

ALPS THE BUS, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND EDWIN C. AGUBA, RESPONDENTS.

Ponente: CARANDANG, J.

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CARANDANG, J.:

After a judicious scrutiny of the Motion for Reconsideration of petitioner Alps The Bus, Inc., We find that the arguments therein are mere reiteration of what petitioner had previously raised in his pleadings which had been treated and considered when We rendered Our Decision.

To reiterate, transfer amounts to constructive dismissal when the transfer is unreasonable, inconvenient, or prejudicial to the employee, and it involves a demotion in rank or diminution of salaries, benefits and other privileges.[1] Contrary to the argument of petitioner, the burden to show that the transfer is not unreasonable, inconvenient, or prejudicial to the employee; nor does it involve a demotion in rank or a diminution of his salaries, privileges, and other benefits fall upon the employer and should it fail to overcome this burden of proof, the employee's transfer shall be tantamount to constructive dismissal.[2]

As We have ruled in Our Decision, the transfer or re-assignment of private respondent as conductor in an ordinary bus from his previous assignment as conductor in an air-conditioned bus amounted to constructive dismissal since it amounted to diminution of his salary. The evidence[3] clearly show that his daily commissions during the time he was assigned as a conductor of an air-conditioned bus compared when he was transferred to an ordinary bus had significantly diminished.

We, therefore, find no valid justification to disturb Our rulings set forth in Our Decision sought to be reconsidered.

WHEREFORE, petitioner's Motion for Reconsideration is hereby DENIED for lack of merit.

SO ORDERED.

Gonzales-Sison and Sorongon, JJ., concur.

[1] Garcia v. NLRC, G.R. No. 116568, September 3, 1999 (Emphasis Ours).

[2] Tinio vs. Court of Appeals, G.R. No. 171764, June 8, 2007.

[3] Various pay slips of private respondents, Rollo, pp. 92-137.

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