

**MARIO C. CUTAMORA, HEIRS OF MARICRIS CUTAMORA,
PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION,
EASTERN GOLD CORP., AND NELSON TY, RESPONDENTS.**

Ponente: CARANDANG, J.

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CARANDANG, J.:

This is a petition for certiorari under Rule 65 of the Rules of Court seeking the annulment of the Decision[1] dated January 28, 2013 and the Resolution[2] dated April 12, 2013 rendered by the National Labor Relations Commission which dismissed the complaint in NLRC-LAC NO. 08-002362-12 and denied the subsequent Motion for Reconsideration.

Antecedents:

Maricris Cutamora was a regular employee of respondent Eastern Gold Corp. (Eastern). She worked for respondent Eastern for nine years until her death on September 3, 2011 from childbirth.

On November 28, 2011, Maricris' husband Mario Cutamora filed a complaint[3] against Eastern Gold Corp. and Nelson Ty for non-payment of 13th month pay and separation pay with the National Labor Relations Commission (NLRC).

Complainant claimed that on September 24, 2011, he inquired from respondent Ty about the benefits due to his wife as a regular employee. According to complainant, respondent Ty told him that he was entitled to receive separation pay of his wife equivalent to 13 days per year of service and on even date, Ty handed to him the amount of P15,000.00 as cash advance on his claims and additional P1,000.00 as “abuloy”. However, upon his return to respondent to follow-up on his claim, complainant was told that there was nothing to claim from the company in connection with his wife's employment.[4]

On the other hand, respondents denied the claims of complainant and averred that complainant already acknowledged having received the amount of P15,000.00 which corresponds to Maricris' 13th month pay from January to September 2011 in the amount of P8,307.00 and financial assistance of P6,693.00. As for the rest of complainant's money claim, Maricris was not entitled to separation pay because she was not separated/terminated from service due to authorized causes.[5]

The Labor Arbiter dismissed the complaint on June 29 2012. In her decision, Labor Arbiter Cheryl M. Ampil cited the instances when separation pay maybe recovered, to wit: (1) when the employee is dismissed due to installation of labor-saving devices, redundancy, retrenchment to prevent losses or closure /cessation in good faith of an establishment or undertaking; (2) where he is suffering any disease, provided that he complies with the requirements provided in Article 284 of the Labor Code; (3) where he was dismissed without valid or authorized cause, but his reinstatement is not advisable or feasible and (4) where he was dismissed for a valid cause, but the circumstances of the dismissal or the demands of social justice call for the award of separation pay. Complainant's wife was not separated from work due to any of the foregoing circumstances.[6]

On appeal, the NLRC upheld the decision of the Labor Arbiter and decreed that the amount due to Maricris under the law should be P8,422.00 corresponding to her 13th month pay and Service Incentive Leave Pay (SILP). Complainant already acknowledged having received the amount of P15,000.00 from respondents which amount was more than enough to cover the said benefits.[7] Not satisfied with the said decision, complainant filed a Motion for Reconsideration which was also denied by the NLRC,[8] hence the present petition.

Petitioner avers that if the principle of social and compassionate justice allows the awarding of separation pay to employees legally dismissed due to their infractions, then it is more logical to award separation pay in favor of the deceased employee. It was even respondent Nelson Ty who gave petitioner the idea of what he was supposed to receive from the company as a result of his wife's death. Petitioner claims that the NLRC committed a serious error in denying the claim.[9]

Issue:

Whether or not the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing the petitioner's appeal.

Our ruling:

We affirm.

Payment of separation pay maybe due: (1) as a statutory benefit; (2) as employment benefits voluntarily granted or required by contract; (3) as alternative to reinstatement of an illegally dismissed employee and (4) as financial assistance to legally dismissed employees.[10]

As a statutory benefit, the Labor Code provides for the payment of separation pay to employees dismissed due to closure of establishment or cessation of business under Article 283 and employees dismissed due to disease whose continued employment is prohibited by law or prejudicial to his co-employees under Article 284.

Petitioner's wife died of childbirth during the term of her employment. She was not dismissed under the scenarios in Article 284 or 283 of the Labor Code. Neither was there a record of an agreement or contract in her employment which provides for separation pay in case of death. Neither was she illegally dismissed which necessitated reinstatement. In short, petitioner's wife did not come under any of the circumstances which warrant the payment of separation pay under the Labor Code.

Petitioner begs for the application of the social justice principle in granting his wife's separation pay. It is extant in the records and admitted by petitioner that he received the amount of P15,000.00 from respondent Nelson Ty. Both the Labor Arbiter and the NLRC find this amount more than sufficient to cover the 13th month pay of the petitioner's wife which amounts to P7,063.00 and the SILP which amounts to P1,358.45 or a total of P8,422.39.

We agree with both the Labor Arbiter and the NLRC in this finding.

Having discharged the burden of an employer in paying the employee's benefits under the law, private respondents have no more obligation to the petitioner. The amount received by the latter more than covered the benefits that are due his wife under the law. Private respondents even voluntarily gave more than what was due. The excess amount can be considered a voluntary financial assistance extended by the private respondents to petitioner and his family. Private respondents could not be expected to do more sans any contractual and legal obligation.

We find no grave abuse of discretion on the part of both the Labor Arbiter and the NLRC.

WHEREFORE, in view of the foregoing, the instant petition is hereby DISMISSED.

SO ORDERED.

Gonzales-Sison and Sorongon, JJ., concur.

[1] Rollo, at 14-20

[2] Ibid, at 21-22

[3] *ibid*, at 29-31

[4] Complainant's Position Paper, Rollo, at 32-37

[5] Respondents' Position Paper, Rollo, at 44-47

[6] Rollo, at 21-28

[7] *Ibid*, at 14-29

[8] *Ibid*, at 21-22

[9] *Ibid*, at 3-10

[10] The Labor Code with Comments and Cases, Vol II by C.A Azucena, Jr., 2007 ed. pp. 758-759

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