Republic of the Philippines
**SUPREME COURT**
Manila

**THIRD DIVISION**

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| **EXOCET SECURITY AND ALLIED SERVICES CORPORATION and/or MA. TERESA MARCELO,** Petitioner, | **G.R. No. 198538** |
| | Present: |
| | VELASCO, JR., *J.*, Chairperson, PERALTA, VILLARAMA, JR., |
| - versus - | REYES, and JARDELEZA, *JJ.* |
| **ARMANDO D. SERRANO,** Respondent. | Promulgated: |
| | September 29, 2014 |

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# DECISION

**VELASCO, JR., *J.*:**

## Nature of the Case

This is a Petition for Review on Certiorari under Rule 45 seeking to reverse and set aside the March 31, 2011 Decision[1] and September 7, 2011 Resolution of the Court of Appeals (CA) in CA-G.R. SP No. 113251, which ordered petitioner to pay respondent separation pay and backwages for having been illegally dismissed from employment.

## The Antecedent Facts

Petitioner Exocet Security and Allied Services Corporation (Exocet) is engaged in the provision of security personnel to its various clients or principals. By virtue of its contract with JG Summit Holdings Inc. (JG Summit), Exocet assigned respondent Armando D. Serrano (Serrano) on September 24, 1994 as "close-in" security personnel for one of JG Summit's corporate officers, Johnson Robert L. Go.[2] After eight years, Serrano was re-assigned as close-in security for Lance Gokongwei, and then to his wife,

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[1] Penned by Associate Justice Hakim S. Abdulwahid and concurred in by Associate Justices Ricardo R. Rosario and Danton Q. Bueser.

[2] Records, pp. 24, 33.

Mary Joyce Gokongwei.[3] As close-in security, records show that Serrano was receiving a monthly salary of □11,274.30.[4]

On August 15, 2006, Serrano was relieved by JG Summit from his duties. For more than six months after he reported back to Exocet, Serrano was without any reassignment. On March 15, 2007, Serrano filed a complaint for illegal dismissal against Exocet with the National Labor Relations Commission (NLRC).[5]

For its defense, Exocet denied dismissing Serrano alleging that, after August 15, 2006, Serrano no longer reported for duty assignment as VIP security for JG Summit, and that on September 2006, he was demanding for VIP Security detail to another client. However, since, at that time, Exocet did not have clients in need of VIP security assignment, Serrano was temporarily assigned to general security service.[6] Exocet maintained that it was Serrano who declined the assignment on the ground that he is not used to being a regular security guard. Serrano, Exocet added, even refused to report for immediate duty, as he was not given a VIP security assignment.[7]

Considering the parties' respective allegations, the Labor Arbiter ruled that Serrano was illegally dismissed. In its June 30, 2008 Decision, the Labor Arbiter found that Serrano, while not actually dismissed, was placed on a floating status for more than six months and so, was deemed constructively dismissed. Thus, the Labor Arbiter ordered Exocet to pay Serrano separation pay,[8] viz:

> Since complainant prayed for separation pay in lieu of reinstatement, he is entitled to the same, computed below as follows:
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> "SEPARATION PAY: September 24, 1994 –August 15, 2006 = 12 years. P300.00 x 13 x 12 years = **P46,800.00**"
>
> WHEREFORE, premises considered, respondent corporation is hereby directed to pay complainant's monetary awards as computed above.
>
> SO ORDERED.[9]

Not satisfied with the award, Serrano appealed the Labor Arbiter's Decision to the NLRC. In its March 5, 2009 Resolution, the NLRC initially affirmed the ruling of the Labor Arbiter, but modified the monetary award to include the payment of backwages for six months that Serrano was not given

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[3] Id. at 24, 33.

[4] *Rollo*, p. 91. The complaint was docketed as NLRC-NCR-00-03-02423-07 and entitled *Armando D. Serrano v. Exocet Security and Allied Services Corp. and/or Ma. Teresa Marcelo*.

[5] Id. at 10.

[6] Records, pp. 27, 35.

[7] Id. at 27, 36.

[8] Id. at 43.

[9] *Rollo*, pp. 113-114.

a security assignment. The dispositive portion of the March 5, 2009 Resolution reads:

> ACCORDINGLY, premises considered, the decision appealed from is hereby modified. The respondents are hereby ordered to pay complainant separation pay plus backwages computed from [the] date he effectively became dismissed from service which is after the lapse of the 6 month period up to the issuance of this decision, the computation of which is attached as Annex A.
>
> All others are hereby affirmed.[10]

Acting on Exocet's motion for reconsideration, however, the NLRC, in its September 2, 2009 Resolution, further modified its earlier decision by removing the award for backwages.[11] The NLRC deviated from its earlier findings and ruled that Serrano was not constructively dismissed, as his termination was due to his own fault, stubborn refusal, and deliberate failure to accept a re-assignment.[12] Nevertheless, the NLRC proceeded to affirm *in toto* the decision of the Labor Arbiter on the ground that Exocet did not interpose the appeal. The *fallo* of the NLRC's September 2, 2009 Resolution reads:

> WHEREFORE, the motion is GRANTED and the assailed decision is RECONSIDERED and SET ASIDE. Consequently, the decision of the Labor Arbiter is hereby upheld *in toto.*
>
> SO ORDERED.[13]

On January 22, 2010, the NLRC issued another Resolution denying Serrano's motion for reconsideration.[14] Hence, not satisfied with the NLRC's ruling, Serrano filed a petition for certiorari with the CA assailing the September 2, 2009 Resolution of the NLRC. Serrano insisted that he was constructively dismissed and, thus, is entitled to reinstatement without loss of seniority rights and to full backwages from the time of the alleged dismissal up to the time of the finality of the Decision.

On March 31, 2011, the appellate court rendered a Decision in Serrano's favor, reversing and setting aside the NLRC's September 2, 2009 Resolution and ordering Exocet to pay Serrano separation pay and backwages.[15] In so ruling, the CA found that Serrano was constructively dismissed, as Exocet failed to re-assign him within six months after placing

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[10] Id. at 97-98.
[11] Id. at 100.
[12] Id. at 99.
[13] Id. at 100.
[14] Id. at 144-146. The *fallo* of the January 22, 2010 NLRC Resolution reads "WHEREFORE, the Motion for Reconsideration is hereby DENIED. SO ORDERED."
[15] Id. at 92.

him on "floating status."[16] The appellate court disposed of Serrano's appeal as follows:

> WHEREFORE, the assailed Resolutions promulgated on September 2, 2009 and January 22, 2010 issued by the NLRC LAC No. 09-003163-08 (NLRC NCR No. 00-03-02423-07) are REVERSED and SET ASIDE, and in lieu thereof, a new judgment is ENTERED ordering respondent company to pay petitioner his separation pay and backwages.
>
> Upon finality of this decision, the Research and Computation Unit of public respondent NLRC is DIRECTED to recompute the monetary benefits due to petitioner in accordance with this decision.
>
> SO ORDERED.

Petitioner Exocet's Motion for Reconsideration was denied by the appellate court in its September 7, 2011 Resolution.[17] Hence, Exocet filed this petition.

## The Issue

The sole issue for resolution is whether or not Serrano was constructively dismissed.

## The Court's Ruling

The petition has merit.

The crux of the controversy lies on the consequence of the lapse of the six-month period, during which respondent Serrano was placed on a "floating status" and petitioner Exocet could not assign him to a position he wants. The appellate court was of the view that Serrano was constructively dismissed. The Court maintains otherwise.

While there is no specific provision in the Labor Code which governs the "floating status" or temporary "off-detail" of security guards employed by private security agencies, this situation was considered by this Court in several cases as a form of temporary retrenchment or lay-off.[18] The concept has been defined as that period of time when security guards are in between assignments or when they are made to wait after being relieved from a previous post until they are transferred to a new one.[19] As pointed out by the

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[16] Id. at 88-89.

[17] Id. at 94-95. The *fallo* of the September 7, 2011 CA Resolution reads "WHEREFORE, the Motion for Reconsideration is hereby DENIED for lack of merit. SO ORDERED."

[18] See *Philippine Industrial Security Agency Corporation v. Dapiton*, G.R. No. 127421, December 8, 1999, 320 SCRA 124; *Superstar Security Agency, Inc. v. National Labor Relations Commission*, G.R. No. 81493, April 3, 1990, 184 SCRA 74.

[19] *Salvaloza v. NLRC*, G.R. No. 182086, November 24, 2010, 636 SCRA 184.

CA, it takes place when the security agency's clients decide not to renew their contracts with the agency, resulting in a situation where the available posts under its existing contracts are less than the number of guards in its roster. It also happens in instances where contracts for security services stipulate that the client may request the agency for the replacement of the guards assigned to it, even for want of cause, such that the replaced security guard may be placed on temporary "off-detail" if there are no available posts under the agency's existing contracts.[20]

As the circumstance is generally outside the control of the security agency or the employer, the Court has ruled that **when a security guard is placed on a "floating status," he or she does not receive any salary or financial benefit provided by law**. *Pido v. National Labor Relations Commission*[21] explains why:

> Verily, a floating status requires the dire exigency of the employer's *bona fide* suspension of operation of a business or undertaking. In security services, this happens when the security agency's clients which do not renew their contracts are more than those that do and the new ones that the agency gets. Also, **in instances when contracts for security services stipulate that the client may request the agency for the replacement of the guards assigned to it even for want of cause, the replaced security guard may be placed on temporary "off-detail" if there are no available posts under respondent's existing contracts.**
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> **When a security guard is placed on a "floating status," he does not receive any salary or financial benefit provided by law**. Due to the grim economic consequences to the employee, the employer should bear the burden of proving that there are no posts available to which the employee temporarily out of work can be assigned." (emphasis supplied)

It must be emphasized, however, that although placing a security guard on "floating status" or a temporary "off-detail" is considered a temporary retrenchment measure, there is similarly no provision in the Labor Code which treats of a temporary retrenchment or lay-off. Neither is there any provision which provides for its requisites or its duration.[22] Nevertheless, since an employee cannot be laid-off indefinitely, the Court has applied Article 292 (previously Article 286) of the Labor Code **by analogy** to set the specific period of temporary lay-off to a maximum of six (6) months. The said provision states:

> **ART. 292.** *When employment not deemed terminated.* - The bona-fide suspension of the operation of a business or undertaking for a period not exceeding six (6) months, or the fulfillment by the employee of a military or civic duty shall not terminate employment. In all such cases, the employer shall reinstate the employee to his former position without loss of seniority rights if he indicates his desire to resume his work not

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[20] Id.

[21] G.R. No. 169812, February 23, 2007, 516 SCRA 609.

[22] Abad, Jr., COMPENDIUM ON LABOR LAW 163 (2006); Azucena, Jr., EVERYONE'S LABOR CODE 349-350 (2006).

> later than one (1) month from the resumption of operations of his employer or from his relief from the military or civic duty.

Thus, this Court has held, citing *Sebuguero v. NLRC*,[23] that the placement of the employee on a floating status should not last for more than six months. After six months, the employee should be recalled for work, or for a new assignment; otherwise, he is deemed terminated.

> There is no specific provision of law which treats of a temporary retrenchment or lay-off and provides for the requisites in effecting it or a period or duration therefor. **These employees cannot forever be temporarily laid-off. To remedy this situation or fill the hiatus, Article 286 [now 292] may be applied but only by analogy to set a specific period that employees may remain temporarily laid-off or in floating status.** Six months is the period set by law that the operation of a business or undertaking may be suspended thereby suspending the employment of the employees concerned. The temporary lay-off wherein the employees likewise cease to work should also not last longer than six months. After six months, the employees should either be recalled to work or permanently retrenched following the requirements of the law, and that failing to comply with this would be tantamount to dismissing the employees and the employer would thus be liable for such dismissal.

In accordance with the aforementioned ruling, the Department of Labor and Employment (DOLE) issued Department Order No. 14, Series of 2001 (DO 14-01), entitled "Guidelines Governing the Employment and Working Conditions of Security Guards and Similar Personnel in the Private Security Industry," Section 6.5, in relation to Sec. 9.3, of which states that the lack of service assignment for a continuous period of six (6) months is an authorized cause for the termination of the employee, who is then entitled to a separation pay equivalent to half month pay for every year of service, viz:

> 6.5 Other Mandatory Benefits. In appropriate cases, security guards/similar personnel are entitled to the mandatory benefits as listed below, although the same may not be included in the monthly cost distribution in the contracts, except the required premiums form their coverage:
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> a. Maternity benefit as provided under SS Law;
> b. Separation pay if the termination of employment is for **authorized cause** as provided by law and as enumerated below:
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> ***Half-Month Pay Per Year of Service***, but in no case less than One Month Pay if separation pay is due to:
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> 1. Retrenchment or reduction of personnel effected by management to prevent serious losses;

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[23] G.R. No. 115394, September 27, 1995, 248 SCRA 532. See also *Agro Commercial Security Services Agency, Inc. v. National Labor Relations Commission*, G.R. Nos. 82823-24, July 31, 1989, 175 SCRA 790.

> 2. Closure or cessation of operation of an establishment not due to serious losses or financial reverses;
> 3. Illness or disease not curable within a period of 6 months and continued employment is prohibited by law or prejudicial to the employee's health or that of co-employees;
> 4. **Lack of service assignment for a continuous period of 6 months.**
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> x x x x
>
> 9.3 Reserved Status – A security guard or similar personnel may be placed in a work pool or on reserved status due to **lack of service assignments after the expiration or termination of the service contract with the principal** where he/she or assigned or due to temporary suspension of agency operations.
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> No security guard or personnel can be placed in a work pool or on reserved status in any of the following situations: a) after expiration of a service contract if there are other principals where he/she can be assigned; b) as a measure to constructively dismiss the security guard; and c) as an act of retaliation for filing complaints against the employer on violations of labor laws, among others.
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> **If after the period of 6 months, the security agency/employer cannot provide work or give assignment to the reserved security guard, the latter can be dismissed from service and shall be entitled to separation pay as described in subsection 6.5.**
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> **Security guards on reserved status who accept employment in other security agencies or employers before the end of the above six-month period may not be given separation pay**. (emphasis supplied)

In *Reyes v. RP Guardians Security Agency, Inc.*,[24] the Court explained the application of DO 14-01 to security agencies and their security guards, and the procedural requirements with which the security agencies must comply:

> Furthermore, the entitlement of the dismissed employee to separation pay of one month for every year of service should not be confused with Section 6.5 (4) of DOLE D.O. No. 14 which grants a separation pay of one half month for every year service x x x.
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> x x x x
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> **The said provision contemplates a situation where a security guard is removed for authorized causes such as when the security agency experiences a surplus of security guards brought about by lack of clients.** In such a case, **the security agency has the option to resort to retrenchment upon compliance with the procedural requirements of "two-notice rule"** set forth in the Labor Code. (emphasis supplied)

Thus, to validly terminate a security guard for lack of service assignment for a continuous period of six months under Secs. 6.5 and 9.3 of

[24] G.R. No. 193756, April 10, 2013, 695 SCRA 620.

DO 14-01, the security agency must comply with the provisions of Article 289 (previously Art. 283) of the Labor Code,[25] which mandates that a written notice should be served on the employee on temporary off-detail or floating status **and** to the DOLE one (1) month before the intended date of termination. This is also clear in **Sec. 9.2** of DO 14-01 which provides:

> 9.2 Notice of Termination - In case of termination of employment due to authorized causes provided in Article 283 and 284 of the Labor Code and in the succeeding subsection, the employer shall serve a written notice on the security guard/personnel and the DOLE at least one (1) month before the intended date thereof.

In every case, the Court has declared that the burden of proving that there are no posts available to which the security guard may be assigned rests on the employer. We ruled in *Nationwide Security and Allied Services Inc. v. Valderama*:[26]

> In cases involving security guards, a relief and transfer order in itself does not sever employment relationship between a security guard and his agency. An employee has the right to security of tenure, but this does not give him a vested right to his position as would deprive the company of its prerogative to change his assignment or transfer him where his service, as security guard, will be most beneficial to the client. Temporary "off-detail" or the period of time security guards are made to wait until they are transferred or assigned to a new post or client does not constitute constructive dismissal, so long as such status does not continue beyond six months.
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> The **onus of proving that there is no post available to which the security guard can be assigned rests on the employer** x x x. (emphasis supplied)

It cannot, therefore, be gainsaid that the right of security guards to security of tenure is safeguarded by administrative issuances and jurisprudence, in parallel with the mandate of the Labor Code and the Constitution to protect labor and the working people. Nonetheless, while the Court has recognized the security guards' right to security of tenure under the "floating status" rule, **the Court has similarly acknowledged the management prerogative of security agencies to transfer security guards when necessary in conducting its business, provided it is done in**

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[25] ART. 289. *Closure of establishment and reduction of personnel.* – The employer may also terminate the employment of any employee due to x x x **retrenchment to prevent losses** or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, **by serving a written notice on the workers and the Ministry of Labor and Employment at least one (1) month before the intended date thereof**. x x x

In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year.

[26] G.R. No. 186614, February 23, 2011, 644 SCRA 299.

**good faith**. In *Megaforce Security and Allied Services, Inc. v. Lactao*,[27] the Court explained:

> In cases involving security guards, a relief and transfer order in itself does not sever employment relationship between a security guard and his agency. **An employee has the right to security of tenure, but this does not give him such a vested right in his position as would deprive the company of its prerogative to change his assignment or transfer him where his service, as security guard, will be most beneficial to the client. Temporary "off-detail" or the period of time security guards are made to wait until they are transferred or assigned to a new post or client does not constitute constructive dismissal as their assignments primarily depend on the contracts entered into by the security agencies with third parties.** Indeed, the Court has repeatedly recognized that "**off-detailing" is not equivalent to dismissal, so long as such status does not continue beyond a reasonable time**; when such a "floating status" lasts for more than six months, the employee may be considered to have been constructively dismissed. (emphasis supplied)

In the controversy now before the Court, there is no question that the security guard, Serrano, was placed on floating status after his relief from his post as a VIP security by his security agency's client. Yet, there is no showing that his security agency, petitioner Exocet, acted in bad faith when it placed Serrano on such floating status. What is more, **the present case is not a situation where Exocet did not recall Serrano to work within the six-month period as required by law and jurisprudence. Exocet did, in fact, make an offer to Serrano to go back to work**. It is just that the assignment—although it does not involve a demotion in rank or diminution in salary, pay, benefits or privileges—was not the security detail desired by Serrano.

Clearly, Serrano's lack of assignment for more than six months cannot be attributed to petitioner Exocet. On the contrary, records show that, as early as September 2006, or one month after Serrano was relieved as a VIP security, Exocet had already offered Serrano a position in the general security service **because there were no available clients requiring positions for VIP security**. Notably, even though the new assignment does not involve a demotion in rank or diminution in salary, pay, or benefits**, Serrano declined the position because it was not the post that suited his preference, as he insisted on being a VIP Security**.

In fact, even during the meeting with the Labor Arbiter, Exocet offered a position in the general security only to be rebuffed by Serrano.[28] It was as if Serrano obliged Exocet to look for a client in need of a VIP security—the availability of which is obviously not within Exocet's control,

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[27] G.R. No. 160940, July 21, 2008, 559 SCRA 110. See also *Philippine Industrial Security Agency Corporation v. Dapiton*, supra note 18; and *Salvaloza v. National Labor Relations Commission*, supra note 19.

[28] *Rollo*, p. 142.

and by nature, difficult to procure as these contracts depend on the trust and confidence of the client or principal on the security guard. As aptly found by the NLRC:

> Anent the client's action, respondent agency had no recourse but to assign complainant to a new posting. However, complainant, having had a taste of VIP detail and perhaps the perks that come with such kind of assignment, vaingloriously assumed that he can only be assigned to VIP close-in posting and that he would accept nothing less. In fact, after his relief and tardy appearance at respondent's office, **he was offered re-assignment albeit to general security services which he refused. Respondents clearly made known to him that as of the moment no VIP detail was vacant or sought by other clients but complainant was adamant in his refusal**. **Complainant even had the nerve to assert that he just be informed if there is already a VIP detail available for him and that he will just report for re-assignment by then.** It is also well to note that to these allegations, complainant made no denial.[29] (emphasis supplied)

To repeat for emphasis, the security guard's right to security of tenure does not give him a vested right to the position as would deprive the company of its prerogative to change the assignment of, or transfer the security guard to, a station where his services would be most beneficial to the client. Indeed, an employer has the right to transfer or assign its employees from one office or area of operation to another, or in pursuit of its legitimate business interest, provided there is no demotion in rank or diminution of salary, benefits, and other privileges, and the transfer is not motivated by discrimination or bad faith, or effected as a form of punishment or demotion without sufficient cause.[30]

Thus, it is manifestly unfair and unacceptable to immediately declare the mere lapse of the six-month period of floating status as a case of constructive dismissal, without looking into the peculiar circumstances that resulted in the security guard's failure to assume another post. This is especially true in the present case where the security guard's own refusal to accept a non-VIP detail was the reason that he was not given an assignment within the six-month period. The security agency, Exocet, should not then be held liable.

Indeed, from the facts presented, Serrano was guilty of wilful disobedience to a lawful order of his employer in connection with his work, which is a just cause for his termination under Art. 288 (previously Art. 282) of the Labor Code.[31] Nonetheless, Exocet did not take Serrano's wilful

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[29] Id. at 98-99.

[30] *Salvaloza v. NLRC*, supra note 19.

[31] Art. 288. *Termination by employer*. **An employer may terminate an employment for any of the following causes:**

a) Serious misconduct or **wilful 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;

disobedience against him. Hence, Exocet is considered to have waived its right to terminate Serrano on such ground.

In this factual milieu, since respondent Serrano was not actually or constructively dismissed from his employment by petitioner Exocet, it is best that petitioner Exocet direct him to report for work, if any security assignment is still available to him. If respondent Serrano still refuses to be assigned to any available guard position, he shall be deemed to have abandoned his employment with petitioner.

If no security assignment is available for respondent, petitioner Exocet should comply with the requirements of DO 14-01, in relation to Art. 289 of the Labor Code, and serve a written notice on Serrano and the DOLE one (1) month before the intended date of termination, and pay Serrano separation pay equivalent to half month pay for every year of his actual service.

As a final note, the Court reiterates that it stands to promote the welfare of employees and continue to apply the mantle of protectionism in their favor. Thus, employees, like security guards, should not be laid-off for an indefinite period of time. However, We hold that a similar protection should be given to employers who, in good faith, have exerted efforts to comply with the requirements of the law by offering reasonable work and appropriate assignments during the six-month period. After all, the constitutional policy of providing full protection to labor is not intended to oppress or destroy management, and the commitment of this Court to the cause of labor does not prevent Us from sustaining the employer when it is in the right, as in this case.[32]

**IN VIEW OF THE FOREGOING**, the instant petition is **GRANTED**. The March 31, 2011 Decision and September 7, 2011 Resolution of the Court of Appeals in CA-G.R. SP No. 113251 are hereby **REVERSED** and **SET ASIDE**. Moreover, the March 5, 2009 and September 2, 2009 Resolutions of the National Labor Relations Commission in NLRC LAC No. 09-003163-08 (NLRC NCR No. 00-03-02423-07), as well as the June 30, 2008 Decision of the Labor Arbiter in NLRC-NCR-00-03-02423-07, are also **REVERSED** and **SET ASIDE**.

Petitioner Exocet Security and Allied Services Corporation is neither guilty of illegal dismissal nor constructive dismissal. Petitioner is hereby **ORDERED** to look for a security assignment for respondent within a period

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c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;

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. (emphasis supplied)

[32] *Capili v. NLRC*, G.R. No. 117378, March 26, 1997, 270 SCRA 488; citing *Garcia v. NLRC*, G.R. No. 110518, August 1, 1994, 234 SCRA 632.

of thirty (30) days from finality of judgment. If one is available, petitioner is ordered to notify respondent Armando D. Serrano to report to such available guard position within ten (10) days from notice. If respondent fails to report for work within said time period, he shall be deemed to have abandoned his employment with petitioner. In such case, respondent Serrano is **not** entitled to any backwages, separation pay, or similar benefits.

If no security assignment is available for respondent within a period of thirty (30) days from finality of judgment, petitioner Exocet should comply with the requirements of DOLE Department Order No. 14, Series of 2001, in relation to Art. 289 of the Labor Code, and serve a written notice on respondent Serrano and the DOLE one (1) month before the intended date of termination; and pay Serrano separation pay equivalent to half month pay for every year of his service.

**SO ORDERED.**

**PRESBITERO J. VELASCO, JR.**
Associate Justice

WE CONCUR:

**DIOSDADO M. PERALTA**
Associate Justice

**MARTIN S. VILLARAMA, JR.**
Associate Justice

**BIENVENIDO L. REYES**
Associate Justice

**FRANCIS H. JARDELEZA**
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.

**PRESBITERO J. VELASCO, JR.**
Associate Justice
Chairperson

## 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.

**ANTONIO T. CARPIO**
Acting Chief Justice