Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

JANSSEN D. PEREZ, Petitioner,	**G.R. Nos. 256939**
	Present:
-versus-	LEONEN, *J.*, *Chairperson,* LAZARO-JAVIER, LOPEZ, M., LOPEZ, J., and KHO, JR., *JJ.*
JP MORGAN CHASE BANK N.A. – PHILIPPINE GLOBAL SERVICE CENTER, Respondent.	**Promulgated:** NOV 13 2023

x----------x

DECISION

LEONEN, *J.*:

Actively participating in profane conversations with coworkers using company resources during office hours and sending company information to one's personal email address in violation of company rules amount to serious misconduct, which is a just cause of terminating one's employment.

This Court resolves the Petition for Review on *Certiorari*[1] assailing the Decision[2] and Resolution[3] of the Court of Appeals, which reversed the

---

1 *Rollo*, pp. 12–34.

2 *Id.* at 35–47. The October 30, 2020 Decision in CA-G.R. SP No. 160278 was penned by Associate Justice Marie Christine Azcarraga-Jacob and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Tita Marilyn Payoyo-Villordon of the Special Seventh Division, Court of Appeals, Manila.

3 *Id.* at 49–51. The June 16, 2021 Resolution in CA-G.R. SP No. 160278 was penned by Associate Justice Marie Christine Azcarraga-Jacob and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Tita Marilyn Payoyo-Villordon of the Former Special Seventh Division, Court of Appeals, Manila.

Resolutions[4] of the National Labor Relations Commission. The Court of Appeals upheld the validity of the employee's dismissal for serious misconduct that is violative of the employer's policies.

On June 27, 2008, JP Morgan Chase Bank N.A. – Philippine Global Service Center (JP Morgan Chase) hired Janssen D. Perez (Perez) as a customer service representative under its Human Resources Department.[5]

In May 2014, Perez received a Notice to Explain from JP Morgan Chase officers accusing him of using the Office Communicator, a private chatroom for employees, to talk about agents, supervisors, and other colleagues using indecent, profane, and disrespectful language with other employees.[6] In response, he admitted to responding "hahaha" and "up down up down left right le[f]t right"[7] in the private chatroom, but he denied using profane and abusive language.[8]

On June 3, 2014, Perez was called for an interview, where he admitted knowing that obscenity was prohibited in the company's Code of Conduct and pinpointed his responses in the Office Communicator.[9] He also admitted having access to employee information and having sent emails to his personal email address, but he denied sending any confidential company information.[10]

In July 2014, a second administrative hearing was held, where Perez vehemently denied using profane and obscene language in the chatroom conversation.[11]

On August 19, 2014, after admitting participation in the chatroom, a Notice to Explain was sent to Perez, ordering him to explain the charges of possible violation of the company's Guidelines on Workplace Behavior, particularly on general conduct and decorum.[12] Perez denied the charges but admitted that he "was guilty of using the company resources improperly."[13]

On August 27, 2014, an administrative conference was held where Perez was again given the chance to raise his defense.[14]

---

4 *Id.* at 74–88, 90–93. The September 10, 2018 and December 28, 2018 Resolutions in NLRC NCR CN. 03-03827-18 [NLRC LAC CN. 08-003132-18(4)] were penned by Presiding Commissioner Julia Cecily Coching Sosito and concurred in by Commissioners Erlinda T. Agus and Dominador B. Medroso, Jr. of the Second Division, National Labor Relations Commission, Quezon City.

5 *Id.* at 36.

6 *Id.*

7 *Id.* at 310.

8 *Id.*

9 *Id.* at 36, 310.

10 *Id.* at 36–37.

11 *Id.* at 310.

12 *Id.* at 37.

13 *Id.* at 37, 311. (Citations omitted)

14 *Id.* at 37.

On October 24, 2014, Perez received a Notice of Resolution informing him that the company decided to terminate his employment effective October 23, 2014 for violating the Guidelines on Workplace Behavior.[15]

On December 19, 2014, Perez signed a Release, Waiver, and Quitclaim with Confidentiality Undertaking.[16]

On March 2, 2018, Perez filed a Complaint for illegal dismissal with a prayer for separation pay, in lieu of reinstatement, backwages, damages, and attorney's fees against JP Morgan Chase.[17]

In a July 9, 2018 Decision,[18] Labor Arbiter Marcial Galahad T. Makasiar (Labor Arbiter Makasiar) found Perez illegally dismissed and ordered JP Morgan Chase to pay Perez separation pay, backwages, and attorney's fees:

> ACCORDINGLY, respondent JP Morgan Chase Bank NA is adjudged to have illegally dismissed complainant. It is ordered to pay complainant:
>
> a) SEPARATION PAY of P[HP]315,000.00
> b) BACKWAGES of P[HP]1,434,195.00; and
> c) ATTORNEY'S FEES of P[HP]174,919.50.
>
> The foregoing awards aggregate to P[HP]1,924,114.50. Only the award for backwages shall be subject to 5% withholding tax upon payment or execution whichever occurs first.
>
> SO ORDERED.[19]

Labor Arbiter Makasiar ruled that since the chatroom snapshots were edited, the deplorable statements could not be imputed to Perez, who was only proven to have responded "hahaha" and "up down up down left right left right" to his officemates' remarks. Thus, he ruled that this was not the "unbecoming behavior" that merited dismissal.[20] He also found no basis to determine if the contents of the emails Perez forwarded were confidential and proprietary information of JP Morgan Chase.[21] However, the labor arbiter admitted that "the terms used [in the conversations] appeal to the prurient thoughts of the participants in the chat[]room as the words introduced exemplify abrasive sexual demeanor" deserving dismissal.[22]

---

15 *Id.*
16 *Id.* at 80.
17 *Id.* at 36.
18 *Id.* at 310–315.
19 *Id.* at 315.
20 *Id.* at 312.
21 *Id.* at 313.
22 *Id.* at 312.

On appeal, the National Labor Relations Commission issued its September 10, 2018 Resolution,[23] upholding the labor arbiter's Decision and ruling that Perez was illegally dismissed because the penalty of dismissal was not commensurate to the offense committed, thus:

> [A]lthough respondent company has the right to discipline its erring employees, exercise of such right should be tempered with compassion and understanding. The magnitude of the infraction committed must be weighed and equated with the penalty prescribed and must be commensurate thereto, in view of the gravity of the penalty of dismissal. In termination cases, what is at stake is not simply the job or position but a livelihood. Thus, the penalty of dismissal is too harsh.[24]

In a December 28, 2018 Resolution,[25] the National Labor Relations Commission denied the Motion for Reconsideration filed by JP Morgan Chase.[26]

In its October 30, 2020 Decision,[27] the Court of Appeals reversed the rulings of the National Labor Relations Commission, which it found to have ignored the evidence on record, resulting in a gross misapprehension of facts. The dispositive portion of the Decision reads:

> **WHEREFORE**, the instant petition for the instant petition for *certiorari* is hereby **GRANTED.**
>
> Accordingly, the *Decision dated 10 September 2018* and *Resolution dared 28 December 2018* rendered by the NLRC in NLRC NCR CN. 03—03827-18 (NLRC LAC CN. 08-003132-18(4) [sic] are **REVERSED and SET ASIDE.**
>
> **SO ORDERED.**[28] (Emphasis in the original)

The Court of Appeals held that Perez was not entitled to his monetary claims, because JP Morgan Chase validly dismissed him after sufficiently establishing the lawful grounds.[29] It found the following established: (1) Perez clearly participated in lewd conversation with coworkers using company resources during office hours; and (2) he sent an official communication by his manager to his personal email address, without any authorization and justification.[30]

---

23 *Id.* at 74–88.
24 *Id.* at 85.
25 *Id.* at 90–93.
26 *Id.* at 93.
27 *Id.* at 35–47.
28 *Id.* at 46.
29 *Id.* at 45.
30 *Id.* at 42, 45.

In a June 16, 2021 Resolution,[31] the Court of Appeals denied the Motion for Reconsideration filed by Perez.

Hence, Perez filed the Petition for Review on *Certiorari*[32] before this Court against JP Morgan Chase.

Petitioner first alleges that this case falls within the exception to the rule that this Court only reviews legal questions—when the findings of the Court of Appeals are contrary to those of the labor tribunals and are based on a misapprehension of facts.[33] Petitioner claims that the rulings of the labor tribunals should be accorded respect and finality, as there was no proof of grave abuse of discretion on their part.[34]

Petitioner next argues that he was illegally dismissed from work as the evidence submitted against him did not justify his dismissal.[35] He claims that there is no proof that he was an active participant in the Office Communicator. He alleges that even his admission of uttering the words "hahaha" and "up down up down left right left right" cannot be equated to unbecoming behavior deserving dismissal.[36] He claims that he is not guilty of unauthorized sharing of confidential or proprietary company information since the information in the email was not proven to be confidential.[37]

At any rate, petitioner insists that his purported acts of participating in a discussion with several colleagues using the Office Communicator and his office email address to send an email cannot amount to serious misconduct sufficient to justify his dismissal.[38] Since respondent failed to prove that his dismissal was legal, petitioner claims that he is entitled to separation pay, backwages, and attorney's fees.[39]

Finally, petitioner claims that Jamie Dimon (Dimon) should be solidarily liable with respondent as its owner, manager, or president, for having assented to a patently illegal act and for making it appear that he committed acts tantamount to just causes.[40]

In line with this Court's March 16, 2022 Resolution,[41] respondent filed its Comment/Opposition.[42]

---

31 *Id.* at 49–51.
32 *Id.* at 12–34.
33 *Id.* at 20.
34 *Id.* at 21.
35 *Id.* at 22.
36 *Id.*
37 *Id.* at 23.
38 *Id.* at 24.
39 *Id.* at 25–26.
40 *Id.* at 27.
41 *Id.* at 381.
42 *Id.* at 383–410.

Respondent alleges that the Petition should be denied outright as it raises purely questions of fact, which are not within the province of a Rule 45 petition.[43] It argues that petitioner raises questions of fact in claiming that he was not an active participant in the Office Communicator and the information he sent out to external emails was not confidential.[44] In any case, it maintains that the Court of Appeals' factual findings should be accorded greater weight.[45]

Respondent argues that the Court of Appeals correctly upheld petitioner's dismissal after considering the overwhelming evidence of his active violation of company policies, which he admitted, and despite being part of the department supposed to enforce them.[46] Respondent claims that the labor tribunals acted with grave abuse of discretion due to their gross misapprehension of facts, and their findings being contrary to the evidence on record.[47] Respondent claims that petitioner's messages in the Office Communicator are aptly considered as obscene by the Court of Appeals.[48] It adds that the labor tribunals, in burdening it to prove that the emails were confidential, blatantly failed to consider the nature of its business as a bank and the confidentiality provision in its rules stating that all information in office emails are assumed to be confidential.[49]

Given petitioner's valid dismissal, respondent claims that petitioner is not entitled to his monetary claims.[50] It adds that the claim for solidary liability against Dimon should be dismissed for lack of factual basis, as there was no evidence of his alleged active participation or involvement in petitioner's dismissal, and the issue was raised for the first time on appeal.[51]

The sole issue to be resolved is whether petitioner was legally dismissed from employment.

We deny the Petition.

In illegal dismissal cases, the employer has the burden of proof to show compliance with substantial and procedural due process, or that the employee was dismissed for a just or authorized cause and was given an opportunity to be heard prior to the termination of their employment.[52]

---

43 *Id.* at 389.
44 *Id.* at 390.
45 *Id.* at 392.
46 *Id.* at 388, 401.
47 *Id.* at 393–394.
48 *Id.* at 396.
49 *Id.* at 399–400.
50 *Id.* at 402.
51 *Id.* at 404–406.
52 *Hubilla v. HSY Marketing Ltd., Co.*, 823 Phil. 358, 384 (2018) [Per J. Leonen, Third Division]. *See also National Labor Relations Commission v. Salgarino*, 529 Phil. 355 (2006) [Per J. Chico-Nazario, First

Article 297 of the Labor Code provides the just causes for when an employer may validly terminate the employment of an employee:

> ARTICLE 297 [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;
>
> (b) Gross and habitual neglect by the employee of his duties;
>
> (c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
>
> (d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representatives; and
>
> (e) Other causes analogous to the foregoing.

Misconduct has been defined as the "transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies wrongful intent and not mere error in judgment."[53] To validly justify the termination of employment, the misconduct must: (a) be serious, or of such grave and aggravated character and not trivial or unimportant; (b) relate to the performance of the employee's duties; and (c) show that the employee has become unfit to continue working for the employer. As this Court has explained:

> 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." Trivial and unimportant acts are not contemplated under Article 297(a) of the Labor Code.
>
> 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." Gambling during office hours, sexual intercourse within company premises, sexual harassment, sleeping while on duty, and contracting work in competition with the business of one's employer 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. Dismissal is deemed too harsh a penalty to be imposed on employees who are not induced by any perverse

---

Division].

53 *Yabut v. Manila Electric Company*, 679 Phil. 97, 110–111 (2012) [Per J. Reyes, Second Division]. *See also National Labor Relations Commission v. Salgarino*, 529 Phil. 355 (2006) [Per J. Chico-Nazario, First Division].

> or wrongful motive despite having committed some form of misconduct.[54] (Citations omitted)

In *Yabut v. Manila Electric Company*,[55] this Court found the petitioner guilty of serious misconduct for violating the respondent company's code of conduct. This Court found that installing shunting wires was a serious wrong that was willful and deliberate; that it related to the petitioner's performance of duties as a branch field representative, who is knowledgeable on meter operations and handling violations of a customer's contract; and that his act improperly used his knowledge to illegally obtain electric power from his employer, rendering him unfit to continue performing his functions.

In *Ocampo v. International Ship Crew Management Phils., Inc.*,[56] this Court held that the petitioner was validly dismissed from his employment for serious misconduct after he had discriminated against his crew members who were of different national and ethnic origin, thus:

> Petitioner was dismissed on this ground due to his racist treatment of his subordinates. Particularly, petitioner was reported to have called his Myanmar crew members "animals," and worse, he allegedly withheld drinking water from them and rationed it out despite its eventual availability. This pattern of discriminatory treatment against the Myanmar crew members shows that the acts were deliberately done.
>
> More than creating hostile and inhumane working conditions, these incidents also display petitioner's prejudice against his crew members who are of different national and ethnic origin. To refer to other human beings as "animals" reflects the sense of superiority petitioner has for himself and how he sees others as subhuman.
>
> Racial discrimination is a grave issue. Discrimination on the basis of race, nationality, or ethnic origin has deep historical roots, and is a global phenomenon that still exists until today. Racist attitudes have cost numerous lives and livelihoods in the past as in the present, and they should no longer be tolerated in any way. The State has formally made clear its intention to end racial discrimination as early as the 1960's when the Philippines signed the International Convention on the Elimination of All Forms of Discrimination. . . .
>
> . . . .
>
> Evidently, petitioner's misconduct is considered serious, as it is "of such a grave and aggravated character and not merely trivial or unimportant."
>
> That he is the commander of the entire crew worsens the situation. Being the leader of the vessel, it was his duty to inspire a "harmonious and congenial atmosphere on board," which he failed to do. His ill treatment of his subordinates is inevitably related to the performance of his duties as

---

54 *Bravo v. Urios College*, 810 Phil. 603, 617–618 (2017) [Per J. Leonen, Second Division].
55 679 Phil. 97 (2012) [Per J. Reyes, Second Division].
56 900 Phil. 205 (2021) [Per J. Leonen, Third Division].

> Master and Captain, and it shows his unfitness to continue in such capacity. Thus, his dismissal for serious misconduct was done for a just cause.[57] (Citations omitted)

In *Nissan Motors Phils., Inc. v. Angelo*,[58] this Court found evidence to support the employer's allegation of serious misconduct or insubordination, since the letter written by the employee against his employers was grossly discourteous in content and tenor. This Court thus upheld that "accusatory and inflammatory language used by an employee to the employer or superior can be a ground for dismissal or termination."[59]

Misconduct must likewise be shown to be severe so as to warrant the employee's termination of employment.[60] There are several factors to consider the severity warranting employment termination:

> There are several ways to manifest the severity that suffices to qualify petitioner's alleged misconduct or breach of trust as so grave that terminating his employment is warranted. It may be through the nature of the act itself: spanning an entire spectrum between, on one end, an overlooked error, made entirely in good faith; and, on another end, outright larceny. It may be through the sheer amount mishandled. It may be through frequency of acts. It may be through other attendant circumstances, such as attempts to destroy or conceal records and other evidence, or evidence of a motive to undermine the business of an employer.[61]

In *Adamson University Faculty and Employees Union v. Adamson University*,[62] this Court held that whether the teacher exclaiming *"anak ng puta"* committed serious misconduct warranting dismissal from employment is determined by the context of the phrase's use. We held that merely uttering the expletive loudly and suddenly is not grave misconduct per se, but the teacher's subsequent willful acts of refusing to acknowledge his mistake and attempting to cause further damage to a minor student aggravated the misconduct he committed and negated professionalism in his behavior.

In *Bernardo v. Dimaya*,[63] this Court considered the employee's subsequent acts after committing a violation, such as his unjustified insistence not to comply with the company policy and passing the blame on his team members for their violations, in finding that the employee's wrongful intent and willful disobedience warranted his dismissal.

---

57 *Id.* at 214–216.
58 673 Phil. 150 (2011) [Per J. Peralta, Third Division].
59 *Id.* at 160. (Citation omitted)
60 *Rivera v. Genesis Transport Service, Inc.*, 765 Phil. 544, 555 (2015) [Per J. Leonen, Second Division].
61 *Id.* at 558.
62 872 Phil. 462 (2020) [Per J. Leonen, Third Division].
63 G.R. No. 195584, November 10, 2021 [Per J. Gaerlan, Second Division].

Here, respondent argues that petitioner violated the following provisions in its Guidelines on Workplace Behavior, of which petitioner was clearly aware as an employee of its Human Resources Department, thus:

> GWB L.1.1. Serious Misconduct – Dismissal
>
> GWB L.1.10. Use or display of offensive, libelous, indecent, insulting, profane, abusive, disrespectful, discriminatory or derogatory language or conduct – Dismissal
>
> GWB L.2.4. Unauthorized sharing of confidential or proprietary company, client, supplier or employee information or material to any person who has no business need [sic] to know – Dismissal[64] (Citations omitted)

On the first ground, the Court of Appeals held that respondent sufficiently established that petitioner actively participated in profane conversation with coworkers using company resources or the Office Communicator during office hours. The Court of Appeals considered:

> *First*, the Office Communicator is a work tool provided by petitioner for easy communication among its employees strictly for office-related matters. This is a fact known to Perez but he and his co-employees used the office chatroom for private and lewd conversations instead.
>
> *Second*, the conversation in the chatroom was carried out between Perez and co-workers making reference to female employees and other colleagues, using very obscene and offensive language (such as *"send ko senyo pic namin habang dinidilaan ko tinggil nya" "kinain nyo ba puke nya," "halos luwa na dede," "sarap ikiskis yung ulo ng etits ko sa katawan nya"* and many others.)
>
> *Third*, it must be emphasized that Perez was an employee of the HR department and he had been in the office for more than six years when the investigation was started. As such, he is expected to be fully aware and very much familiar with office rules and regulations, including the company's *Guidelines on Work [B]ehavior*. He was also expected to be a good example in the implementation of the company policies. Instead, Perez not only tolerated the gross and vulgar conversation, he actively participated in it.
>
> *Fourth*, even Perez himself admitted his wrongdoing. As he expressed in his written explanation:
>
> > **I am aware that I am guilty of using the company resources improperly and this will serve as a lesson for me.** I love this job and I am not gonna do things that would jeopardize my employment with the company.
>
> During the administrative conference, Perez admitted that (1) the OC chat room was used for non-work related matters, (2) the OC conversation was inappropriate, (3) it was a conversation among friends, and (4) it was not the usual tone of conversation he would have while inside

---

[64] *Rollo*, p. 37.

> company premises. He also admitted that there were female colleagues described in the conversation using a sexual tone, which he further admitted was inappropriate. He likewise admitted that the word "*gago*" can be profane word.[65] (Emphasis in the original, citations omitted)

On the second ground, the Court of Appeals considered respondent's prevailing Code of Conduct provisions on confidentiality in ruling against petitioner upon finding that petitioner forwarded an official communication from his manager, without any authorization or justification, to his personal email address:

> 1.4 Dealing with Confidential Information
>
> Trust is essential to our business success. **Customers, suppliers and companies with which we do business trust us to be good stewards of their confidential information, whether that information relates to financial, personal or business matters.**
>
> Confidential information can be written, oral, telephonic or electronic and includes a variety of data, from technology applications, business strategies and customer lists to credit procedures, customer preferences and personnel information. How do you know what information is confidential information? **The best practice is to assume that all personal information and all information you have about the Company and its business (including past[,] present and prospective customers, business partners, suppliers, directors and employees) is confidential, unless the contrary is clear.**
>
> Disclose confidential information only on a need-to-know basis. You have a duty to protect confidential information as you would your own personal information and to take precautions before sharing it with anyone, inside or outside the workplace. Don't share confidential information with friends or family, and don't discuss it in public places where others could hear you. Do not access, use or disclose confidential information to fellow employees who are not involved in providing services to the owner of the information, unless you are authorized or legally permitted to do so. **Finally, don't send internal communications, including intranet postings, outside the Company without authorization.**[66] (Emphasis in the original)

However, the labor tribunals found that the violation of the company rules was not sufficiently proven, such that it was not clearly established that petitioner said the profane words, and there was no proof that the company information from his manager was confidential. Even if it were, the labor tribunals held that the misconduct did not warrant the termination of petitioner's employment.

We agree with the Court of Appeals.

---

65 *Rollo*, pp. 43–44.

66 *Id.* at 44–45.

Under Rule 45, Section 1 of the Rules of Court, only questions of law may be raised in a petition for review on *certiorari*. The factual findings of the appellate courts are generally binding on this Court, especially when supported by substantial evidence.[67] Parties should allege, prove, and substantiate that their case clearly falls under the exception to the rule as when questions of facts may be reviewed by this Court.[68] Rule 45 petitions should not only raise pure questions of law, but also "questions of such substance as to be of distinctly significant consequence and value"[69] since review is a matter of sound judicial discretion and will only be granted when there are special and important reasons therefor.[70]

Moreover, in *Hubilla v. HSY Marketing Ltd., Co.*,[71] this Court emphasized that it has full discretion on whether to review the factual findings of the Court of Appeals, that is, when a party properly pleas, proves, and substantiates the inaccuracy in the Court of Appeals' findings, thus:

> Factual findings of labor officials exercising quasi-judicial functions are accorded great respect and even finality by the courts when the findings are supported by substantial evidence. Substantial evidence is "the amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion." Thus, in labor cases, the issues in petitions for *certiorari* before the Court of Appeals are limited only to whether the National Labor Relations Commission committed grave abuse of discretion.
>
> However, this does not mean that the Court of Appeals is conclusively bound by the findings of the National Labor Relations Commission. If the findings are arrived at arbitrarily, without resort to any substantial evidence, the National Labor Relations Commission is deemed to have gravely abused its discretion:
>
> > On this matter, the settled rule is that factual findings of labor officials, who are deemed to have acquired expertise in matters within their jurisdiction, are generally accorded not only respect but even finality by the courts when supported by substantial evidence, i.e., the amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion. We emphasize, nonetheless, that these findings are not infallible. When there is a showing that they were arrived at arbitrarily or in disregard of the evidence on record, they may be examined by the courts. The [Court of Appeals] can then grant a petition for *certiorari* if it finds that the [National Labor Relations Commission], in its assailed decision or resolution, has made a factual finding that is not supported by substantial evidence. It is within the jurisdiction of the

---

67 *Pascual v. Burgos*, 776 Phil. 167, 182 (2016) [Per J. Leonen, Second Division]

68 *Id.* at 169.

69 *Kumar v. People*, 874 Phil. 214, 216 (2020) [Per J. Leonen, Third Division].

70 RULES OF COURT, Rule 45, sec. 6; *Kumar v. People*, 874 Phil, 214, 216 (2020) [Per J. Leonen, Third Division].

71 823 Phil. 358 (2018) [Per J. Leonen, Third Division].

> [Court of Appeals], whose jurisdiction over labor cases has been expanded to review the findings of the [National Labor Relations Commission].
>
> The Court of Appeals may also review factual findings if quasi-judicial agencies' findings are contradictory to its own findings. Thus, it must re-examine the records to determine which tribunal's findings were supported by the evidence.
>
> . . . The Court of Appeals also found that the findings of the National Labor Relations Commission were not supported by substantial evidence, and therefore, were rendered in grave abuse of discretion.
>
> Thus, in the determination of whether the National Labor Relations Commission committed grave abuse of discretion, the Court of Appeals may re-examine facts and re-assess the evidence. However, its findings may still be subject to review by this Court.
>
> This Court notes that in cases when the Court of Appeals acts as an appellate court, it is still a trier of facts. *Questions of fact may still be raised by the parties. If the parties raise pure questions of law, they may directly file with this Court. Moreover, contradictory factual findings between the National Labor Relations Commission and the Court of Appeals do not automatically justify this Court's review of the factual findings. They merely present a prima facie basis to pursue the action before this Court. The need to review the Court of Appeals' factual findings must still be pleaded, proved, and substantiated by the party alleging their inaccuracy. This Court likewise retains its full discretion to review the factual findings.*[72] (Emphasis supplied, citations omitted)

Here, petitioner fails to convince us of the need to review the factual findings of the Court of Appeals, as petitioner failed to plea, prove, and substantiate the Court of Appeals' inaccuracy. Petitioner merely relied on the labor tribunals' findings in substantiating his Petition before this Court.

On the other hand, petitioner's own admissions bolster the correctness of the Court of Appeals' ruling. Petitioner admitted responding "hahaha" and "up down up down left right left right" to lewd remarks about female colleagues, female and male genitalia, and the act of sexual intercourse in the Office Communicator.[73] Even the labor arbiter found that "the terms used appeal to the prurient thoughts of the participants in the chat[]room as the words introduced exemplify abrasive sexual demeanor that is typical of loose and depraved morality" and "the use or display of such terms deserve dismissal."[74]

Petitioner also admitted that he forwarded company information to his personal email address knowing that only his company-designated email should be used for company-related purposes. Given the company policy to

---

72 *Id.* at 374–376.
73 *Rollo*, p. 310.
74 *Id.* at 312.

presume that all office emails are confidential, sending company email to his personal email address was a deliberate violation of the company rules.

In *Sy v. Neat, Inc.*,[75] this Court considered the principle of totality of infractions in determining the sanction imposable on the employee:

> In determining the sanction imposable on an employee, the employer may consider the former's past misconduct and previous infractions. Also known as the principle of totality of infractions, the Court explained such concept in *Merin v. National Labor Relations Commission, et al.*, thus:
>
> > The totality of infractions or the number of violations committed during the period of employment shall be considered in determining the penalty to be imposed upon an erring employee. The offenses committed by petitioner should not be taken singly and separately. Fitness for continued employment cannot be compartmentalized into tight little cubicles of aspects of character, conduct and ability separate and independent of each other. While it may be true that petitioner was penalized for his previous infractions, this does not and should not mean that his employment record would be wiped clean of his infractions. After all, the record of an employee is a relevant consideration in determining the penalty that should be meted out since an employee's past misconduct and present behavior must be taken together in determining the proper imposable penalty. Despite the sanctions imposed upon petitioner, he continued to commit misconduct and exhibit undesirable behavior on board. Indeed, the employer cannot be compelled to retain a misbehaving employee, or one who is guilty of acts inimical to its interests. It has the right to dismiss such an employee if only as a measure of self-protection.[76] (Citation omitted)

Here, petitioner had been an employee of the Human Resources Department for more than six years, and thus, he was expected to be fully aware of the company rules. His own admission of participating and using the company chatroom in uttering indecent words about female colleagues and sending out company information to his personal email address amount to willful transgression of the company's Guidelines on Workplace Behavior. His transgressions patently relate to the performance of his duties as part of the Human Resources Department, expected as he was to exhibit good conduct. His acts rendered him unfit to continue working for respondent. Thus, for committing serious misconduct, petitioner was validly terminated for a just cause.

In return for the extensive obligations to the employee that the law

---

[75] 821 Phil. 751 (2017) [Per J. Peralta, Second Division].
[76] *Id.* at 766–767.

imposes on the employer, the employer can lawfully and reasonably expect from its employee "not only good performance, adequate work and diligence, but also good conduct and loyalty."[77] As such, in the exercise of its management prerogative, the employer can discipline its employees, impose appropriate penalties on their infractions pursuant to company rules, and may not be compelled to continue employing persons whose continuance in the service will be inimical to its interests.[78]

Since petitioner's dismissal was valid, there is no need to discuss the alleged solidary liability of Dimon.[79] Furthermore, since there was a just cause for terminating petitioner from employment, there is no factual or legal basis for his monetary claims.[80]

ACCORDINGLY, the Petition is **DENIED.** The October 30, 2020 Decision and June 16, 2021 Resolution of the Court of Appeals in CA-G.R. SP No. 160278 are **AFFIRMED.** The Complaint for illegal dismissal filed by petitioner Janssen D. Perez against respondent JP Morgan Chase Bank N.A. – Philippine Global Service Center is **DISMISSED.**

SO ORDERED.

MARVIC M.V.F. LEONEN
Senior Associate Justice

---

77 *Sugue v. Triumph International (PHILS.), Inc.*, 597 Phil. 320, 341 (2009) [Per J. Leonardo-De Castro, First Division].

78 *See Philippine Span Asia Carriers Corporation v. Pelayo*, 826 Phil. 776 (2018) [Per J. Leonen, Third Division].

79 *Rollo*, p. 27.

80 *Id.* at 25–26.

WE CONCUR:

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ANTONIO T. KHO, JR.
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 M.V.F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 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