

## **JONATHAN D. QUITLONG, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, JTA PACKAGING AND/OR JUN TAN, RESPONDENTS.**

Ponente: REYES, JR., J.C., J.

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### **REYES, JR., J.C., J.:**

This petition for certiorari under Rule 65 of the Rules of Court was filed by Jonathan D. Quitlong to assail the Resolutions dated April 15, 2013 and January 30, 2013 of the National Labor Relations Commission in NLRC NCR CASE No. 05-07856-11 (NLRC LAC No. 02-000695-12).

### **BACKGROUND**

Petitioner Jonathan D. Quitlong (Quitlong) was a former printing operator of the private respondent JTA Packaging (JTA). JTA is a domestic corporation engaged in the manufacture of plastic packaging products, with Jun Tan as its alleged responsible officer.

The facts as culled from the records are as follows:

On May 18, 2011, Quitlong filed a complaint against JTA for constructive dismissal and non-payment of service incentive leave pay and separation pay. He alleged that he started working at JTA on May 19, 1966; JTA however, claimed that it hired Quitlong only in July 2009. Quitlong worked at JTA until January 22, 2011 after he was diagnosed to be suffering from possible “Hansen's Disease, Lepromatous Stage”, an infectious disease. Quitlong's sickness was confirmed by Dr. Arlyn Lim of the Jose Reyes Memorial Medical Center who issued a medical certificate on March 30, 2011 stating that Quitlong was diagnosed with Hansen's Disease, Lepromatous Stage, and that he was required to take medication for approximately one year.

Quitlong further claimed that the letter of application that he allegedly signed on June 18, 2009 was fake since his signature was forged; that his co-employee Domingo Lansaderas attested that Quitlong was hired in 1996 as pahinante; that despite being declared “fit to work” on April 25, 2011 by Dr. Arlyn Lim because his sickness was no longer contagious, JTA still refused to allow him to report for work; that he was deemed illegally dismissed for which he must be paid separation pay with full backwages since reinstatement was no longer viable; that while he obtained cash advances of P22,000.00 from JTA, they were already deducted from his previous salaries; that he should be paid his service incentive leave pay.

JTA countered that it had no connection with Jun Tan, the other respondent; that Quitlong was hired in July 2009 as shown by Quitlong's June 18, 2009 letter application and 13<sup>th</sup> month payroll for 2009; that Quitlong was never terminated but was on voluntary sick leave after being diagnosed with a contagious disease; that JTA could not be compelled to allow Quitlong to report back for work unless he was certified fit to work and would not pose a danger to the health of his co-employees; and that even if he were entitled to separation pay and service incentive leave pay, the same were not sufficient to cover his cash advances of P34,301.00.

The Labor Arbiter dismissed Quitlong's complaint for lack of merit.[1] He held that Quitlong was not illegally

dismissed from employment and that JTA was justified in not allowing him to work until the lapse of the one year treatment of his disease. The Labor Arbiter awarded Quitlong his separation pay and service incentive leave pay for two (2) years but these were not sufficient to cover his P34,301.00 cash advances.

Quitlong appealed to the NLRC. In its Decision dated August 16, 2012,[2] the NLRC found that he was hired on May 19, 1996 and not in 2009. As a result, the NLRC ordered that he be paid separation pay equivalent to ½ month per year of service from May 19, 1996 up to January 22, 2011. The NLRC also ordered that he be paid his service incentive leave pay for 2008, 2009 and 2010. The P34,301.00 cash advances shall however be deducted from these monetary awards.

JTA filed a motion for reconsideration from this Decision on the ground that Quitlong started his employment with JTA only on July 1, 2009 not in 1996. JTA submitted several documents to support this claim, namely, the Social Security System Employment Report showing that for employee “QUITLONG JONATHAN DEMIAO”, the date of employment was “07-01-2009”; the PhilHealth Report of Employee-Members where the entry in Quitlong’s “Date of Employment” was “July 1/09”; the SSS Contribution Collection Lists, Philhealth Employers’ Quarterly Remittance Reports, and Pag-Ibig Membership Registration/Remittance Forms, all for the period 2000 until June 2009 where Quitlong’s name did not appear.

In its first assailed Resolution[3] dated January 30, 2013, the NLRC granted JTA’s motion for reconsideration and modified its previous decision to the extent that the computation of the awards of separation pay and service incentive pay was to be reckoned from July 1, 2009.

Quitlong moved for the reconsideration of this resolution arguing that for purposes of computing his monetary award, he should be deemed to have started his employment on May 19, 1996. This time, the NLRC denied Quitlong’s motion for reconsideration and stated in its second assailed Resolution[4] dated April 15, 2013 that:

“We are not convinced.

We shall again evaluate the evidence proffered by the complainant one by one.

First, the Affidavit executed by Lansaderas attesting that complainant was his co-employee under the same employer cannot prove that complainant worked with respondent JTA Packaging before July 1, 2009. Lansaderas alleged in his “Waiver and Quitclaim” dated May 20, 1998 that he was an employee of JTA Manufacturing. JTA Manufacturing is not JTA Packaging.

Second, pictures taken while complainant was allegedly working in respondents’ premises cannot also prove that complainant worked with respondents prior to July 1, 2009. There is nothing in the pictures which would show that the picture was taken within the working premises of respondents.

Third, the payslips purportedly issued by respondents on August 16, 2008 did not in any way prove employment relationship. Nothing in the alleged payslips would show that the same were issued by respondents.

Fourth, nowhere in the records could We locate the alleged certification issued by the alleged company doctor Robert Ngo certifying that complainant was examined by him on July 19, 2008 being the physician in charge of the medical needs of the respondents/ employees.

In sum, complainant failed to controvert by clear and convincing evidence the submission of the respondents that he was only hired on July 1, 2009 which was supported by: 1) complainant’s application with respondents dated January 18, 2009; 2) respondent JTA Packaging’s Certificate of Registration issued by the SEC showing that it was only incorporated on January 24, 2000; and 3) SSS and Philhealth records showing complainant was only hired by respondents in 2009. While it is possible that complainant might have worked with respondents

even before he was reported/registered with the SSS and Philhealth in 2009, complainant failed to present evidence which would convince Us so.

Thus, We stand firm in holding that complainant was only hired on July 1, 2009. The separation pay and service incentive leave pay awarded to complainant were therefore correctly reckoned from July 1, 2009.

WHEREFORE, premises considered, the Motion for Reconsideration of complainant is hereby DENIED for lack of merit.

SO ORDERED.”

Hence, Quitlong filed this petition for certiorari.

### THE ISSUE

“WHETHER PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN FINDING THAT THE COMPUTATION OF PETITIONER'S SEPARATION PAY AND SERVICE INCENTIVE LEAVE SHOULD BE RECKONED FROM JULY 1, 2009.”

### THE COURT'S RULING

Quitlong submits that the mere absence of employee records with the SSS is not conclusive proof of the question of employment. He asserts that it is not entirely impossible that private respondent failed to report petitioner's employment with the SSS, Pag-ibig or Philhealth.[5]

He further submits that the sworn statement of Domingo Lansaderas should be taken into account since Lansaderas' statement confirms the fact that he was employed in 1996 by JTA respondent as its printing operator. Since JTA did not present evidence to contradict Lansaderas' statement, the latter should be given due credence in ruling in favor of the petitioner.

In its assailed April 15, 2013 Resolution, the NLRC enumerated the documentary evidence submitted by JTA that discounted Quitlong's claim that he was hired in 2009. The NLRC then stated that the evidence submitted by Quitlong – the Lansaderas Affidavit and the picture – were not sufficient to overcome the government records – SSS and Philhealth listings – submitted by JTA.

We reiterate that in a petition for certiorari, this Court's review of the assailed NLRC ruling is limited to jurisdictional issues. Rule 65 of the Rules of Court states in Section 1:

“When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

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The scope of a certiorari review was delineated in *PMI Colleges vs National Labor Relations Commission*[6] where our Supreme Court said:

“We merely declare that the extent of review of evidence we ordinarily provide in other cases is different when it is a special civil action of certiorari. The latter commands us to merely determine whether there is basis established on record to support the findings of a tribunal and such findings meet the required quantum of

proof, which in this instance, is substantial evidence. Our deference to the expertise acquired by quasi-judicial agencies and the limited scope granted to us in the exercise of certiorari jurisdiction restrain us from going so far as to probe into the correctness of a tribunal's evaluation of evidence, unless there is palpable mistake and complete disregard thereof in which case certiorari would be proper. In plain terms, in certiorari proceedings, we are concerned with mere 'errors of jurisdiction' and not 'errors of judgment.' Thus: The rule is settled that the original and exclusive jurisdiction of this Court to review a decision of respondent NLRC (or Executive Labor Arbiter as in this case) in a petition for certiorari under Rule 65 does not normally include an inquiry into the correctness of its evaluation of the evidence. Errors of judgment, as distinguished from errors of jurisdiction, are not within the province of a special civil action for certiorari, which is merely confined to issues of jurisdiction or grave abuse of discretion. It is thus incumbent upon petitioner to satisfactorily establish that respondent Commission or executive labor arbiter acted capriciously and whimsically in total disregard of evidence material to or even decisive of the controversy, in order that the extraordinary writ of certiorari will lie.”

For a decision to be whimsical or capricious or rendered with grave abuse of discretion, there must be a lack of substantial evidence to support it[7], or the tribunal must have disregarded some vital evidence[8]. A reading of the assailed NLRC Resolutions would show that these were based on substantial evidence and therefor neither whimsical nor capricious nor arbitrary. The appreciation of the evidence is within the discretion of the NLRC and as long as the ruling of the NLRC is supported by substantial evidence, the writ of certiorari cannot issue. We therefore rule that the NLRC did not act with grave abuse of discretion with respect to the two assailed Resolutions.

In closing, We quote the ruling in *Madrigal Transport, Inc. vs. Lapanday Holdings Corp, et al.*: [9]

“The supervisory jurisdiction of a court over the issuance of a writ of certiorari cannot be exercised for the purpose of reviewing the intrinsic correctness of a judgment of the lower court — on the basis either of the law or the facts of the case, or of the wisdom or legal soundness of the decision. Even if the findings of the court are incorrect, as long as it has jurisdiction over the case, such correction is normally beyond the province of certiorari. Where the error is not one of jurisdiction, but of an error of law or fact — a mistake of judgment — appeal is the remedy.”

WHEREFORE, premises considered, the petition for certiorari is DISMISSED. The Resolutions dated April 15, 2013 and January 30, 2013 of the National Labor Relations Commission are hereby AFFIRMED.

### **SO ORDERED.**

Lopez, and Cruz,[\*] JJ., concur.

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[\*] Acting Junior Member vice J. S.B. Inting per Office Order No. 348-14-RSF dated August 4, 2014.

[1] Rollo, pp. 118-126.

[2] Rollo, pp. 33-39.

[3] Rollo, pp. 23-26.

[4] Rollo, pp. 28-30.

[5] Rollo, p. 11.

[6] GR No. 121466, August 15, 1997.

[7] *Casa Cebuana Incorporada, et al. vs. Leuterio*, G.R. No. 176040, September 4, 2009.

[8] De Cardiente vs. Workmen's Compensation Commission, et al, G.R. No. L-43693, January 17, 1985.

[9] G.R. No. 156067, August 11, 2004.

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