

GM SANDOVAL, INC. AND/OR PETER SANDOVAL, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (NLRC) THIRD DIVISION, CECILIA L. ADAME, RESPONDENTS.

Ponente: GARCIA-FERNANDEZ, J.

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GARCIA-FERNANDEZ, J.:

In a resolution[1] dated November 7, 2013, this Court dismissed outright the petition for certiorari[2] filed in this case on the ground that petitioner failed to file a motion for reconsideration from the NLRC decision. Petitioner now seeks reconsideration of this Court's resolution.

After examining the allegations in the instant motion for reconsideration[3], this Court reiterates that petitioner failed to show that this case falls under any of the exceptions when the filing of a petition for certiorari is proper notwithstanding the failure to file a motion for reconsideration. In the instant case, except for its bare allegation, petitioner failed to present any plausible justification for dispensing with the requirement of a prior motion for reconsideration. Notably, the petition filed before this Court did not state any reason for its failure to file a motion for reconsideration from the NLRC decision. It was only in its motion for reconsideration of this Court's resolution dismissing the petition that petitioner justified its non-filing of a motion for reconsideration. According to petitioner, a motion for reconsideration would be inadequate and useless since the questions raised in the petition have been duly raised and passed upon by the Labor Arbiter and the NLRC. But it is not for petitioner to determine whether the filing of a motion for reconsideration should be dispensed with.[4]

It must be emphasized that a writ of certiorari is a prerogative writ, never demandable as a matter of right, never issued except in the exercise of judicial discretion. Hence, he who seeks a writ of certiorari must apply for it only in the manner and strictly in accordance with the provisions of the law and the rules.[5]

Significantly, the filing of a motion for reconsideration and filing it on time are not mere technicalities of procedure. These are jurisdictional and mandatory requirements which must be strictly complied with. Thus, failure to file a motion for reconsideration with the NLRC before availing oneself of the special civil action for certiorari is a fatal infirmity.[6]

WHEREFORE, the motion for reconsideration is DENIED.

SO ORDERED.

De Leon, (Chairperson), and Cruz, JJ., concur.

[1] Rollo, pp. 90-92.

[2] Rollo, pp. 3-20.

[3] Rollo, pp. 93-96.

[4] See Republic vs. Pantranco North Express, Inc. (PNEI), et al., G.R. No. 178593, February 15, 2012.

[5] Republic vs. Pantranco North Express, Inc. (PNEI), et al., G.R. No. 178593, February 15, 2012 citing Sim vs. National Labor Relations Commission, G.R. No. 157376, October 2, 2007.

[6] Republic vs. Pantranco North Express, Inc. (PNEI), et al., G.R. No. 178593, February 15, 2012.

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