it proper to award moral and

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[99] See id. at 504–511.
[100] *Park Hotel v. Soriano*, supra.
[101] Per footnote number 45 of the *Park Hotel* Decision, the PHP100,000.00 is broken down into PHP50,000.00 as moral damages, and PHP 50,000.00 as exemplary damages (id. at 487).
[102] *Sarona v. NLRC*, supra.
[103] See id. at 418–419.
[104] *Meco Manning*, supra note 88.
[105] *Garcia v. NLRC*, supra.
[106] Article 2216. No proof of pecuniary loss is necessary in order that moral, nominal, temperate, liquidated or exemplary damages, may be adjudicated. The assessment of such damages, except liquidated ones, is left to the discretion of the court, according to the circumstances of each case.

exemplary damages amounting to PHP100,000.00 ***each*** in petitioner's favor, as held by the labor tribunals.

As for the attorney's fees, the same was likewise proper because petitioner was forced to litigate and incur expenses to protect his rights and interests. Thus, petitioner is therefore entitled to attorney's fees equivalent to ten percent (10%) of the total award,[107] to be computed on the basis of the exchange rate prevailing at the time the actual payment is made.

Finally, legal interest on all the foregoing monetary awards is hereby imposed, at the rate of six percent (6%) *per annum* from finality of this ruling until full payment.[108] The Court notes in this regard its well-established dictum that the prevailing legal interest prescribed by the *Bangko Sentral ng Pilipinas* applies not only to loans or forbearance of money, goods, or credit, but also to judgments.[109]

ACCORDINGLY, the foregoing considered, the Petition for Review on *Certiorari* filed by petitioner Ruben M. Buenaflor (petitioner) is hereby **GRANTED**. The Decision of the Court of Appeals in CA-G.R. SP No. 129462 dated October 28, 2015 is **REVERSED** and **SET ASIDE**. The Resolutions of the National Labor Relations Commission in NLRC LAC No. 07-000589-11-OFW dated August 30, 2012 and January 17, 2013, which affirmed the Decision of the Labor Arbiter dated May 10, 2011, are **AFFIRMED** with **MODIFICATION**.

Accordingly, petitioner is hereby declared to have been illegally dismissed from employment by the respondents Stolt-Nielsen Philippines, Inc. and Stolt-Nielsen ITS GMBH (respondents). As such, the respondents are hereby **ORDERED** to **PAY**, jointly and severally, petitioner the following: (*a*) USD20,149.33, representing the sum of his salaries for the unexpired portion of his employment contract, vacation leave pay, and bonus; (*b*) PHP100,000.00 in moral damages; (*c*) PHP100,000.00 in exemplary damages; and (*d*) attorney's fees equivalent to ten percent (10%) of the total monetary awards. The amount denominated in US Dollars shall be paid in its equivalent in Philippine currency at the exchange rate prevailing at the time of payment. The monetary awards granted shall further earn legal interest at the rate of six percent (6%) *per annum* reckoned from the date of the finality of this Decision until its full payment.

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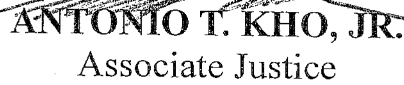
[107] *Montinola v. Philippine Airlines*, supra note 95.

[108] See *Lara's Gifts & Decors v. Midtown Industrial Sales, Inc.*, G.R. No. 225433, August 28, 2019.

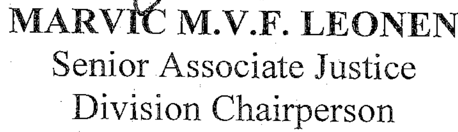
[109] See id.

SO ORDERED.



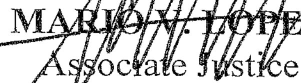
ANTONIO T. KHO, JR.
Associate Justice

WE CONCUR:

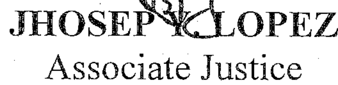


MARVIC M.V.F. LEONEN
Senior Associate Justice
Division Chairperson

AMY C. LAZARO-JAVIER
Senior Associate Justice



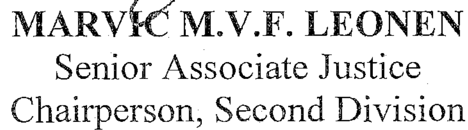
MARIO V. LOPEZ
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice

A T T E S T A T I O N

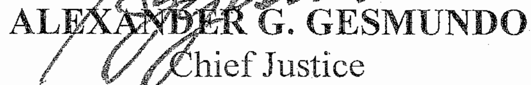
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Senior 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.



ALEXANDER G. GESMUNDO
Chief Justice