

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

ABF FREIGHT SYSTEM, INC. v. NATIONAL LABOR RELATIONS BOARD

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

No. 92-1550. Argued December 1, 1993—Decided January 24, 1994

After Michael Manso gave his employer, petitioner ABF Freight (ABF), a false excuse for being late to work, ABF ascertained that he was lying and fired him on the asserted ground of tardiness. He filed an unfair labor practice charge with the National Labor Relations Board (Board) and repeated his false tardiness excuse while testifying under oath before an Administrative Law Judge (ALJ), who denied him relief upon concluding that he had lied and that ABF had discharged him for cause. The Board reversed in relevant part, finding that ABF did not in fact fire Manso for lying but had seized upon his tardiness as a pretext to discharge him for earlier union activities. Notwithstanding his dishonesty, the Board ordered ABF to reinstate him with backpay. The Court of Appeals enforced the order, rejecting ABF's argument that awarding reinstatement and backpay to an employee who lied to his employer and to the ALJ violated public policy.

Held: Manso's false testimony under oath before the ALJ did not preclude the Board from granting him reinstatement with backpay. Although such misconduct is intolerable in a formal proceeding, 29 U. S. C. §160(c) expressly delegates to the Board the primary responsibility for making remedial decisions, including awarding reinstatement with backpay, that best effectuate the policies of the National Labor Relations Act (Act) when the Board has substantiated an unfair labor practice. Confronted with that kind of express delegation, courts must give the agency's decision controlling weight unless it is arbitrary, capricious, or manifestly contrary to the Act. It

cannot be said that the Board's remedial order in this case was an abuse of its broad discretion or that it was obligated to adopt a rigid rule that would foreclose relief in all comparable cases. Nor can its conclusions be faulted that Manso's reason for being late to work was ultimately irrelevant to whether antiunion animus actually motivated his discharge and that ordering effective relief in a case of this character promotes a vital public interest. It would be unfair to sanction Manso while indirectly rewarding the lack of candor of several ABF witnesses, whose testimony the ALJ and the Board refused to credit. Moreover, a categorical rule against relief might force the Board to divert its attention away from its primary mission and toward resolving collateral credibility disputes. Pp. 5-8.

ABF FREIGHT SYSTEM, INC. v. NLRB

Syllabus

982 F. 2d 441, affirmed.

STEVENS, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and BLACKMUN, KENNEDY, SOUTER, THOMAS, and GINSBURG, JJ., joined. KENNEDY, J., filed a concurring opinion. SCALIA, J., filed an opinion concurring in the judgment, in which O'CONNOR, J., joined.