

**TROPIC POWER SALES CORP., DICK CHAN, NELSON V.M. TORRES,
INIGO ZOBEL, ALMA MACASIL, MARIE TALAMAYAN, PETITIONERS,
VS. ERNESTO H. VILLAROSA, NATIONAL LABOR RELATIONS
COMMISSION, ...**

Ponente: GARCIA, R.R., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/cf0d00d44c25/>

GARCIA, R.R., J.:

Before Us is a Petition for Certiorari[1] under Rule 65 of the Rules of Court seeking the nullification of the Resolution[2] dated June 16, 2014 of public respondent Executive Labor Arbiter Fatima Jambaro-Franco which granted private respondent's motion to recompute the judgment award and approved the NLRC Computation and Examination Unit's computation of complainant's backwages and separation pay pursuant to a final and executory decision of the Court of Appeals; and, the Resolution[3] dated August 4, 2014 which merely noted without action herein petitioner's appeal memorandum.

We resolve to dismiss outright the instant petition.

Prefatorily, We find that the petition suffers from procedural infirmity in that the material portions of the record in support of the petition and other documents relevant or pertinent thereto, as required under Section 3, Rule 46, in relation to Section 1, Rule 65 of the Rules of Court, are not attached, such as: (1) private respondent's motion to recompute/motion to issue alias writ of execution[4]; (2) petitioner's opposition/comment to the motion for re-computation[5]; (3) private respondent's reply to the opposition/comment[6]; (4) petitioner's appeal memorandum; and, (5) petitioner's manifestation and motion before the Executive Labor Arbiter.[7]

In any case, even if We are to disregard the above procedural infirmity and proceed to review the propriety of the assailed Resolutions, We still find that the Labor Arbiter did not commit grave abuse of discretion in approving the computation of the NLRC Computation and Examination Unit made in the course of the execution proceedings, and in merely noting without action petitioner's appeal memorandum on the ground that the same is a prohibited pleading. The pertinent provision of the 2011 NLRC Rules of Procedure provides:

Rule V

Sec. 5. PROHIBITED PLEADINGS AND MOTIONS. - The following pleadings and motions shall not be allowed and acted upon nor elevated to the Commission:

x x x

- i. Appeal from orders issued by the Labor Arbiter in the course of execution proceedings.
- j. Such other pleadings, motions and petitions of similar nature intended to circumvent above provisions.
(Emphasis supplied)

Verily, petitioner's appeal memorandum assailing the Labor Arbiter's Order dated June 16, 2014 which was issued in the course of the execution proceedings is a prohibited pleading and shall not be acted upon nor elevated to the

Commission.

It bears stressing that the right to appeal is a statutory right, and one who seeks to avail of the said right must comply with the applicable statute or rules thereon. The NLRC Rules, akin to the Rules of Court promulgated by authority of law, have the force and effect of law.[8]

For a writ of certiorari to issue, it is a condition sine qua non that there be grave abuse of discretion. By grave abuse of discretion is meant such capricious and whimsical exercise of judgment that is equivalent to an excess or a lack of jurisdiction; an abuse so patent and so gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law; or an arbitrary or despotic exercise of power as a result of passion or hostility.[9] We find neither lack of jurisdiction nor grave abuse of discretion in this case.

WHEREFORE, the Petition for Certiorari is hereby DISMISSED. The instant case is deemed CLOSED and TERMINATED.

SO ORDERED.

Salazar-Fernando, R.A., (Chairperson), and Bueser, D.Q., JJ., concur.

[1] Rollo, pp. 3-9.

[2] Rollo, pp. 10-11

[3] Rollo, p. 12.

[4] As mentioned in the assailed Order dated June 16, 2014, Rollo, p. 10

[5] Id.

[6] Id.

[7] As mentioned in the instant petition, Rollo, p. 6

[8] MP Acebedo Optical Shops v. NLRC, G.R. No. 165284, April 16, 2008; Corporate Inn Hotel v. Lizo, G.R. No. 148279, May 27, 2004

[9] Suliguin v. COMELEC, G.R. No. 166046, March 23, 2006; Villanueva v. Ople, G.R. No. 165125, November 18, 2005; Coca-Cola Bottlers Phils., Inc. v. Daniel, G.R. No. 156893, June 21, 2005.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.