

JOSE SALINAS, MATEO ROGEL P. TORCUATO, LIZALOR M. INES, MA. PEARLIE R. PALOMPO, JOSELITO REDOBLE, JOEY REYES, MYLENE P. MENDOZA, LIZA A. RAGUINDIN, VICTORIO R. PILASPILAS, PRUDE...

G.R. NO. 148628. February 28, 2007

Ponente: CORONA, J.

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CORONA, J.:

In this petition for review under Rule 45 of the Rules of Court, petitioners seek a reversal of the Court of Appeals' May 31, 2001 resolution[3] which dismissed their petition for certiorari for having been filed without first resorting to a motion for reconsideration of the National Labor Relations Commission's (NLRC's) January 26, 2001 resolution.[4]

The facts of the case as found by the labor arbiter and the NLRC follow.

Petitioners, except Mario Dino Gareza, were former employees of Government Regional Telephone System (GRTS), an agency attached to the Department of Transportation and Communications. GRTS conducted a bidding for its privatization which was won by respondent Digital Telecommunications Philippines, Inc. (Digitel) on April 19, 1993.

Petitioners, including Gareza, submitted their application for employment to respondent Digitel. They were hired on probationary basis for six months. Their performance before the end of such period was to be reviewed to determine their qualification for regular status. To signify their conformity, petitioners affixed their signatures on their respective appointment papers.

Prior to the end of the six-month probationary period, respondent Digitel evaluated petitioners' performance and found it below par. The assessment was made known to them but they refused to acknowledge the same and refused to sign the evaluation report. On August 10, 1994, they were notified in writing of their termination.

Petitioners filed a complaint for illegal dismissal against respondents Digitel and/or Juan V. Borra, Jr.[5] and/or John Gokongwei[6] with the labor arbiter who initially ruled in their favor.[7] On appeal, the NLRC found the labor arbiter's findings speculative and remanded the case to the arbiter for further hearing since there were matters which required "if not clarificatory questioning, testimonies of the contending parties for the truth to be arrived at." [8]

After hearing, the labor arbiter dismissed the complaint for lack of merit[9] since petitioners were probationary employees whose contracts of employment were not renewed for their failure to meet the reasonable standards made known to them at the time of engagement.

On appeal, the NLRC affirmed the above findings.[10] Instead of filing, however, a motion for reconsideration, petitioners filed a petition for certiorari with the Court of Appeals imputing grave abuse of discretion on the part of the NLRC. The petition was dismissed in the assailed decision.[11] According to the Court of Appeals, "the precipitate filing of a petition for certiorari under Rule 65 without first moving for reconsideration of the assailed

resolution warrant(ed) the outright dismissal of the case." [12] Hence, this recourse.

The petition lacks merit.

It is settled that certiorari will lie only if there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law. In the case at bar, the plain and adequate remedy was a motion for reconsideration of the impugned resolution within ten days from receipt of the questioned resolution of the NLRC, a procedure which was jurisdictional. [13]

A motion for reconsideration is indispensable before resort to the special civil action for certiorari to afford the court or tribunal the opportunity to correct its error, if any. [14] The NLRC cannot be denied its right to review its pronouncements. "On policy considerations, such prerequisite would provide an expeditious termination to labor disputes and assist in the decongestion of court dockets by obviating improvident and unnecessary recourse to judicial proceedings." [15]

While the rule admits of exceptions, [16] petitioners could not arrogate to themselves the determination of whether a motion for reconsideration was necessary or not. They had to expressly, clearly and satisfactorily prove that their claim fell under any of those. To dispense with this requirement, there had to be a concrete, compelling and valid reason excusing them from compliance therewith.

In the petition for certiorari filed with the Court of Appeals, [17] there was no explanation for the course taken. In fact, petitioners did not explain their omission to file the required motion for reconsideration. Seeking refuge under the exceptions to the general rule, it was up to the petitioners to fully convince the Court of Appeals that their case merited exemption from the rule. The burden of proof rested on them to prove that their case was, in fact, covered by the exemption so claimed.

Before us, petitioners can only reason that they did not file a motion for reconsideration because they had waited long enough to vindicate their rights. That is not by any means sufficient justification for their case to fall within the exceptions. Their imputation of delay deserves scant consideration for being a mere afterthought or a lame and feeble excuse to justify a fatal omission.

Thus, we are in accord with the Court of Appeals in holding that the petition for certiorari [18] must fail. "Certiorari is not a shield from the adverse consequences of an omission to file the required motion for reconsideration." [19]

A review of the merits of this case is therefore unnecessary. The NLRC resolution dated January 26, 2001 which affirmed the decision of the labor arbiter [20] has become final and executory for petitioners' failure to seasonably file a motion for reconsideration. [21]

WHEREFORE, the instant petition is hereby DENIED. The dismissal of the petition for certiorari in the assailed May 31, 2001 resolution of the Court of Appeals is AFFIRMED.

Costs against petitioners.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, and Garcia, JJ., concur.
Azcuna, J., on official leave.

[1] "During the pendency of this case at the National Labor Relations Commission (NLRC), Jose Salinas, Joey Reyes and Victorio Pilaspilas have resigned, while Ma. Pearl R. Palompo, Mylene Mendoza, Jesus Aquino and Richard Tamonte were reinstated. Thus insofar as this petition is concerned, only Mateo Rogel P. Torcuato,

Lizalor M. Ines, Joselito Redoble, Liza Raguindin, Prudelaine Nugal and Mario Dino Gareza pray for reinstatement with full backwages, without loss of seniority rights." Per petitioners' memorandum, rollo, p. 162.

[2] "Mr. John Gokongwei, Jr.," in other pleadings.

[3] Penned by Associate Justice Juan Q. Enriquez, Jr. and concurred in by Associate Justices Presbitero J. Velasco, Jr. (now Supreme Court Justice) and Bienvenido L. Reyes of the Special Twelfth Division of the Court of Appeals; rollo, pp. 22-23.

[4] Penned by Commissioner Angelita A. Gacutan and concurred in by Presiding Commissioner Raul T. Aquino and Commissioner Victoriano R. Calaycay of the Second Division of the NLRC; rollo, pp. 82-93.

[5] Respondent Juan Borra, Jr. is sued in his capacity as respondent Digitel's then Senior Vice President for Administration. (Per petition for review, rollo, p. 5.)

[6] Respondent John Gokongwei is sued in his capacity as the President of Digitel. (Per petition for review, rollo, p. 5)

[7] Penned by Executive Labor Arbiter Norma Olegario dated 28 February 1995, rollo, pp. 25-32.

[8] Penned by Commissioner Rogelio I. Rayala and concurred in by Associate Justices Raul T. Aquino and Victoriano R. Calaycay of the Second Division of the NLRC, dated 31 July 1995, rollo, pp. 37-45.

[9] Decision penned by Labor Arbiter Irenarco R. Rimando, 31 March 1998, rollo, pp. 48-60.

[10] Penned by Commissioner Angelita A. Gacutan and concurred in by Presiding Commissioner Raul T. Aquino and Commissioner Victoriano R. Calaycay of the Second Division of the NLRC, dated 26 January 2001, rollo, pp. 82-93.

[11] Penned by Associate Justice Juan Q. Enriquez, Jr. and concurred in by Associate Justices Presbitero J. Velasco, Jr. (now Supreme Court Justice) and Bienvenido L. Reyes of the Special Twelfth Division of the Court of Appeals, dated 31 May 2001, rollo, pp. 22-23.

[12] CA decision, rollo, p. 23.

[13] *Escorpizo v. University of Baguio*, 366 Phil. 166 (1999).

[14] *Metro Transit Organization, Inc. v. Court of Appeals*, 440 Phil. 743 (2002).

[15] *Zapata v. NLRC*, G.R. No. 77827, 5 July 1989, 175 SCRA 56.

[16] Exceptions: (a) where the order is a patent nullity, as where the court a quo has no jurisdiction; (b) where the questions raised in the certiorari proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (c) where there is an urgent necessity for the resolution of the question and further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where petitioner was deprived of due process and there is extreme urgency for relief; (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (g) where the proceedings in the lower court are a nullity for lack of due process; (h) where the proceedings was ex parte or in which the petitioner has no opportunity to object; and (i) where the issue raised is one purely of law or where public interest is involved. (*Abraham v. NLRC*, G.R. No. 143823, 6 March 2001, 353 SCRA 739)

[17] Rollo, pp. 94-111.

[18] Petition for Certiorari filed by petitioners with the Court of Appeals dated 17 April 2001.

[19] Metro Transit Organization, Inc. v. Court of Appeals, 440 Phil. 743 (2002).

[20] Decision penned by Labor Arbiter Irenarco R. Rimando, 31 March 1998, rollo, pp. 48-60.

[21] "Except as provided in Rule XI, Section 10, the decisions, resolutions or orders of the Commission/Division shall become executory after ten (10) calendar days from receipt of the same." (Section 2, Rule VIII of the NLRC Rules of Procedure)

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