

RUBEN YAMILAO, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, MATRIX CORPORATE SECURITY AND GENERAL SERVICES, INC., RESPONDENTS.

Ponente: SABIO, JR., J.

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SABIO, JR., J.:

This is a petition for certiorari under Rule 65 of the 1997 Rules of Court assailing the Resolution dated January 24, 2005 of the public respondent National Labor Relations Commission (NLRC) in NLRC NCR 00-01-00805-03 dismissing the appeal of petitioner Ruben Yamilao for being filed out of time, as well as its Resolution dated July 27, 2005 which likewise denied his motion for reconsideration.

On May 24, 1999, petitioner filed a complaint for illegal dismissal, non-payment of separation pay, service incentive leave pay, 13th month pay and attorney's fees against the private respondent Matrix Corporate Security and General Services, Inc. alleging, among others, that he was employed by the public respondent as its security officer on January 24, 1997; that his last assigned post was at SIM'S Motolite Battery; that on November 16, 1998, he was relieved from his duty therein because of the Cost Cutting Procedure implemented by the SIM'S Motolite Battery; that from the said date, he continued to follow-up his assignment with the private respondent; that when he was not given an assignment for more than six months, he construed the same as constructive dismissal, hence, he filed the illegal dismissal complaint.

On June 5, 2001, Labor Arbiter Elias H. Salinas rendered a decision finding that petitioner was not illegally dismissed by the private respondent and ordered instead for his reinstatement. The dispositive portion reads thus:

“WHEREFORE, premises considered, judgment is hereby rendered DISMISSING the complaint for illegal dismissal for lack of merit. Accordingly, complainant is hereby directed to report for work with the respondent agency and the latter, to accept back complainant and reinstate him to his former position as security guard but without back wages. Respondents are likewise ordered to pay complainant the sum of P4,215.38 as 13th month pay and service incentive leave pay for the year 1999.

All other claims are ordered dismissed.

SO ORDERED.”[1]

However, on January 16, 2003, petitioner filed another complaint for illegal dismissal and other monetary claims against the private respondent. In his Position Paper, he alleged that pursuant to the decision of Labor Arbiter Salinas, he reported back to work, however, the private respondent refused to reinstate him. Subsequently, sometime in December 2001, he received a letter dated December 7, 2001 from the private respondent informing him that he had to update his clearances and requirements for possible assignment implying that from the time the June 5, 2001 decision was promulgated, he failed to show up for an employment.[2]

On January 8, 2002, petitioner received a letter of termination for his continued non-compliance of private respondent's directive of December 7, 2001 requiring him to submit his updated and renewed documents.[3]

In its Position Paper, the private respondent argued that the second complaint for illegal dismissal was already barred by a prior judgment of June 5, 2001 and petitioner's failure and refusal to report back for work and submit his renewed and updated requirements was a clear case of abandonment. Furthermore, it postulated that the monetary claims awarded in favor of the petitioner in the June 5, 2001 decision had already prescribed.[4]

In a decision of November 7, 2003, Labor Arbiter Ernesto S. Dinopol dismissed the second complaint of petitioner ratiocinating, thus:

"What complainant submitted is only the Certificate of Re-training (Annex 'A', complainant's Reply) which does not prove his submission of the other requirements on or before December 31, 2001, his allegations to the contrary (page 2, second to the last paragraph of his Reply) notwithstanding.

We, therefore, see complainant as wanting in efforts that qualify him for redeployment and thus, respondent's having dismissed him through a letter dated January 8, 2003, the contents of which are hereunder quoted xxx is justified."[5]

On March 12, 2004, petitioner filed his notice of appeal before the public respondent NLRC. However, in the assailed Resolution of January 24, 2005, the NLRC dismissed his appeal for being filed out of time.

"Records show that complainant, through counsel, was in receipt of the decision of the Labor Arbiter on January 5, 2004 (Records, p. 112). Complainant, having a period of ten (10) calendar days therefrom within which to file an appeal, therefore, had until January 15, 2004, in order to do so. And, while it is conceded, as counsel for the complainant seeks to intimate, that he is a pauper litigant, this alone does not justify a belated filing of the appeal, since it was still within the capability of complainant's counsel to do so notwithstanding the indigency of her client. The Rules even explicitly provide that the counting of reglementary periods shall be reckoned from the date of receipt of a notice or decision by a litigant's counsel, if he is represented by one. Further, even if, we were to assume that indigency may warrant a posture of leniency insofar as the lapse in the period to appeal is concerned, it cannot, however, extend to such an unreasonable length of time as to constitute as wanton disregard of the law and the Rules, as well as, the equally significant right of an opposing party, to an expeditious disposition of his case. The filing of an appeal on March 12, 2004, or after a period of more than two (2) months from the date of receipt of the Labor Arbiter's decision, is certainly way beyond the reach of a liberal application of the provisions of the Labor Code and the Rules of Procedure of the Commission concerning the period to perfect an appeal, as it manifests, an utter disregard of the law and the Rules. This disposition cannot be countenanced.

The rule is that, the perfection of an appeal in the manner and within the period required by the law is not only mandatory, but jurisdictional, as well. Failure to effect compliance therewith does not only render the dismissal of the appeal but results, likewise, in the final and executory tenor of the decision sought for review. Complainant having failed to file an appeal within the period allowed by law, as it was filed more than two (2) months after counsel's receipt thereof, the appeal, therefore, is not perfected."[6]

On July 27, 2005, the public respondent NLRC likewise denied, for lack of merit, the motion for reconsideration filed by the petitioner.[7]

Hence, the instant petition based on the following grounds:

"I
WHETHER THE PETITIONER WAS ILLEGALLY DISMISSED.

II.
WHETHER THE PETITIONER IS ENTITLED TO A LIBERAL INTERPRETATION OF THE RULES OF
PROCEDURE OF THE PUBLIC RESPONDENT."

In the review of an NLRC decision through a special civil action for certiorari, resolution is confined only to issues of jurisdiction and grave abuse of discretion on the part of the labor tribunal.[8] The sole office of the writ of certiorari is the correction of errors of jurisdiction including the commission of grave abuse of discretion amounting to lack or excess of jurisdiction. It does not include correction of the NLRC's evaluation of the evidence or of its factual findings.[9]

This Court finds no want or excess of jurisdiction, as well as grave abuse of discretion, resulting from the dismissal of the appeal of petitioner for being filed out of time. Hence, the dismissal of this petition is in accord with law and jurisprudence.

It is fundamental that the right of appeal is merely a statutory privilege and may be exercised only in the matter prescribed by, and in accordance with, the provisions of the law.[10] A party litigant has to observe the provisions of the law in perfecting his appeal, otherwise, the same will be considered as a mere scrap of paper. Section 4 of the Rules of Procedure of the NLRC provides the mandated requisites for the perfection of an appeal, to wit:

“SECTION 4. REQUISITES FOR PERFECTION OF APPEAL. a) The appeal shall be filed within the reglementary period (ten calendar days) as provided in Section 1 of this Rule xxx with proof of xxx the posting of a cash or surety bond xxx. A mere notice of appeal without complying with the other requisites aforesaid shall not stop the running of the period for perfecting appeal.”

Perfections of an appeal within the statutory or reglementary period is not only mandatory but also jurisdictional and failure to do so renders the questioned decision final and executory, and deprives the appellate court or body of jurisdiction to alter the final judgment much less to entertain the appeal.[11] Perfection of an appeal within the period and in the manner prescribed by law is jurisdictional and non-compliance with such legal requirements is fatal and has the effect of rendering the judgment final and executory.[12]

Resultantly, for the failure of petitioner to perfect his appeal within the reglementary period, the assailed Resolution of January 24, 2005 of the public respondent NLRC became final and executory. Once a judgment has become final and executory, it can no longer be disturbed except only for the correction of clerical errors, or where supervening events render its execution impossible or unjust, whereby the interested party may ask the court to modify the judgment to harmonize it with justice and the facts.[13]

For the non-perfection of the appeal, this Court could no longer decide on the other issue raised by the petitioner.

WHEREFORE, in view of the foregoing, the petition is hereby DENIED due course and ordered DISMISSED. No costs.

SO ORDERED.

Asuncion-Vicente and Bato, Jr., JJ., concur.

[1] Records, p. 25.

[2] Records, pp. 45-46.

[3] Records, p. 18.

[4] Records, pp. 29-30.

[5] Records, p. 87.

[6] Records, pp. 140-141.

[7] Records, p. 153.

[8] Globe Telecom, Inc. vs. Florendo-Flores, 390 SCRA 201.

[9] Odango vs. NLRC, 431 SCRA 633 (2004).

[10] Antonio vs. Commission on Elections, 315 SCRA 62 (1999).

[11] Republic vs. Court of Appeals, 313 SCRA 376 (1999).

[12] MERS Shoes Manufacturing, Inc. vs. NLRC, 286 SCRA 647 (1998).

[13] Sampaguita Garments Corp. vs. NLRC, 233 SCRA 260 (1994).

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