



I. GENERAL PROVISIONS

A. Basic Policy on Labor

1. What is the basic policy on labor?

The State shall afford protection to labor, promote full employment, equal work opportunities regardless of sex, race or creed and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure and just and humane conditions of work (*LABOR CODE, Art. 3*).

B. Construction in Favor of Labor

2. **N Manufacturing hired O as a shipping expediter on a probationary basis for a period of six (6) months. Before the end of the probationary period, O received a memorandum terminating his employment in view of his failure to meet performance standards set by the company but without indicating the particular acts or instances showing O's poor performance. To contest the dismissal, O filed a complaint for illegal dismissal. N Manufacturing argued that O, being a mere probationary employee, may be validly dismissed when he failed to qualify reasonable standards and that employers should be given leeway in the application of his right to choose efficient workers. If you were the judge, how will you rule on the given argument?**

If I were the judge, I will not sustain the argument of N Manufacturing. Article 4 of the Labor Code provides that all doubts in the implementation and interpretation of the provisions of the Labor Code shall be resolved in favor of labor. Thus, in the interpretation of the protection to labor and social justice provisions of the Constitution and the labor laws and rules and regulations implementing the constitutional mandate, the Supreme Court has always adopted the liberal approach which favors the exercise of labor rights. While the right of an employer to freely select or discharge his employees is recognized, the same is subject to regulation by the State in the exercise of its paramount police power. In this case, N Manufacturing failed to substantiate its claim that O was indeed inefficient and failed to meet its performance standards (*Euro-Linea v. NLRC, G.R. No. 75782, December 1, 1987*).

3. **A was employed by X Company as a sales assistant. M, the store manager, accused A of stealing money from the cashier box and thereafter dismissed A. In the illegal dismissal case filed by A before the Labor Arbiter, A denied the allegations. In ruling in favor of A, the Labor Arbiter held that the sole testimony of B was doubtful and thus applied Article 4 of the Labor Code in the appreciation of the evidence in favor of A as a laborer. On appeal to the NLRC, the decision of the Labor Arbiter was reversed when it was held that Article 4 cannot be applied if the doubt relates to the evidence. NLRC explained that Article 4 applies only when the doubt involves the "implementation and interpretation" of the Labor Code provisions. Is the NLRC correct?**

No, the NLRC is not correct. Article 4 of the Labor Code provides that all doubts in the implementation and interpretation of the provisions of the Labor Code shall be resolved in favor of labor. The rule enunciated in Article 4 of the Labor Code has been consistently applied in the appreciation of evidence in labor proceedings. Thus, the consistent rule is that if doubt exists between the evidence presented by the employer and that by the employee, the scales of justice must be tilted in favor of the latter. In the case at bar, M failed to establish his accusation with substantial evidence. As between the bare allegation of M and the clear denial of A, the scales of justice shall be tilted in favor of A (*Dreamland Hotel Resort v. Johnson, G.R. No. 191455, March 12, 2014*).

C. Constitutional and Civil Code provisions relating to Labor Law

4. What provisions in the 1987 Constitution are relevant to Labor Law?

The following are the constitutional provisions relevant to Labor Law:

- a. State Policies (CONST., Art. II, Secs. 9, 10, 18, and 20)
 - i. Sec. 9. The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all;
 - ii. Sec. 10. The State shall promote social justice in all phases of national development;
 - iii. Sec. 18. The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare; and
 - iv. Sec. 20. The State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments.



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- b. Bill of Rights (CONST., Art. III, Sections 4, 8, 10, 16, and 18(2))
 - i. Sec. 4. No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances;
 - ii. Sec. 8. The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law, shall not be abridged;
 - iii. Sec. 10. No law impairing the obligation of contracts shall be passed;
 - iv. Sec. 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies; and
 - v. Sec. 18 (2). No involuntary servitude in any form shall exist except as a punishment for a crime whereof the party shall have been duly convicted.
- c. Social Justice (CONST., Art. XIII, Sections 2, 3, 13, and 14)
 - i. Sec. 2. The promotion of social justice shall include the commitment to create economic opportunities based on freedom of initiative and self-reliance;
 - ii. Sec. 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace.

The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth;

- iii. Sec. 13. The state shall establish a special agency for disabled persons for their rehabilitation, self-development and self-reliance and their integration into the mainstream of society; and
- iv. Sec. 14. The State shall protect working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation.

5. What Civil Code provisions are relevant to Labor Law?

The following are the Civil Code provisions relevant to Labor Law:

- a. Article 1700. The relations between capital and labor are not merely contractual. They are so impressed with public interest that labor contracts must yield to the common good. Therefore, such contracts are subject to the special laws on labor unions, collective bargaining, strikes and lockouts, closed shop, wages, working conditions, hours of labor and similar subjects.
- b. Article 1701. Neither capital nor labor shall act oppressively against the other or impair the interest or convenience of the public.
- c. Article 1702. In case of doubt, all labor legislation and all labor contracts shall be construed in favor of the safety and decent living of the laborer.
- d. Article 1703. No contract which practically amounts to involuntary servitude, under any guise whatsoever, shall be valid.

II. PRE-EMPLOYMENT

A. Recruitment and Placement of Local and Migrant Workers (Labor Code and RA 8042, as amended by RA 10022)

ILLEGAL RECRUITMENT AND OTHER PROHIBITED ACTIVITIES

- 6. While in Iloilo, V introduced herself to L, M, N and O as a recruiter of workers for Malaysia and showed them a job order and calling card. Believing such representations, L, M, N and O submitted their applications and paid Php10,000 to V. After about a month, V informed them that they cannot be deployed and that the fees collected cannot be returned anymore. V explained that the visa or the medical certificates had already expired. Suspicious on the matter, they later discovered upon inquiry that V did not have authority to recruit. Is V guilty of any crime?