NATIONAL ADMINISTRATIVE REGISTER · JUNE 10, 2002

1999 AMENDMENTS TO THE NLRC RULES OF PROCEDURE

NLRC RESOLUTION NO. 3-99 (SERIES OF 1999) JUNE 10, 2002, June 10, 2002

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Pursuant to the powers vested in it by Article 218 of Presidential Decree No. 442, otherwise known as the Labor Code of the Philippines, as amended by Section 10 of Republic Act No. 6715, the National Labor Relations Commission, sitting en banc, has RESOLVED to ADOPT AND PROMULGATE, as it hereby adopts and promulgates, the following amendments to the 1994 NEW RULES OF PROCEDURE of the National Labor Relations Commission, as amended by Resolution No. 1-96:

1. Sections 3, 4, 5, 6 and 7 of Rule III are hereby renumbered as Sections 4, 5, 6, 7 and 8, respectively, and the new Section 3 shall read as follows:

> Section 3. Prohibited Pleadings and Motions. — The following pleadings, motions or petitions shall not be allowed in the cases covered by these Rules:
>
> a. MOTION TO DISMISS THE COMPLAINT EXCEPT ON THE GROUND OF LACK OF JURISDICTION OVER THE SUBJECT MATTER, IMPROPER VENUE, RES ADJUDICATA OR PRESCRIPTION;
>
> b. MOTION FOR A BILL OF PARTICULARS;
>
> c. MOTION FOR NEW TRIAL OR MOTION FOR RECONSIDERATION OF JUDGMENT OR ORDER OF THE LABOR ARBITER;
>
> d. PETITION FOR RELIEF FROM JUDGMENT;
>
> e. PETITION FOR CERTIORARI, MANDAMUS OR PROHIBITION AGAINST ANY INTERLOCUTORY ORDER ISSUED BY THE LABOR ARBITER;
>
> f. MOTION TO DECLARE RESPONDENT IN DEFAULT.

2. Section 3 of Rule III is hereby amended to read as follows:

Section 4. Filing and Service of Pleadings. — All pleadings in connection with the case shall be filed with the appropriate docketing unit of the Regional Arbitration Branch or the Commission, as the case may be.

The party filing the pleadings shall serve the opposing PARTY/IES with a copy thereof AND ITS SUPPORTING DOCUMENTS in the manner provided for in these Rules with proof of service thereof.

3. Paragraphs (a) and (b) of Section 4 of Rule III are hereby amended to read as follows:

> Section 5. SERVICE OF NOTICES AND RESOLUTIONS — a) Notices or summons and copies of orders, shall be served on the parties to the case personally by the bailiff or duly authorized public officer within three (3) days from receipt thereof or by registered mail; provided that IN SPECIAL CIRCUMSTANCES, SERVICE OF SUMMONS MAY BE EFFECTED IN ACCORDANCE WITH THE PERTINENT PROVISIONS OF THE RULES OF COURT; Provided further, that in cases of decisions and final awards, copies thereof shall be served on both parties and their counsels BY REGISTERED MAIL; provided FURTHER THAT IN CASES WHERE A PARTY TO A CASE OR HIS COUNSEL ON RECORD

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PERSONALLY SEEKS SERVICE OF THE DECISION UPON INQUIRY THEREON, SERVICE TO SAID PARTY SHALL BE DEEMED EFFECTED UPON ACTUAL RECEIPT THEREOF, PROVIDED, finally, that where parties are so numerous, service shall be made on counsel and upon such number of complainants, as maybe practicable, which shall be considered substantial compliance with Article 224 (a) of the Labor Code, as amended.

For the purposes of computing the period of appeal, the same shall be counted from receipt of such decisions, awards, orders by counsel/representative of record.

b. the bailiff or officer serving the notice, order, resolution or decision shall submit his return within two (2) days from date of service thereof, stating legibly in his return his name, the names of the persons served and the date or receipt, which return shall be immediately attached and shall form part of the records of the case. IN CASE OF SERVICE BY REGISTERED MAIL, THE BAILIFF OR OFFICER SHALL WRITE IN THE RETURN, THE NAMES OF PERSONS SERVED AND THE DATE OF MAILING OF THE RESOLUTION OR DECISION. If no service was effected, the serving officer shall state the reason therefor in the return.

4. Paragraph 3, Section 6 of Rule III is hereby amended to read as follows:

Appearances may be made orally or in writing. In both cases, the complete name and office address of both parties shall be made on record and the adverse party or his counsel/representative properly NOTIFIED.

5. Section 1 (a) of Rule IV is hereby amended to read as follows:

Section 1. VENUE — a) All cases which Labor Arbiters have authority to hear and decide may be filed in the Regional Arbitration Branch having jurisdiction over the workplace of the complainant/petitioner. Provided THAT IN CASES ARISING FROM THE NATIONAL CAPITAL REGION, THE SAME SHALL BE INSTITUTED IN ACCORDANCE WITH THE FOLLOWING COVERAGE OF THE NORTH AND SOUTH SECTORS, RESPECTIVELY:

North Sector

South Sector

1. Quezon City

1. Manila

2. Kalookan

2. Makati

3. Valenzuela

3. Pateros

4. Malabon

4. Taguig

5. Navotas

5. Muntinlupa

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6. Marikina

6. Las Pinas

7. Pasig

7. Parañaque

8. Mandaluyong

8. Pasay City

9. San Juan

For purposes of venue, workplace shall be understood as the place or locality where the employee is regularly assigned when the cause of action arose. It shall include the place where the employee is supposed to report back after a temporary detail, assignment, or travel. In the case of field employees, as well as ambulant or itinerant workers, their workplace is where they are regularly assigned, or where they are supposed to regularly receive their salaries/wages or work instructions from, and report the results of their assignment to, their employers.

6. The last paragraph of Section 1, Rule IV is hereby amended to read as follows:

THE FOREGOING SHALL BE WITHOUT PREJUDICE TO CASES INVOLVING Overseas Filipino Workers WHICH shall be filed before the Regional Arbitration Branch where the complainant resides or where the principal office of the respondent (s)/employer is situated, at the option of the complainant.

7. Paragraph (a), Section 2 of Rule IV is hereby amended to read as follows:

Section 2. RAFFLE AND ASSIGNMENT OF CASES —

a) All complaints and petitions received by the docket section of the Regional Arbitration Branch shall be FORWARDED TO THE OFFICE OF THE EXECUTIVE LABOR ARBITER within twenty-four (24) hours from receipt thereof for raffle and assignment.

8. Paragraph (c), Section 2 of Rule IV is hereby amended to read as follows:

c. All pleadings subsequent to the filing of the complaint shall be forwarded TO THE LABOR ARBITER BEFORE WHOM THE CASE IS PENDING, within twenty-four (24) hours from receipt thereof.

9. The last paragraph of Section 3 of Rule IV is hereby amended to read as follows:

In case of objection to the consolidation the same shall be resolved by the Labor Arbiter. AN ORDER RESOLVING THE MOTION SHALL BE INAPPEALABLE.

10. Section 2, Rule V is hereby amended to read as follows:

Section 2. MANDATORY CONCILIATION/MEDIATION CONFERENCE — Within two (2) days from receipt of an assigned case, the Labor Arbiter shall ISSUE THE summons TO the parties FOR a conference, for the purpose of amicably settling the case upon a fair compromise, determining the real parties in interest, defining and simplifying the issues in the case, entering into admissions or stipulations of facts and threshing out all other preliminary matters. The summons, TOGETHER WITH A COPY OF THE COMPLAINT, shall specify the date, time and place of the CONCILIATION AND MEDIATION conference IN TWO (2) SETTINGS.

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Should the parties arrive at any agreement as to the whole or any part of the dispute, the same shall be reduced into writing and signed by the parties and their respective counsel, if any, before the Labor Arbiter.

The settlement shall be approved by the Labor Arbiter after being satisfied that it was voluntarily entered into by the parties and after having explained to them the terms and consequences thereof.

A compromise agreement entered into by the parties not in the presence of the Labor Arbiter before whom the case is pending shall be approved by him, if after confronting the parties, particularly the complainants, he is satisfied that they understand the terms and conditions of the settlement and that it was entered into freely and voluntarily by them and the agreement is not contrary to law, morals, and public policy.

A compromise agreement duly entered into in accordance with this Section shall be final and binding upon the parties and the Order approving it shall have the effect of a judgment rendered by the Labor Arbiter.

THE MANDATORY CONCILIATION/MEDIATION CONFERENCE SHALL, EXCEPT FOR JUSTIFIABLE GROUNDS, BE TERMINATED WITHIN THIRTY (30) CALENDAR DAYS FROM THE DATE OF FIRST CONFERENCE.

NO MOTION FOR POSTPONEMENT SHALL BE ENTERTAINED. NON-APPEARANCE OF THE COMPLAINANT/S DURING THE SCHEDULED HEARINGS FOR MEDIATION/CONCILIATION CONFERENCE SHALL BE A GROUND FOR THE DISMISSAL OF THE CASE WITHOUT PREJUDICE.

IN CASE OF NON-APPEARANCE OF THE RESPONDENT/S DURING THE FIRST CONFERENCE, A SECOND CONFERENCE SHALL PROCEED, NON-APPEARANCE OF THE RESPONDENT DURING THE SECOND CONFERENCE SHALL IMMEDIATELY TERMINATE THE MANDATORY CONCILIATION/MEDIATION CONFERENCE. THE COMPLAINANT SHALL THEREUPON BE ALLOWED TO FILE HIS POSITION PAPER AS WELL AS SUBMIT EVIDENCE IN SUPPORT OF HIS CAUSE OR CAUSES OF ACTION AFTER WHICH, THE LABOR ARBITER SHALL RENDER HIS DECISION ON THE BASIS OF THE EVIDENCE ON RECORD.

11. Paragraph 2, Section 3 of Rule V, is hereby amended to read as follows:

These verified position papers shall cover only those claims and causes of action raised in the complaint excluding those that may have been amicably settled, and shall be accompanied by all supporting documents including the affidavits of their respective witnesses which shall take the place of the latter's direct testimony. The parties shall thereafter not be allowed to allege facts, or present evidence to prove facts, not referred to and any cause or causes of action not included in the complaint or position papers, affidavits and other documents. WITHOUT PREJUDICE TO THE PROVISIONS OF THE LAST PARAGRAPH, SEC. 2, OF THIS RULE, the Labor Arbiter shall direct both parties to submit simultaneously their position papers with supporting documents and affidavits within AN INEXTENDIBLE PERIOD OF TEN (10) DAYS FROM NOTICE OF TERMINATION OF THE MANDATORY CONCILIATION/MEDIATION CONFERENCE.

12. Paragraph 2, Section 5 of Rule V, is hereby amended to read as follows:

He shall render his decision within thirty (30) calendar days, without extension, after the submission of the case by the parties for decision, even in the absence of stenographic notes. Provided however, that cases involving Overseas Filipino Workers shall be decided within ninety (90) calendar days after the filing of the complaint WHICH SHALL BE DEEMED PERFECTED UPON ACQUISITION BY THE LABOR ARBITER OF JURISDICTION OVER THE RESPONDENT/S.

13. Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 of Rule V are hereby renumbered as Sections 8,9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19, respectively and the new Sections 6 and 7, respectively, shall read as follow:

Section 6. ISSUANCE OF AN ORDER SUBMITTING THE CASE FOR RESOLUTION. — If the Labor

Arbiter finds no necessity of further hearing after the parties have submitted their position papers and supporting documents he shall issue an Order EXPRESSLY DECLARING THE SUBMISSION OF THE CASE FOR RESOLUTION, COPY FURNISHED THE PARTIES, THE REASON(S) THEREFOR BEING STATED THEREIN. In any event, he shall render his decision in the case within the same period provided in SECTION 5 paragraph (1) of this Rule.

NO MOTION TO SET ASIDE SAID ORDER, OR AN APPEAL THEREFROM SHALL BE ENTERTAINED, AND THE LABOR ARBITER SHALL FORTHWITH RENDER HIS DECISION WITHIN THE PERIOD PROVIDED IN THE RULES.

Section 7. INHIBITION — A LABOR ARBITER MAY VOLUNTARILY INHIBIT HIMSELF FROM THE RESOLUTION OF A CASE AND SHALL SO STATE IN WRITING THE LEGAL JUSTIFICATION/S THEREFOR. UPON MOTION OF A PARTY, EITHER ON THE GROUND OF RELATIONSHIP WITHIN THE FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY WITH THE ADVERSE PARTY OR COUNSEL, OR ON QUESTION OF IMPARTIALITY, THE LABOR ARBITER MAY INHIBIT HIMSELF FROM FURTHER HEARING THE CASE. SUCH MOTION SHALL BE RESOLVED WITHIN FIVE (5) DAYS FROM THE FILING THEREOF. AN ORDER OF INHIBITION IS NOT APPEALABLE EXCEPT A DENIAL THEREOF WHICH MUST BE FILED WITHIN TEN (10) CALENDAR DAYS FROM THE RECEIPT OF THE ORDER.

14. Section 11 of Rule V is hereby amended to read as follows:

Section 13. NON-APPEARANCE OF PARTIES AT FORMAL HEARINGS — a) NON-APPEARANCE at a hearing by the complainant or petitioner, who was duly notified thereof, may be sufficient cause to dismiss the case without prejudice. Where proper justification, however, is shown by proper motion to warrant the re-opening of the case, the Labor Arbiter shall call a second hearing and continue the proceedings until the case is finally decided. Dismissal of the case for the second time due to the unjustified non-appearance of the complainant or petitioner who was duly notified thereof shall be with prejudice.

b. In case of non-appearance by the respondent, despite due notice during the complainant's presentation of evidence, the complainant shall be allowed to present evidence ex-parte, subject to cross-examination by the respondent, where proper, at the next hearing. Upon completion of such presentation of evidence for the complainant, another notice of hearing for the reception of the respondent's evidence shall be issued, with a warning that failure of the respondent to appear shall be construed as A WAIVER ON HIS PART TO PRESENT EVIDENCE. In case of SUCH non-appearance by the respondent, despite due notice, the case shall be considered submitted for decision on the basis of the evidence so far presented.

15. Section 13 of Rule V is hereby amended to read as follows:

Section 15. POSTPONEMENT OF HEARING — (a) The parties and their counsel or representative appearing before a Labor Arbiter shall be prepared for continuous hearing. NO postponements or continuances of hearings SHALL BE ALLOWED BY THE LABOR ARBITER EXCEPT upon meritorious grounds and subject always to the requirement of expeditious disposition of cases and the termination of hearings within ninety (90) calendar days FROM THE DATE OF INITIAL HEARING.

b. THE PROVISIONS OF PARAGRAPH (A) HEREOF NOTWITHSTANDING, IN CASES INVOLVING OVERSEAS FILIPINO WORKERS, THE AGGREGATE PERIOD FOR CONDUCTING THE MANDATORY CONCILIATION/MEDIATION CONFERENCE AND A HEARING ON THE MERITS SHALL NOT EXCEED SIXTY (60) DAYS, WHICH SHALL BE RECKONED FROM THE DATE OF ACQUISITION BY THE LABOR ARBITER OF JURISDICTION OVER THE PERSON OF THE RESPONDENT/S.

16. Section 16 of Rule V is hereby amended to read as follows:

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Section 18. CONTENTS OF DECISIONS — The decision/s ORDERS of the Labor Arbiter shall be clear and concise and shall include a brief statement of the a) facts of the case; b) issue/s involved; c) applicable law or rules; d) conclusions and the reasons therefor and e) specific remedy or relief granted.

In cases involving monetary awards, the decision or order of the Labor Arbiter SHALL contain the amount awarded. In case the decision includes an order of reinstatement, the Labor Arbiter shall direct the employer to immediately reinstate the dismissed or separated employee even pending appeal. The order of reinstatement shall indicate that the employee shall either be admitted back to work or, at the option of the employer, merely reinstated in the payroll.

17. Section 17 of Rule V is hereby amended to read as follows:

Section 19. MOTIONS FOR RECONSIDERATION — No motions for reconsideration of any order or decision of a Labor Arbiter shall be allowed. NEVERTHELESS, WHEN ONE SUCH MOTION IS FILED, IT SHALL BE TREATED AS AN APPEAL PROVIDED THAT IT COMPLIES WITH THE REQUIREMENTS FOR PERFECTING AN APPEAL.

18. Section 6 Rule VI is hereby amended to read as follows:

Section 6. BOND — In case the decision of THE Labor Arbiter, the Regional Director or his duly authorized Hearing Officer involves a monetary award, an appeal by the employer shall be perfected only upon the posting of cash or surety bond, WHICH SHALL BE IN EFFECT UNTIL FINAL DISPOSITION OF THE CASE, issued by a reputable bonding company, duly accredited by the Commission or the Supreme Court in an amount equivalent to the monetary award, exclusive of damages and attorney's fees.

The employee, HIS COUNSEL, AS WELL AS THE BONDING COMPANY, shall submit a joint declaration under oath attesting that the surety bond posted is genuine.

The Commission may, in JUSTIFIABLE cases and upon motion of the appellant, reduce the amount of the bond.

The filing of the motion to reduce bond shall not stop the running of the period to perfect appeal.

19. Section 8 Rule VI is hereby amended to read as follows:

Section 8. IMMEDIATE TRANSMITTAL OF RECORDS AND APPEAL — Within forty-eight (48) hours after the filing of the APPEAL, the entire records of the case, together with the memorandum of appeal and the reply or answer thereto, if any, proofs of service, of payment of the appeal fee, and of the posting of the required bond, shall be transmitted by the Executive Labor Arbiter OR Regional Director, to the appropriate Division of the Commission.

20. Section 10 Rule VI is hereby amended to read as follows:

SECTION 10. PERFECTION OF APPEAL; EFFECT. — WITHOUT PREJUDICE TO THE PROVISIONS OF SECTION 1 (A), RULE VIII OF THESE RULES, once the appeal is perfected, the Labor Arbiter loses jurisdiction over the case. All motions/pleadings pertaining thereto shall thereafter be addressed to and filed with the Commission except the execution of the PERTINENT RELIEF of the arbiter's decision and all incidents pertaining thereto which shall be filed and resolved by the Labor Arbiter.

21. Section 12 Rule VI is hereby amended to read as follows:

Section 12. APPEALS FROM DECISIONS OF OTHER AGENCIES — The rules provided herein governing appeals from the decisions or orders of Labor Arbiters shall apply to appeals to the Commission from decisions or orders of the OTHER offices or agencies appealable to the Commission according to law.

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22. Second paragraph of Section 2 (b) of Rule VII is hereby amended to read as follows:

> Of the five (5) Divisions, the First, Second and THIRD Divisions shall have exclusive territorial jurisdiction over appeals of cases coming from Luzon, including the Cordillera Administrative Region; Fourth Division appealed cases from the Visayas Region; and the Fifth Division, appealed cases from Mindanao including THOSE from the Autonomous Region FOR MUSLIM MINDANAO.

23. Section 2 (c), Rule VII, is hereby amended to read as follows:

> c) Headquarters, Branches and Provincial Extension Units - As provided by law, the Commission and its First, Second and Third Divisions shall have their main office in THE NATIONAL CAPITAL REGION, and the Fourth and Fifth Divisions in the cities of Cebu and Cagayan de Oro, respectively.

24. Section 1 (a), Rule VIII second paragraph is hereby amended to read as follows:

> The Labor Arbiter, the Regional Director, or his duly authorized hearing officer of origin shall, motu propio, or upon motion of any interested party, issue a writ of execution on a judgment only within five (5) years from the date it becomes final and executory, so requiring the sheriff or a duly deputized officer to execute the same. No motion for execution shall be entertained nor a writ be issued unless the Labor Arbiter is in possession of the records of the case which shall include an Entry of Judgment in case of appeal except THAT as provided for in Section 10 of Rule VI, AND IN THOSE CASES WHERE PARTIAL EXECUTION IS ALLOWED BY LAW, the Labor Arbiter shall retain duplicate original copies of the decision to be implemented and proof of service thereof FOR THE PURPOSE OF ITS IMMEDIATE ENFORCEMENT.

25. Section 3, Rule IX, is hereby amended to read as follows:

> Section 3. ROLE OF THE CHAIRMAN — WITHOUT PREJUDICE TO THE POWER OF THE CHAIRMAN TO CONCILIATE OR HEAR THE CASE ON ITS MERITS IN URGENT CASES, EITHER SOLELY OR JOINTLY WITH A PARTICULAR DIVISION, upon receipt by the Commission of the certification order, the Chairman shall IMMEDIATELY INDORSE the case TO THE DIVISION HAVING TERRITORIAL JURISDICTION OVER SUCH CASE, AND SHALL FORTHWITH RESOLVE IT ACCORDINGLY.

26. Section 5 (b), Rule IX is hereby amended to read as follows:

> b) All cases between the same parties, except where the Certification Order specifies THE issues submitted for arbitration WHICH are already filed or may be filed, AND are relevant to or ARE proper incidents of the certified case, shall be considered subsumed or absorbed by the certified case, and shall be decided by THE APPROPRIATE DIVISION OF the Commission.

27. Section 2 (a) Rule XI is hereby amended to read as follows:

> a) THAT prohibited or unlawful acts have been threatened and will be committed AND WILL BE CONTINUED unless restrained, but no injunction or temporary retraining order shall be issued ON ACCOUNT of any threat, prohibited or unlawful act, except against the person or persons, association or organization making the threat or committing the prohibited or unlawful act or actually authorizing or ratifying the same after actual knowledge thereof.

28. The first paragraph of Section 6 of Rule XI is hereby amended to read as follows:

(SGD.) ROGELIO I. RAYALA
Chairman

(SGD.) ALBERTO R. QUIMPO
Commissioner

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(SGD.) VICENTE S. E. VELOSO III
Commissioner

(SGD.) RAUL T. AQUINO
Commissioner (SGD.) VICTORIANO R. CALAYCAY
Commissioner

(SGD.) ANGELITA A. GACUTAN
Commissioner (SGD.) LOURDES C. JAVIER
Commissioner

(SGD.) IRENEO B. BERNARDO
Commissioner (SGD.) TITO F. GENILO
Commissioner

(SGD.) IRENE A. CENIZA
Commissioner (SGD.) AMORITO V. CAÑETE
Commissioner

(SGD.) BERNABE S. BATUHAN
Commissioner (SGD.) SALIC B. DUMARPA
Commissioner

(SGD.) OSCAR N. ABELLA
Commissioner (SGD.) LEON GONZAGA, JR.
Commissioner

Attested by:
(SGD.) FLOCERFIDA T. TRINIDAD
Acting Executive Clerk

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