MARIO SUAN, ET AL., PETITIONERS, VS. COURT OF APPEALS, PASCUAL LINER, INC., MANUEL PASCUAL, JR., ODOLFO PASCUAL, ROLANDO PASCUAL, ERLINDA SORIANO, AND MELY BAUTISTA, RESPONDENTS.

G.R. NO. 150819. July 27, 2006

Ponente: TINGA, J.

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TINGA, J.:

Petitioners assail the Resolution[1] of the Court of Appeals dated February 28, 2001 in CA-G.R. SP No. 62621, which dismissed their petition for certiorari for failure to attach thereto certain relevant documents and pleadings, and failure of counsel to indicate in the petition his PTR number, as well as the Resolution[2] dated November 7, 2001, which denied their motion for reconsideration.

A better understanding of this case necessitates a look at the related case of PASVIL/Pascual Liner, Inc. Workers Union-NAFLU v. NLRC.[3] Petitioner union in that case filed a notice of strike with the National Conciliation and Mediation Board-National Capital Region (NCMB-NCR) against respondent PASVIL/Pascual Liner, Inc. (PASVIL) for unfair labor practices consisting of union busting, discrimination and discouraging union membership. After a series of conciliation conferences which failed to amicably settle the dispute, petitioner union staged a strike.

Then Secretary of Labor and Employment Nieves Confesor (Secretary Confesor) assumed jurisdiction over the dispute pursuant to Art. 263, par. (g) of the Labor Code and certified it to the National Labor Relations Commission (NLRC) for compulsory arbitration. Secretary Confesor also directed all striking workers to return to work within 24 hours and for PASVIL to accept them back under the same terms and conditions of employment prevailing before the strike. She further ordered the parties to cease and desist from committing acts that would prejudice the other party or exacerbate the situation.

Notwithstanding these orders, petitioner union continued to picket and barricade PASVIL's premises thereby preventing the workers who wanted to report back to work from entering the premises. Secretary Confesor reiterated her directives and deputized the Station Commander of the Novaliches Police Station to assist in the orderly and peaceful enforcement of her order, including the removal of all forms of obstruction and barricades to ensure free ingress to or egress from PASVIL's premises.

Conciliation conferences were thereafter scheduled on March 28 and April 19, 1995 but only representatives of PASVIL appeared. On this account, an order was issued directing the parties to submit their respective position papers. The parties complied.

On January 15, 1996, the NLRC declared the still-ongoing strike illegal and deemed the union officers who acted as leaders thereof, namely: President Donato Bugtong, Vice President Pedro Fernando, Secretary Rodante Ambas, Treasurer Rodolfo Pascual, Auditor Felizardo Gaspar, Spokesman Conrado Clemente and Board Members

Ponciano Gabriel, Sr., Roberto Espejon, Marcelo Mojar, Jr., Arnulfo German, Jose Ogao, Arnel Fortaleza, Merlito Dela Cruz, Rommel Buenavente, Manuel Trinidad, Joselito Mendiola, Pedro Ociones, Guillermo Naranjo and Fredenill Lazo, to have lost their employment status. The charge of unfair labor practice was dismissed for lack of merit.

This Court affirmed the decision of the NLRC as well as its resolution denying reconsideration. We found no grave abuse of discretion on the part of the NLRC when it declared the strike illegal because Secretary Confesor's certification of the labor dispute to the NLRC for compulsory arbitration concomitantly empowered the latter to resolve all questions and controversies arising therefrom, including cases otherwise belonging originally and exclusively to the labor arbiter. We likewise agreed with the finding of the NLRC that members of petitioner union defied the return-to-work order of Secretary Confesor and are thus deemed to have abandoned their work.

Petitioners in this case, whose names allegedly do not appear in the list of employees deemed dismissed by the NLRC, insist that PASVIL persisted in not reinstating them. When they heard of news that PASVIL will be closing down and its properties will be sold, they allegedly informed PASVIL of the unconditional lifting of their picket and pleaded to be allowed to return to work. PASVIL, however, allegedly refused their request and temporarily closed its operations on December 1, 1998.

As a consequence, a complaint for illegal dismissal docketed as NLRC NCR Case No. 00-03-02435-99 was filed by some 230 complainants on March 8, 1999. The complaint was dismissed for lack of merit.

On appeal, the NLRC noted that only six (6) of the 230 complainants verified their position paper. They are: Amado Mendoza, Pepito Enriquez, Salvador Latigay, Valeriano Argarin, Fredenil Lazo, and Romeo Boter. The NLRC also noted that only Mario Suan verified the reply to the position paper submitted by PASVIL although the Sinumpaang Salaysay, attached as Annex "A" of the reply, was subscribed and sworn to by the following complainants: Ramon Cunanan, Francisco Salvo, Ronaldo Adonis, Roberto Baetiong, Samuel Gabriel, Gerry Gabriel, Crisologo Neo, Mario Suan, Nelson Reyes, Eduardo Banting, Sonny Barnachea, Salvador Latigay, Danilo Guerrea, Roberto Carullo, Antonio Lusania, Narciso Pelenio, Anselmo Bulan, Adriano Dano, Leovino Valenzuela, Rolando Dandan, Julio Lusama, Virgilio Malate, Jose Ogao, Pepito Enriquz, Salinor Bonot, Rolando Lazo, Roberto Amante, Rufino Dionola, Rufino Quenangan, Avelino Coritana, Joseph Valenzuela, Pablito Gabriel, Jose Boter, Valeriano Argarin, Fernando Rivera, Salvador Pusogak, Arthur Ruadap, Felix Demiao, Salvador Mora, Conrado de Luna, Agustin Ombao, Fely Rebulanan, and Antonio Neo.[4]

The NLRC, therefore, declared that only those complainants who affixed their signatures, and subscribed and swore to the pleadings submitted shall be considered as complainants in the case pursuant to Sec. 9, Rule V of the New Rules of Procedure of the NLRC.

In its decision affirming the findings of the labor arbiter, the NLRC cited the fact that on December 10, 1998, PASVIL's franchise was cancelled by the Land Transportation Franchising and Regulatory Board (LTFRB), as a result of which, its operations were suspended indefinitely. The suspension was partially lifted on March 31, 1999 but PASVIL did not then become fully operational because some of its buses remained grounded. Consequently, some employees could not resume their usual work assignments.

These developments led the NLRC to conclude that the labor arbiter was correct in ruling that there was no illegal dismissal. The closure of the business operations of PASVIL was due to the cancellation of its franchise over which it had no control. The NLRC further declared that the complainants in the case are the very same employees who defied the return-to-work order of Secretary Confesor and whose employment have been deemed terminated by reason of their abandonment thereof.[5]

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The NLRC denied reconsideration in its Resolution dated October 24, 2000.[6] As aforementioned, the case was elevated to the Court of Appeals on petition for certiorari but the same was dismissed on several technicalities.[7]

Petitioners now plead the Court to relax the application of the rules of procedure to the end that their petition may be heard on the merits since they have already submitted to the Court of Appeals the documents which they failed to append to their petition for certiorari, as well as the PTR number of their counsel. According to them, they are not among the employees declared by the Court in PASVIL/Pascual Liner, Inc. Workers Union-NAFLU v. NLRC, supra, to have lost their employment status. PASVIL's continued refusal to reinstate them allegedly amounts to illegal dismissal.

Respondents, in their Private Respondents' Comment[8] dated October 15, 2003, insist that petitioners are among the employees who have been declared to have lost their employment status because of their defiance of the return-to-work order issued by Secretary Confesor. Petitioners allegedly took advantage of the cancellation by the LTFRB of PASVIL's franchise to incite the latter's employees to sign what turned out to be a complaint for illegal dismissal. Some of these employees have since returned to work and should be dropped from the case. There is also allegedly no basis for relaxing the rules of procedure to accommodate petitioners.

Petitioners reiterate their arguments in their Reply to Private Respondents' Comment[9] dated February 24, 2004.

As required in the Resolution[10] dated March 29, 2004, the parties submitted their respective memoranda in summation of their arguments.

At the outset, we cite with displeasure petitioners' mendacity in stating that they belong to the group of PASVIL employees who have not been terminated from employment and have not lost their employment status by reason of our Decision in PASVIL/Pascual Liner, Inc. Workers Union-NAFLU v. NLRC. A close look at the Authorization cited in the petition's verification and attached thereto as Annex "E"[11] reveals that at least four (4) of the petitioners, namely: Rodolfo Pascual, Roberto Espejon, Jose Ogao and Joselito Mendiola, were among those mentioned in our Decision as having lost their employment status as a consequence of the illegal strike they staged.

Such reprehensible conduct on the part of petitioners' counsel deserves sharp rebuke, a citation for contempt even, especially considering that this blatant falsehood was repeated in the Memorandum for Petitioners[12] dated June 2, 2004. For this reason, counsel is required to show cause why he should not be punished for contempt for making untruthful statements in the pleadings submitted before the Court.

The main issue submitted for our consideration is whether the Court of Appeals committed reversible error in dismissing the petition for certiorari on technical grounds. We are of the view that it did.

The second paragraph of Sec. 1, Rule 65 of the 1997 Rules of Civil Procedure (Rules of Court) mandates that the petition for certiorari "shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46."

In the recent and very similar case of Garcia v. Philippine Airlines, Inc.,[13] we held that aside from the assailed decision, order or resolution, not every pleading or document mentioned in the petition is required to be submitted, but only those that are pertinent and relevant to the judgment, order or resolution subject of the petition. The initial determination of what pleadings, documents or orders are relevant and pertinent to the petition rests on the petitioner.

If, upon its initial review of the petition, the Court of Appeals is of the view that additional pleadings, documents

or orders should have been submitted and appended to the petition, it may: (a) dismiss the petition under the last paragraph of Rule 46 of the Rules of Court; (b) order the petitioner to submit the required additional pleadings, documents, or orders within a specific period of time; or (c) order the petitioner to file an amended petition appending thereto the required pleadings, documents or orders within a fixed period.[14]

If the appellate court chooses to dismiss the petition outright and the petitioner files a motion for the reconsideration of such dismissal, appending thereto the requisite pleadings, documents or orders/resolutions with an explanation for the failure to append the required documents to the original petition, this would constitute substantial compliance with the Rules of Court. The petition should then be reinstated.[15]

In this case, the arguments raised by the parties are well-discussed in the decision of the NLRC as well as in the petition for certiorari itself. The documents and pleadings which were not attached to the petition, such as the (a) petition for certification filed on June 28, 1994; (b) Notice of Strike filed on August 3, 1994; (c) DOLE Secretary's Order issued on February 21, 1994; (d) Motion for Reconsideration of the NLRC Decision dated January 15, 1996; (e) Petition for Certiorari filed with the Supreme Court; and (f) Complaint for illegal dismissal docketed as NLRC-NCR Case No. 20-00-03-02435-99, would certainly have been useful but their absence would not have prevented a comprehensive review of the case.

These documents pertain principally to the issue of the legality of the strike conducted by the members of the PASVIL union which was thoroughly discussed by the Court in PASVIL/Pascual Liner, Inc. Workers Union-NAFLU v. NLRC, a copy of which the appellate court could have easily obtained. It is obvious that the documents and pleadings, the absence of which had caused the dismissal of the petition for certiorari, are not even altogether indispensable to the resolution of the case on the merits.

Considering further that these documents were submitted by petitioners when they filed their motion for reconsideration, the Court of Appeals should not have denied reconsideration. It is well-settled that the application of technical rules of procedure may be relaxed to serve the demands of substantial justice, particularly in labor cases which must be decided according to justice and equity and the substantial merits of the controversy.[16]

We recognize the need to resolve this case on the merits in light of the fact that petitioners herein, except Rodolfo Pascual, Roberto Espejon, Jose Ogao, and Joselito Mendiola, are not among those whose employment have been terminated and so may be entitled to reinstatement if indeed they were illegally dismissed.

And if they were dismissed for a just cause such as abandonment of work, there should be a definitive ruling that the procedural safeguards have been complied with. Specifically, there should be a showing that petitioners were furnished the required two (2) written notices at their last known addresses, which could have apprised them of the particular acts or omissions for which their dismissal is sought and informed them of PASVIL's decision to dismiss them. This requirement is not a mere formality that may be dispensed with at will. Its disregard is a matter of serious concern since it constitutes a safeguard of the highest order in response to man's innate sense of justice.[17]

On the other hand, if their termination was for an authorized cause such as the cessation of PASVIL's operations, as the NLRC has also seemingly held, the burden of proving that such cessation is bona fide falls upon PASVIL. In addition, the requirements that it (a) serve a written notice on the workers and on the Department of Labor and Employment at least one (1) month before the effective date of the closure, and (b) pay its dismissed employees separation pay equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher, with a fraction of at least six (6) months to be considered one (1) whole year, should also be shown to have been complied with.

WHEREFORE, the petition is GRANTED. The case is hereby REMANDED to the Court of Appeals for further proceedings.

Counsel for petitioners is required to show cause within ten (10) days from receipt hereof why he should not be punished for contempt for making false statements in the pleadings filed in this case, tending to mislead the Court and to degrade the administration of justice. No pronouncement as to costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Velasco, Jr. JJ., concur.

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[1] Rollo, pp. 27-28; Penned by Associate Justice Andres B. Reyes, Jr. and concurred in by Associate Justices B.A. Adefuin-Dela Cruz and Rebecca De Guia-Salvador.

[2] Id. at 29.

[3] G.R. No. 124823, July 28, 1999, 311 SCRA 444.

[4] Dandan, Lusama and Bonot did not sign the Sinumpaang Salaysay but their names appear therein.

[5] Rollo, pp. 138-153. Decision of the NLRC dated August 31, 2000.

[6] Id. at 154-155.

[7] Petitioners failed to append to the petition copies of the following documents and pleadings: (a) petition for certification filed on June 28, 1994; (b) Notice of Strike filed on August 3, 1994; (c) DOLE Secretary's Order issued on February 21, 1994; (d) Motion for Reconsideration of the NLRC Decision dated January 15, 1996; (e) Petition for Certiorari filed with the Supreme Court; and (f) Complaint for illegal dismissal docketed as NLRC-NCR Case No. 20-00-03-02435-99. Their counsel also failed to indicate his PTR number in the petition.

[8] Rollo, pp. 274-293.

[9] Id. at 295-299.

[10] Id. at 301.

[11] Id. at 254-256.

[12] Id. at 307-323.

[13] G.R. No. 160798, June 8, 2005, 459 SCRA 768.

[14] Id. at 780.

[15] Id. at 780-781.

[16] Havtor Management Phils., Inc. v. NLRC, 423 Phil. 509 (2001); EDI Staff Builders International, Inc. v. Magsino, 411 Phil. 730 (2001).

[17] Brahm Industries, Inc. v. NLRC, 345 Phil. 1077 (1997); Mendoza v. NLRC, 350 Phil. 486 (1998).

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