

# CA rejects illegal dismissal claim filed by temps

THE COURT OF APPEALS (CA) rejected an illegal dismissal charge filed by manpower agency workers against a firearms manufacturer and their agency, upholding earlier rulings by a labor arbiter and the National Labor Relations Commission (NLRC). According to the ruling issued by the third division on Nov. 1, "Findings of fact of administrative agencies and quasi-judicial bodies, which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only great respect but even finality."

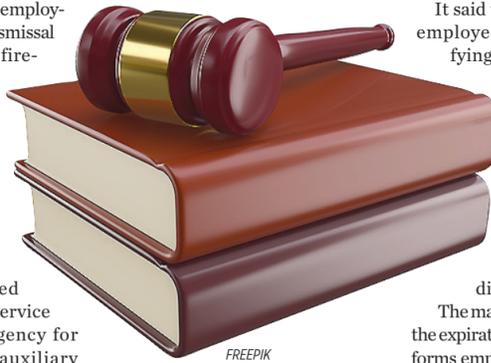
It added that determinations of fact are beyond the scope of a Rule 65 certiorari petition.

"Where a petition fails to fully satisfy, prima facie, the requirements of the limited, exceptional, extraordinary remedy of a special civil action for certiorari, a resolution for its dismissal should be issued outright," it said.

The tribunal found that NLRC did not commit grave abuse of discretion, contrary to the petitioners' claim, finding no evidence of arbitrariness, caprice, or whim on the part of the NLRC.

The case stems from employees who filed an illegal dismissal complaint against the firearms company and the manpower services firm after they were dismissed in September 2023. They alleged the company colluded with the agency to deny them regular employment status and benefits.

The company argued that it entered into a service agreement with the agency for staff responsible for auxiliary tasks at its manufacturing facility.



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It said there was no employer-employee relationship, identifying the manpower agency as their employer of records.

The agreement between company and the agency ended in September 2023, a month after, the firearms company received the illegal dismissal complaint.

The manpower agency said upon the expiration of an agreement, it informs employees of options such as redeployment, temporary layoff or

resignation. The petitioners refused the options and filed a complaint instead with the NLRC.

The labor arbiter and the NLRC found the complaint without merit, adding the plaintiffs were not dismissed but placed on a floating status instead.

Under the Labor Code, "floating status" may be considered a form of temporary layoff as long as it does not exceed six months. The petitioners filed their complaint after a month of being put in floating status, well within the six-month window. — **Chloe Mari A. Hufana**

OPINION

## Primary defense for wrongfully charged workers

**I am the operations manager of a small company. For some reason, the chief executive officer (CEO) who is a foreign national wants me to be dismissed. The newly-hired human resource (HR) manager cooperated by concocting allegations. Please advise. — Deep Stroller**

### IN THE WORKPLACE REY ELBO

issue a circular reminding the workers to observe those important rules, no matter how trivial they are to some people.

#### PROCEDURAL DEFENSE

It's important to establish the company rules, the reasonableness of the penalty, and all factual circumstances, including the availability of the complainant and their witnesses, if any. If an employee is accused of habitual absenteeism, then his attendance record must be established as having violated policy, which in our jurisdiction takes the form of the Code of Conduct (CoC).

The following procedural steps may be used as a defense by employees who think they have been wrongfully charged with imaginary offenses:

**One, seek out the bill of particulars.** Ask for an incident report summarizing all circumstances surrounding the offense, the particular article of the CoC that is relevant, when it happened, where it happened, and the statements of the complainant and witnesses, if any.

Much better if the report comes in the form of a notarized affidavit to add

weight. More important, if there are no complainants or witnesses, then there can be no offense.

**Two, ask for a printed copy of the employment contract and the CoC.** Some unprincipled employers avoid giving a hard copy of those two documents to workers. This is an unfair labor practice.

Soft copies of those documents do not have the same validity as they are not considered original in the legal context. Besides, the soft copy can be easily tampered with to suit the interests of unprincipled managers.

**Three, examine the specific CoC provision that was allegedly violated.** You can make the best technical argument by citing those provisions as HR people, even lawyers, can be careless, if not intentional in their wrongful interpretation. For example, simple and gross negligence are two different things, in the same manner, that gross and habitual neglect of duty can result in different interpretations.

Discover the interpretation of the Supreme Court and compare them with the definitions found in the CoC and other documents. You will be surprised.

**Fourth, challenge the authority of the official concerned.** What is the

authority of the HR manager to issue the Notice to Explain (NTE)? It is the general belief that the HR manager has the sole authority to discipline people. Not necessarily, especially if rank is an issue.

Generally, the operations manager and finance manager are higher in rank, pay, and status than the HR manager. Therefore, it would be unreasonable for a low-ranking official to discipline them in this context. If this happens, better if that foreign CEO does the job.

**Five, discover the inconsistencies in the application.** Explore how similar incidents in the past were resolved. If there were similar violations in the past, what happened to the offenders? How did management resolve the issue? Did the offenders receive any penalty or were they given a reduced sanction?

What's the difference between your case and other cases? If you're diligent, you can find reasons that could serve as legal and reasonable grounds for your defense.

**Six, emphasize the unreasonable nature of the penalty.** Does it conform to industry standards? If not, then why not? For example, an employee charged with habitual tardiness may be dismissed if he proves to be incorrigible.

However, that might only happen if the worker has committed six such violations within a certain period.

That means management cannot terminate, say, after three straight violations. Besides, the penalty must be progressive, moving from oral reprimand, written reprimand, and suspension without pay. The last resort is dismissal.

**Seven, ask for a labor official to manage a mediation process.** Do this only if there are continuing unresolved issues like the refusal of management to give you a copy of the CoC and the employment contract. Ask for help from the Department of Labor and Employment or an external, independent lawyer.

Some lawyers from the Integrated Bar of the Philippines or labor federations can advise you on what to do. The Supreme Court has also approved a resolution requiring lawyers to render at least 60 hours of pro bono legal aid every three years to indigent people.

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## Trump asked to spare farm workers from deportation

WASHINGTON — US farm industry groups want President-elect Donald Trump to spare their sector from his promise of mass deportation, which could upend a food supply chain heavily dependent on immigrants in the US illegally.

So far Mr. Trump officials have not committed to any exemptions, according to interviews with farm and worker groups and Mr. Trump's incoming "border czar" Tom Homan.

Nearly half of the nation's approximately two million farm workers lack legal status, according to the Departments of Labor and Agriculture, as well as many dairy and meat-packing workers.

Mr. Trump, a Republican, vowed to deport millions of immigrants in the US illegally as part of his campaign to win back the White House, a logistically challenging undertaking that critics say could split apart families and disrupt US businesses.

Mr. Homan has said immigration enforcement will focus on criminals and people with final deportation orders but that no immigrant in the US illegally will be exempt.

He told Fox News on Nov. 11 that enforcement against businesses would "have to happen" but has not said whether the agricultural sector would be targeted.

"We've got a lot on our plate," Mr. Homan said in a phone interview this month.

Mass removal of farm workers would shock the food supply chain and drive consumer grocery prices higher, said David Ortega, a professor of food economics and policy at Michigan State University.

"They're filling critical roles that many US-born workers are either unable or unwilling to perform," Mr. Ortega said.

Farm groups and Republican allies are encouraged by the incoming administration's stated focus on criminals.

Dave Puglia, president and CEO of Western Growers, which represents produce farmers, said the group supports that approach and is concerned about impacts to the farm sector if a deportation plan was targeted at farm workers.

Trump transition spokesperson Karoline Leavitt did not directly address the farmer concerns in a statement to Reuters.

"The American people re-elected President Trump by a resounding margin giving him a mandate to implement the promises he made on the campaign trail, like deporting migrant criminals and restoring our economic greatness," Ms. Leavitt said. "He will deliver."

Mr. Trump announced on Saturday that he would nominate Brooke Rollins, who chaired the White House Domestic Policy Council during his first term, to become agriculture secretary.

Agriculture and related industries contributed \$1.5 trillion to the US gross domestic product, or 5.6%, in 2023, according to the US Department of Agriculture.

In his first administration, Mr. Trump promised the farm sector that his deportation effort would not target food sector workers, though the administration did conduct raids at some agricultural worksites, including poultry processing plants in Mississippi and produce processing facilities in Nebraska.

US Representative John Duarte, a Republican and fourth-generation farmer in California's Central Valley, said farms in the area depend on immigrants in the US illegally and that small towns would collapse if those workers were deported. — **Reuters**

### FULL STORY

Read the full story by scanning the QR code with your smartphone or by typing the link [tinyurl.com/2y5yvtvc](https://tinyurl.com/2y5yvtvc)



## Power Maintenance Updates by MERALCO ADVISORY

The following are scheduled power interruptions necessary for the regular maintenance and upgrade of our power distribution facilities, to ensure the delivery of safe and reliable electricity to your areas. Rest assured that Meralco is doing everything to quickly restore your electricity according to schedule.

SUNDAY, DECEMBER 1, 2024	TUESDAY TO WEDNESDAY, DECEMBER 3 – 4, 2024
<p><b>PASIG CITY (KAPITOLYO AND PINEDA)</b> BETWEEN 9:00AM AND 2:00PM – PORTION OF CIRCUIT HILLCREST 416VZ</p> <p>Portion of West Capitol Drive and East Capitol Drive from Stella Maris St. to near Calvary Reformed Evangelical Church including Sta. Fe, Sta. Clara, Sta. Lucia and Sta. Monica Sts.; Shine Special Education Center Inc., Holy Family Parochial School of Kapitolyo Inc. and Grains Handlers Philippines Inc. in Bgys. Kapitolyo and Pineda.</p> <p>Portion of San Francisco St. from F. Banaag St. to near San Ignacio St. including San Isidro, San Miguel, San Gabriel, San Vicente and San Gil Sts. in Bgys. Kapitolyo and Pineda.</p> <p>Portion of Sta. Maria St. from East Capitol Drive to Sta. Lucia St. including Sta. Cecilia St.; and The Roman Catholic Bishop of Pasig Inc. in Bgy. Kapitolyo.</p> <p>Portion of San Juan St. near San Francisco St. in Bgy. Kapitolyo.</p> <p>Portion of San Lucas St. near San Isidro St. in Bgy. Kapitolyo.</p> <p>Portion of Sta. Catalina St. near Sta. Monica St. in Bgy. Kapitolyo.</p> <p>Portion of Sta. Teresita St. near Sta. Fe St. in Bgy. Kapitolyo.</p> <p><b>REASON:</b> Line reconducting and reconstruction work along West Capitol Drive and Sta. Monica St. in Bgys. Kapitolyo and Pineda in Pasig City.</p>	<p><b>MUNTINLUPA CITY (PUTATAN AND BAYANAN)</b> BETWEEN 11:30PM (TUE., 12/03/24) AND 4:30AM (WED., 12/04/24) – PORTION OF CIRCUIT FILINVEST 425FIL</p> <p>Portion of Marcos Ave. from National Road to and including Gods Will Subd., God's Will 2 Subd., Summitville Subd., Summitville II Subd., Umali Compound and Estole Compound – Summitville Subd. in Bgy. Putatan; and Purok 1 in Bgy. Bayanan.</p> <p><b>REASON:</b> Replacement of poles along Marcos Ave. in Summitville Subd., Bgy. Putatan, Muntinlupa City.</p>
THURSDAY TO FRIDAY, DECEMBER 5 – 6, 2024	
<p><b>QUEZON CITY (LOYOLA HEIGHTS)</b> BETWEEN 11:00PM (THU., 12/05/24) AND 2:00AM (FRI., 12/06/24) – PORTION OF CIRCUIT MARIKINA 44VG</p> <p>Portion of Xavierville Ave. from Katipunan Ave. to near J. Bocobo St. including Guerrero, M. Delos Santos, Palma and F. Collantes Sts. in Xavierville Estate Subd. Phase 1.</p> <p><b>REASON:</b> Relocation of facilities along Xavierville Ave. in Xavierville Estate Subd. Phase 1, Bgy. Loyola Heights, Quezon City.</p>	
FRIDAY, DECEMBER 6, 2024	
<p><b>CAVITE (ALFONSO)</b> BETWEEN 12:01AM AND 5:00AM – PORTION OF CIRCUITS TAGAYTAY WEST 313TGW AND 325TGW</p> <p>Portion of Alfonso – Indang Municipal Road from near Guyam Cemetery in Bgy. Guyam Malaki to P. Burgos St. in Town Proper including Calle Once in Sitio Pagong, Bgy. Pajo.</p> <p>Portion of Gov. J. Remulla St. from Alfonso – Indang Municipal Road in Bgy. Pajo to and including Bgys. Esperanza Ilaya and Esperanza Ibaba.</p> <p><b>REASON:</b> Replacement of poles and primary facilities along Gov. J. Remulla St. and Alfonso - Indang Municipal Road in Bgys. Pajo and Esperanza Ibaba in Alfonso, Cavite.</p>	

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