

RODOLFO LUNA, PETITIONER, VS. ALLADO CONSTRUCTION CO., INC., AND/OR RAMON ALLADO, RESPONDENTS.

G.R. No. 175251. May 30, 2011

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

This is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure seeking to reverse and set aside the Decision[1] dated July 28, 2006 of the Court of Appeals as well as its Resolution[2] dated September 28, 2006 denying the motion for reconsideration filed by petitioner.

As narrated in the Court of Appeals' July 28, 2006 Decision, the facts of this case are as follows:

[Respondent] Allado Construction Co., Inc. is a juridical entity engaged in the construction business; [respondent] Ramon Allado is the President of the said corporation.

[Petitioner] filed a complaint before the Executive Labor Arbiter Arturo Gamolo, RAB Branch XI, Davao City, alleging that he was an employee of herein [respondents], having been a part of [respondents'] construction pool of personnel. He had continuously rendered services as a warehouseman and a timekeeper in every construction project undertaken by [respondents]. Sometime in the afternoon of November 24, 2001, while at [respondents'] construction site in Maasim, Sarangani Province, he was given a travel order dated November 24, 2001 to proceed to [respondents'] main office in Davao City for reassignment. Upon arrival at the office of [respondents] on November 26, 2001, he was told by one Marilou Matilano, personnel manager of [respondents], to sign several sets of "Contract of Project Employment". He refused to sign the said contracts. Because of his refusal, he was not given a reassignment or any other work. These incidents prompted him to file the complaint.

[Respondents], on the other hand, alleged that on November 29, 2001, [petitioner] applied for a leave of absence until December 6, 2001, which was granted. Upon expiration of his leave, [petitioner] was advised to report to the company's project in Kablacan, Sarangani Province. However, he refused to report to his new assignment and claimed instead that he had been dismissed illegally.[3]

Finding that petitioner should be deemed to have resigned,[4] the Labor Arbiter dismissed petitioner's complaint for illegal dismissal against respondents, but ordered the latter to pay the former the amount of P18,000.00 by way of financial assistance. The dispositive portion of the Decision[5] dated June 26, 2002 of the Labor Arbiter is as follows:

WHEREFORE, foregoing considered, judgment is hereby rendered dismissing the action for illegal dismissal but ordering respondent ALLADO CONSTRUCTION CO., INC. to extend complainant RODOLFO LUNA the amount of PESOS: EIGHTEEN THOUSAND PESOS (P18,000.00) by way of financial assistance to tide him over during his post-employment with the former.[6]

Only respondents interposed an appeal with the National Labor Relations Commission (NLRC), purely for the purpose of questioning the validity of the grant of financial assistance made by the Labor Arbiter.

In its Resolution[7] dated May 9, 2003, the NLRC reversed the June 26, 2002 Decision of the Labor Arbiter and declared respondents guilty of illegal dismissal and ordered them to pay petitioner one-month salary for every year of service as separation pay, computed at P170.00 per day and full backwages from November 21, 2001 up to the finality of the decision. The dispositive portion of the May 9, 2003 NLRC Resolution reads:

WHEREFORE, the appeal is Granted and the assailed Decision is reversed and vacated; A new judgment is rendered declaring respondents-appellant guilty of illegal dismissal and to pay complainant-appellant one (1) month salary for every year of service as separation pay, computed at P170.00 per day and full backwages from November 21, 2001 up to the finality of the decision.[8]

Respondents moved for reconsideration but their motion was denied in the NLRC Resolution[9] dated September 30, 2003 due to lack of merit.

Unperturbed, respondents elevated their cause to the Court of Appeals via a petition for certiorari under Rule 65 of the Rules of Court to set aside the aforementioned NLRC issuances and to reinstate the Labor Arbiter's decision with the modification that the award of financial assistance be deleted. In its Decision dated July 28, 2006, the Court of Appeals granted respondents' petition for certiorari and disposed of the case in this wise:

ACCORDINGLY, the assailed Orders of respondent Commission are hereby SET ASIDE. The Decision of the Labor Arbiter in NLRC Case No. RAB XI-12-01312-01 is hereby REINSTATED with the MODIFICATION that the award of financial assistance is deleted.[10]

Relying on jurisprudence, the Court of Appeals held that it was grave abuse of discretion for the NLRC to rule on the issue of illegal dismissal when the only issue raised to it on appeal was the propriety of the award of financial assistance. The Court of Appeals further ruled that financial assistance may not be awarded in cases of voluntary resignation.

Expectedly, petitioner filed a motion for reconsideration but this was denied by the Court of Appeals in its Resolution dated September 28, 2006.

Hence, this petition for review wherein the petitioner puts forward for resolution the following issues:

(A) WHETHER OR NOT THE NLRC, IN THE EXERCISE OF ITS INHERENT POWERS, COULD STILL REVIEW ISSUES NOT BROUGHT DURING THE APPEAL;

(B) WHETHER OR NOT RESPONDENT COURT OF APPEALS EXERCISED GRAVE ABUSE OF DISCRETION IN DISREGARDING (1) THE FINDINGS OF FACT OF THE NLRC; (2) THE PRINCIPLE OF SOCIAL JUSTICE; AND (3) EXISTING JURISPRUDENCE WITH RESPECT TO AWARD OF FINANCIAL ASSISTANCE; and

(C) WHETHER OR NOT RESPONDENT COURT OF APPEALS EXHIBITED BIAS AND PARTIALITY WHEN IT RENDERED THE SUBJECT DECISION AND RESOLUTION CONSIDERING THE HASTY AND IMPROVIDENT ISSUANCE OF A WRIT OF PRELIMINARY INJUNCTION TO FRUSTRATE PETITIONER IN IMPLEMENTING THE FINAL AND EXECUTORY JUDGMENT OF THE NLRC RENDERED IN FAVOR OF PETITIONER.[11]

Anent the first issue, petitioner argues that the NLRC has the authority to review issues not brought before it for appeal. Petitioner bases this argument on Article 218(c) of the Labor Code, which provides:

ART. 218. Powers of the Commission. - The Commission shall have the power and authority:

x x x x

(c) To conduct investigation for the determination of a question, matter or controversy within its jurisdiction,

proceed to hear and determine the disputes in the absence of any party thereto who has been summoned or served with notice to appear, conduct its proceedings or any part thereof in public or in private, adjourn its hearings to any time and place, refer technical matters or accounts to an expert and to accept his report as evidence after hearing of the parties upon due notice, direct parties to be joined in or excluded from the proceedings, correct, amend, or waive any error, defect or irregularity whether in substance or in form, give all such directions as it may deem necessary or expedient in the determination of the dispute before it, and dismiss any matter or refrain from further hearing or from determining the dispute or part thereof, where it is trivial or where further proceedings by the Commission are not necessary or desirable. (Emphasis supplied.)

Furthermore, petitioner attempts to reinforce his position by citing *New Pacific Timber & Supply Company, Inc. v. National Labor Relations Commission*,^[12] where the Court expounded on the powers of the NLRC as provided for by Article 218(c) of the Labor Code, to wit:

Moreover, under Article 218(c) of the Labor Code, the NLRC may, in the exercise of its appellate powers, "correct, amend or waive any error, defect or irregularity whether in substance or in form." Further, Article 221 of the same provides that: "In any proceeding before the Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process. x x x."^[13] (Emphasis supplied.)

We find petitioner's argument to be untenable.

Section 4(c), Rule VI of the 2002 Rules of Procedure of the NLRC, which was in effect at the time respondents appealed the Labor Arbiter's decision, expressly provided that, on appeal, the NLRC shall limit itself only to the specific issues that were elevated for review, to wit:

RULE VI

Appeals

Section 4. Requisites for Perfection of Appeal. x x x.

x x x x

(c) Subject to the provisions of Article 218, once the appeal is perfected in accordance with these Rules, the Commission shall limit itself to reviewing and deciding specific issues that were elevated on appeal. (Emphasis supplied.)

As a testament to its effectivity and the NLRC's continued implementation of this procedural policy, the same provision was retained as Section 4(d), Rule VI of the 2005 Revised Rules of Procedure of the NLRC.

In the case at bar, the NLRC evidently went against its own rules of procedure when it passed upon the issue of illegal dismissal although the question raised by respondents in their appeal was concerned solely with the legality of the labor arbiter's award of financial assistance despite the finding that petitioner was lawfully terminated.

To reiterate, the clear import of the aforementioned procedural rule is that the NLRC shall, in cases of perfected appeals, limit itself to reviewing those issues which are raised on appeal. As a consequence thereof, any other issues which were not included in the appeal shall become final and executory.

We are cognizant of the fact that Article 218(c) of the Labor Code grants the NLRC the authority to "correct, amend or waive any error, defect or irregularity whether in substance or in form" in the exercise of its appellate jurisdiction. However, a careful perusal of the body of jurisprudence wherein we upheld the validity of the NLRC's invocation of that prerogative would reveal that the said cases involved factual issues and circumstances

materially dissimilar to the case at bar.

In *New Pacific Timber*,^[14] which petitioner cited, we ruled that there was no grave abuse of discretion on the part of the NLRC, using Article 218(c) as part basis, when it entertained the petition for relief filed by a party and treated it as an appeal, even if it was filed beyond the reglementary period for filing an appeal. Before that case, we invoked the same Labor Code provision in *City Fair Corporation v. National Labor Relations Commission*^[15] and *Judy Philippines, Inc. v. National Labor Relations Commission*^[16] to justify our ruling that the NLRC did not abuse its discretion when it allowed in both cases the appeal of a party even if it was filed a day, or even a few days, late. Similarly, we held in *Industrial Timber Corporation v. Ababon*,^[17] that substantial justice is best served by permitting the NLRC to allow a petition for relief filed by a party despite the earlier commission of a procedural defect of filing the motion for reconsideration three days late on the strength of Article 218(c) and other pertinent labor law provisions. In *Pison-Arceo Agricultural and Development Corporation v. National Labor Relations Commission*,^[18] we held that procedural rules governing service of summons are not strictly construed in NLRC proceedings owing to the relaxation of technical rules of procedure in labor cases as well as to Article 218(c). We likewise held in *Aguanza v. Asian Terminal, Inc.*,^[19] that the insufficiency of a supersedeas bond is a defect in form which the NLRC may waive. Furthermore, in *Independent Sagay-Escalante Planters, Inc. v. National Labor Relations Commission*,^[20] we ruled that the NLRC had ample authority, under Article 218(c), to disregard the circumstance that the appeal fee had been tardily paid by one party and to order both parties to present evidence before the Labor Arbiter in support of their claims. Lastly, in *Faeldonia v. Tong Yak Groceries*^[21] and *Mt. Carmel College v. Resuena*,^[22] we used Article 218(c) to justify the NLRC's reversal of the Labor Arbiter's factual conclusions. However, in both cases, there was no objection that the NLRC passed upon issues that were not raised on appeal.

On the other hand, it is already settled in jurisprudence that the NLRC may not rely on Article 218(c) of the Labor Code as basis for its act of reviewing an entire case above and beyond the sole legal question raised. In *Del Monte Philippines, Inc. v. National Labor Relations Commission*,^[23] which was correctly pointed out by the Court of Appeals as a case that is on all fours with the case at bar, we held that the NLRC cannot, under the pretext of correcting serious errors of the Labor Arbiter in the interest of justice, expand its power of review beyond the issues elevated by an appellant, to wit:

The issue presented for adjudication in this petition is whether or not there was grave abuse of discretion on the part of the NLRC in reversing the labor arbiter's decision.

We rule in the affirmative.

An appeal from a decision, award or order of the labor arbiter must be brought to the NLRC within ten (10) calendar days from receipt of such decision, award or order, otherwise, the same becomes final and executory [Art. 223, Labor Code; Rule VIII, Sec. 1(a), Revised Rules of the NLRC]. Moreover, the rules of the NLRC expressly provide that on appeal, the Commission shall limit itself only to the specific issues that were elevated for review, all other matters being final and executory [Rule VIII, Sec. 5(c), Revised Rules of the NLRC, italics supplied].

In the present case, petitioner, aggrieved by the labor arbiter's decision ordering the extension of financial assistance to Galagar despite the finding that his termination was for just cause, specifically limited his appeal to a single legal question, i.e., the validity of the award of financial assistance to an employee dismissed for pilfering company property. On the other hand, private respondent did not appeal.

When petitioner limited the issue on appeal, necessarily the NLRC may review only that issue raised. All other matters, including the issue of the validity of private respondent's dismissal, are final. If private respondent wanted to challenge the finding of a valid dismissal, he should have appealed his case seasonably to the NLRC.

By raising new issues in the reply to appeal, private respondent is in effect appealing his case although he has, in fact, allowed his case to become final by not appealing within the reglementary period. A reply/opposition to appeal cannot take the place of an appeal. Therefore, in this case, the dismissal of the complaint for illegal dismissal and the denial of the prayer for reinstatement, having become final, can no longer be reviewed.

Justifying its right to review the entire case and not just the sole legal question raised, public respondent relied on Article 218 (c) of the Labor Code. In the resolution denying the motion for reconsideration, public respondent quoted that portion which provides that the NLRC may in the exercise of its appellate power "correct, amend or waive any error, defect or irregularity whether in substance or in form."

Such reliance is misplaced.

The Labor Code provision, read in its entirety, states that the NLRC's power to correct errors, whether substantial or formal, may be exercised only in the determination of a question, matter or controversy within its jurisdiction [Art. 218, Labor Code]. Therefore, by considering the arguments and issues in the reply/opposition to appeal which were not properly raised by timely appeal nor comprehended within the scope of the issue raised in petitioner's appeal, public respondent committed grave abuse of discretion amounting to excess of jurisdiction.

The contention that the NLRC may nevertheless look into other issues although not raised on appeal since it is not bound by technical rules of procedure, is likewise devoid of merit.

The law does not provide that the NLRC is totally free from "technical rules of procedure", but only that the rules of evidence prevailing in courts of law or equity shall not be controlling in proceedings before the NLRC [Art. 221, Labor Code]. This is hardly license for the NLRC to disregard and violate the implementing rules it has itself promulgated. Having done so, the NLRC committed grave abuse of discretion.[24] (Emphases supplied.)

The Court reiterated the foregoing ruling in *Torres v. National Labor Relations Commission*[25] and *United Placement International v. National Labor Relations Commission*.[26]

With regard to the second assignment of error which essentially involves the determination of factual issues, we are reminded that, in a petition under Rule 45 of the Rules of Court, only questions of law, not of fact, may be raised before the Court.[27] However, where the findings of the NLRC contradict those of the Labor Arbiter, the Court, in the exercise of equity jurisdiction, may look into the records of the case and reexamine the questioned findings.[28]

In the case at bar, we are constrained to reexamine the factual findings of the Labor Arbiter and the Court of Appeals, on one side, and of the NLRC, on the other, since they have divergent appreciations of the facts of this case.

Petitioner argues that the NLRC had established that there existed serious doubt between the evidence presented by the parties and, thus, the NLRC was correct in resolving the doubt in petitioner's favor following jurisprudence which states that if doubt exists between the evidence presented by the employer and the employee, the scales of justice must be tilted in favor of the latter.[29]

The argument is unmeritorious.

This is not a case where there is mere doubt between the evidence of the parties; but the question here is, whether in the first place, there was substantial evidence for petitioner's claim in his complaint that he was actually dismissed from the service of respondents on November 26, 2001 (as alleged in his Complaint) or November 27, 2001 (as alleged in his Position Paper) when he purportedly refused to sign on November 26, 2001 blank project employment contracts.

It was incorrect for the NLRC to conclude that doubt exists between the evidence of both parties, thus, necessitating a ruling in favor of petitioner, because a careful examination of the records of this case would reveal that there was no adequate evidentiary support for petitioner's purported cause of action -- actual illegal dismissal.

As shown by the records, inconsistent with his claim that he was actually dismissed on November 26 or 27, 2001, petitioner applied for and was granted a week long leave from November 29 to December 6, 2001. Petitioner did not deny that he indeed filed and signed the leave application form submitted by respondents as an attachment to their position paper. He merely claimed that he went on leave since he was not given any work assignment by the Company. However, the leave application form which bore his signature clearly stated that his reason for going on leave was "to settle [his] personal problem." [30]

Indeed, the NLRC gravely abused its discretion in reversing the Labor Arbiter's decision on mere conjectures and insubstantial grounds. In its Resolution dated May 9, 2003, the NLRC concluded that petitioner "was not allowed to work in his former position because he was already replaced" [31] merely on the basis of the handwritten notation that stated "Who will replace him?" [32] found on the Leave Application Form which petitioner himself filled-up and signed. The same notation could reasonably be interpreted as asking who will be substituting petitioner for the duration of his leave. It was speculative at best for the NLRC, in resolving respondents' motion for reconsideration, to rule that the notation meant permanent replacement simply because the words "in the meantime" were lacking. [33] Contrary to the NLRC's interpretation of this notation, it, in fact, belied petitioner's contention that he was already dismissed or had no existing work assignment for, if so, there would be no need for him to file a leave application and for the employer to find someone to replace him. In any event, such notation cannot be credibly construed as substantial proof of petitioner's alleged illegal dismissal.

The NLRC further erroneously concluded that petitioner was illegally dismissed since during the several mandatory conferences between the parties, respondents purportedly never asked petitioner to go back to work without signing the alleged blank project employment contracts. From that circumstance, the NLRC inferred that respondents were no longer in need of petitioner's services. This rationalization is difficult to accept because it goes against the pronouncement of the Labor Arbiter in his Decision dated June 26, 2002. The Labor Arbiter who presided during the mandatory preliminary conferences plainly stated in his Decision that respondent corporation, through its representative during preliminary conference, denied the contract of project employment and confirmed the availability of the same employment to petitioner without any demotion in rank or diminution of benefits. [34] Thus, the Labor Arbiter concluded that "complainant's refusal to resume employment without valid cause and instead demanded separation pay and backwages is tantamount to resignation." [35]

To reiterate, petitioner did not appeal from the foregoing findings of the Labor Arbiter and he should be deemed to have accepted those factual findings. If he had truly felt aggrieved, petitioner himself would have questioned the Labor Arbiter's findings with the NLRC. Instead of pursuing all legal remedies to protect his rights, petitioner did not even file any opposition or comment to respondents' Appeal Memorandum with the NLRC. He only participated in the proceedings again when the NLRC had already rendered a decision in his favor and he opposed respondents' motion for reconsideration of the NLRC decision.

In petitioner's Reply and Memorandum filed with this Court, petitioner's counsel belatedly offered the explanation that the appeal of the Labor Arbiter's decision was not filed for he failed to contact his client in time. [36] We find that we cannot give credence to this excuse. On record is a registry return card that showed that petitioner received his copy of the Labor Arbiter's decision by mail on July 19, 2002 even before his counsel did on August 1, 2002. It is difficult to believe that petitioner, after receiving the Labor Arbiter's decision, would not himself contact his lawyer regarding the same. Verily, it is settled in jurisprudence that a party that did not appeal a judgment is bound by the same and he cannot obtain from the appellate court any affirmative relief other than

those granted, if any, in the decision of the lower court or administrative body.[37]

Also in connection with the second issue, petitioner argued in his Memorandum that, assuming without admitting that there was no illegal dismissal, the award of financial assistance was in accordance with existing jurisprudence pursuant to the principle of social justice. On this point, we agree with petitioner. *Eastern Shipping Lines, Inc v. Sedan*[38] bears certain parallelisms with the present controversy. In *Eastern*, the employer likewise questioned the grant of financial assistance on the ground that the employee's refusal to report back to work, despite being duly notified of the need for his service, is tantamount to voluntary resignation. In that case, however, we ruled:

We are not unmindful of the rule that financial assistance is allowed only in instances where the employee is validly dismissed for causes other than serious misconduct or those reflecting on his moral character. Neither are we unmindful of this Court's pronouncements in *Arc-Men Food Industries Corporation v. NLRC*, and *Lemery Savings and Loan Bank v. NLRC*, where the Court ruled that when there is no dismissal to speak of, an award of financial assistance is not in order.

But we must stress that this Court did allow, in several instances, the grant of financial assistance. In the words of Justice Sabino de Leon, Jr., now deceased, financial assistance may be allowed as a measure of social justice and exceptional circumstances, and as an equitable concession. The instant case equally calls for balancing the interests of the employer with those of the worker, if only to approximate what Justice Laurel calls justice in its secular sense. [39] (Emphases supplied.)

There appears to be no reason why petitioner, who has served respondent corporation for more than eight years without committing any infraction, cannot be extended the reasonable financial assistance of P18,000.00 as awarded by the Labor Arbiter on equity considerations.

We see no merit in respondents' contention that petitioner was guilty of insubordination or abandonment. Significantly, the Labor Arbiter made no finding that petitioner was guilty of insubordination or abandonment. It would appear that a few days after the expiration of his applied for leave, petitioner filed his complaint for illegal actual dismissal. Other than their self-serving allegations, respondents offered no proof that upon the expiration of petitioner's leave they directed petitioner to report to work but petitioner willfully failed to comply with said directive. On the contrary, in their own position paper, respondents prayed, aside from the dismissal of the complaint, that petitioner be directed by the Labor Arbiter to return to work and only when petitioner fails to comply with such order did they pray that petitioner be considered to have abandoned his work.[40] The Labor Arbiter did not grant this particular relief prayed for by respondents but instead awarded financial assistance to petitioner.

In some cases where there is neither a dismissal nor abandonment, we have previously held that separation pay may be awarded under appropriate circumstances. Thus, in *Indophil Acrylic Mfg. Corp. v. National Labor Relations Commission*,[41] wherein the employer claimed that the employee had resigned/abandoned his work while the employee believed that he had been terminated, the Court held:

We have turned a heedful eye on all the pleadings and evidence submitted by the parties and have concluded that there was NO DISMISSAL. Setting aside the other arguments of the parties which we find irrelevant, attention is called to the letter dated October 2, 1989 of petitioner's Personnel Manager, Mr. Nicasio B. Gaviola, to private respondent which the latter does not dispute, the full text of which reads:

"Records show that you have not been reporting to (sic) work since September 16, 1989 up to this writing. For what reason, we are not aware.

With this letter, you are required to report to this office and explain your unauthorized absences within three (3) days upon receipt hereof.

Failure to report as required shall mean that we will consider you having resigned for abandonment of job."
(sic)

Clearly, therefore, petitioner had disregarded private respondent's previous resignation and still considers him its employee. It follows, that at the time private respondent filed his complaint for illegal dismissal before the Labor Arbiter, on October 4, 1989, petitioner has not dismissed him.

x x x x

There being no dismissal of private respondent by petitioner to speak of, the status quo between them should be maintained as a matter of course. But there is no denying that their relationship must have been ruptured. Taking into account the misconception of private respondent that he was dismissed and the October 2, 1989 letter of petitioner, the parties could have easily settled their controversy at the inception of the proceedings before the Labor Arbiter. This they failed to do. Thus, in lieu of reinstatement, petitioner is ordered to grant separation pay to private respondent. x x x.[42] (Emphases supplied.)

Applying the above ratiocination by analogy and in accordance with equity, we uphold the Labor Arbiter's award of financial assistance as proper in this case.

Lastly, with regard to the third issue, petitioner argues that the former Special Twenty-Second Division of the Court of Appeals exhibited its bias and partiality when it issued a temporary restraining order (TRO) to stop and frustrate the enforcement of the decision rendered by the NLRC despite the fact that only one of its member associate justices granted the same without the concurrence of the two other member associate justices who merely concurred subsequently.

The argument is without merit.

In fact, the issue is hardly contentious. The granting of a TRO by a justice of the Court of Appeals who is the ponente of the case, even without the concurrence of the other associate justices assigned in the division, is allowed under Section 5, Rule VI of the 2002 Internal Rules of the Court of Appeals, to wit:

Section 5. Action by a Justice. - All members of the Division shall act upon an application for a temporary restraining order and writ of preliminary injunction. However, if the matter is of extreme urgency, and a Justice is absent, the two other justices shall act upon the application. If only the ponente is present, then he shall act alone upon the application. The action of the two Justices or of the ponente shall however be submitted on the next working day to the absent member or members of the Division for ratification, modification or recall.
(Emphases supplied.)

The records of this case would attest to the urgency of the situation which necessitated the exceptionally prompt issuance of the TRO at issue. When the TRO was issued, the NLRC Regional Arbitration Branch No. XI was already in the process of enforcing the assailed Resolution of the NLRC dated May 9, 2003 as evidenced by its issuance of a Notice of Hearing[43] for a pre-execution conference which was impelled by a motion made by petitioner.[44] The pre-execution conference was conducted as scheduled, thus, respondents filed with the Court of Appeals an Urgent Motion for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction.[45]

In view of the urgency of the situation and in order to prevent the petition of respondents from becoming moot and academic, Court of Appeals Associate Justice Romulo V. Borja, the Chairman of the Twenty-Second Division, issued a Resolution dated June 14, 2006, granting the TRO prayed for by respondents.[46] Nonetheless, the grant of said TRO was subsequently concurred in by the rest of the members of the Division, namely Associate Justices Antonio L. Villamor and Ramon R. Garcia, in their separate Resolutions both dated June 19,

2006.[47] Clearly, the issuance of the TRO at issue was in accordance with the 2002 Internal Rules of the Court of Appeals.

WHEREFORE, the petition is PARTLY GRANTED. The assailed Decision dated July 28, 2006 as well as the Resolution dated September 28, 2006 of the Court of Appeals in CA-G.R. SP No. 81703 are AFFIRMED WITH THE MODIFICATION that the award of financial assistance is REINSTATED. The Labor Arbiter's Decision dated June 26, 2002 is AFFIRMED in toto.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Peralta,[*] and Perez, JJ., concur.

[*] Per Special Order No. 994 dated May 27, 2011.

[1] Rollo, pp. 36-46; penned by Associate Justice Romulo V. Borja with Associate Justices Ramon R. Garcia and Sixto C. Marella, Jr., concurring.

[2] Id. at 49.

[3] Id. at 37-38.

[4] Id. at 26.

[5] Id. at 23-28.

[6] Id. at 27-28.

[7] Records, Vol. 2, pp. 21-24.

[8] Id. at 23.

[9] Id. at 59-60.

[10] Rollo, pp. 45-46.

[11] Id. at 128-129.

[12] 385 Phil. 93 (2000).

[13] Id. at 104.

[14] Id.

[15] 313 Phil. 464, 469 (1995).

[16] 352 Phil. 593, 604 (1998).

[17] G.R. Nos. 164518 & 164965, January 25, 2006, 480 SCRA 171, 181.

[18] G.R. No. 117890, September 18, 1997, 279 SCRA 312, 319-320.

[19] G.R. No. 163505, August 14, 2009, 596 SCRA 104, 111.

[20] G.R. No. 100926, March 13, 1992, 207 SCRA 218, 223-224.

[21] G.R. No. 182499, October 2, 2009, 602 SCRA 677, 684.

- [22] G.R. No. 173076, October 10, 2007, 535 SCRA 518, 540.
- [23] G.R. No. 87371, August 6, 1990, 188 SCRA 370.
- [24] *Id.* at 373-375.
- [25] G.R. No. 90338, August 9, 1991, 200 SCRA 424.
- [26] G.R. No. 102081-83, April 12, 1993, 221 SCRA 445.
- [27] *Land Bank of the Philippines v. Chico*, G.R. No. 168453, March 13, 2009, 581 SCRA 226, 239.
- [28] *Abel v. Philex Mining Corporation*, G.R. No. 178976, July 31, 2009, 594 SCRA 683, 691-692.
- [29] *Nicario v. National Labor Relations Commission*, 356 Phil. 936, 943 (1998).
- [30] *Records*, Vol. 1, p. 31.
- [31] *Id.*, Vol. 2, p. 22.
- [32] *Id.*, Vol. 1, p. 31.
- [33] *Id.*, Vol. 2, p. 59.
- [34] *Rollo*, p. 26.
- [35] *Id.*
- [36] *Id.* at 107 and 127.
- [37] *Pison-Arceo Agricultural and Development Corporation v. National Labor Relations Commission*, *supra* note 18.
- [38] G.R. No. 159354, April 7, 2006, 486 SCRA 565.
- [39] *Id.* at 574-575.
- [40] *Records*, Vol. 1, p. 29.
- [41] G.R. No. 96488, September 27, 1993, 226 SCRA 723.
- [42] *Id.* at 728-729; see also *Belaunzaran v. National Labor Relations Commission*, 333 Phil 670 (1996).
- [43] *Rollo*, p. 89.
- [44] *Id.* at 90-91.
- [45] *Id.* at 92-95.
- [46] *Id.* at 97-98.
- [47] *Id.* at 100-101 and 102-103.

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