MANILA WATER COMPANY, INC., PETITIONER, VS. JOSE J. DALUMPINES, EMMANUEL CAPIT, ROMEO B. CASTOLONE, MELITANTE CASTRO, NONITO FERNANDEZ, ARNULFO JAMISON, ARTHUR LAVISTE, ESTEBAN ...

G.R. No. 175501. October 04, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

Before the Court is a petition for review on certiorari under Rule 45 of the Rules of Court, assailing the Decision[1] dated September 12, 2006 and the Resolution[2] dated November 17, 2006 of the Court of Appeals (CA) in CA-G.R. SP No. 94909.

The facts of the case are as follows:

By virtue of Republic Act No. 8041, otherwise known as the "National Water Crisis Act of 1995," the Metropolitan Waterworks and Sewerage System (MWSS) was given the authority to enter into concession agreements allowing the private sector in its operations. Petitioner Manila Water Company, Inc. (Manila Water) was one of two private concessionaires contracted by the MWSS to manage the water distribution system in the east zone of Metro Manila. The east service area included the following towns and cities: Mandaluyong, Marikina, Pasig, Pateros, San Juan, Taguig, Makati, parts of Quezon City and Manila, Angono, Antipolo, Baras, Binangonan, Cainta, Cardona, Jala-Jala, Morong, Pililla, Rodriguez, Tanay, Taytay, Teresa, and San Mateo.[3]

Under the concession agreement, Manila Water undertook to absorb the regular employees of MWSS listed by the latter effective August 1, 1997. Individual respondents, with the exception of Moises Zapatero (Zapatero) and Edgar Pamoraga (Pamoraga), were among the one hundred twenty-one (121) employees not included in the list of employees to be absorbed by Manila Water. Nevertheless, Manila Water engaged their services without written contract from August 1, 1997 to August 31, 1997.[4]

On September 1, 1997, individual respondents signed a three (3)-month contract to perform collection services on commission basis for Manila Water's branches in the east zone.[5]

On November 21, 1997, before the expiration of the contract of services, the 121 bill collectors formed a corporation duly registered with the Securities and Exchange Commission (SEC) as the "Association Collector's Group, Inc." (ACGI). ACGI was one of the entities engaged by Manila Water for its courier service. However, Manila Water contracted ACGI for collection services only in its Balara Branch.[6]

In December 1997, Manila Water entered into a service agreement with respondent First Classic Courier Services, Inc. (FCCSI) also for its courier needs. The service agreements between Manila Water and FCCSI covered the periods 1997 to 1999 and 2000 to 2002.[7] Earlier, in a memorandum dated November 28, 1997, FCCSI gave a deadline for the bill collectors who were members of ACGI to submit applications and letters of intent to transfer to FCCSI. The individual respondents in this case were among the bill collectors who joined FCCSI and were

hired effective December 1, 1997.[8]

On various dates between May and October 2002, individual respondents were terminated from employment. Manila Water no longer renewed its contract with FCCSI because it decided to implement a "collectorless" scheme whereby Manila Water customers would instead remit payments through "Bayad Centers."[9] The aggrieved bill collectors individually filed complaints for illegal dismissal, unfair labor practice, damages, and attorney's fees, with prayer for reinstatement and backwages against petitioner Manila Water and respondent FCCSI. The complaints were consolidated and jointly heard.[10]

Respondent bill collectors alleged that their employment under Manila Water had four (4) stages: (a) from August 1, 1997 to August 31, 1997; (b) from September 1, 1997 to November 30, 1997; (c) in November 1997 when FCCSI was incorporated; and (d) after November 1977 when FCCSI came in. While in MWSS, and thereafter in Manila Water and FCCSI, respondent bill collectors were made to perform the following functions: (1) delivery of bills to customers; (2) collection of payments from customers; and (3) delivery of disconnection notice to customers. They were also allowed to effect disconnection and were given tools for this purpose.[11]

Respondent bill collectors averred that when Manila Water issued their individual contracts of service for three months in September 1997, there was already an attempt to make it appear that respondent bill collectors were not its employees but independent contractors. Respondent bill collectors stressed that they could not qualify as independent contractors because they did not have an independent business of their own, tools, equipment, and capitalization, but were purely dependent on the wages they earned from Manila Water, which was termed as "commission."[12]

Respondent bill collectors alleged that Manila Water had complete supervision over their work and their collections, which they had to remit daily to the former. They also maintained that the incorporation of ACGI did not mean that they were not employees of Manila Water. Furthermore, they alleged that they suffered injustice when Manila Water imposed upon them the work set-up that caused them to be emotionally depressed because those who were not assigned to the Balara Branch under Manila Water's contract with ACGI were forced to join FCCSI to retain their employment. They argued that the entry of FCCSI did not change the employer-employee relationship of respondent bill collectors with Manila Water.[13]

Respondent bill collectors insisted that they remained employees of Manila Water even after the entry of FCCSI. The latter did not qualify as a legitimate labor contractor since it had no substantial capital. FCCSI only had a paid-up capital of one hundred thousand pesos (P100,000.00), out of the four hundred thousand pesos (P400,000.00) authorized capital. FCCSI relied mainly on what Manila Water would pay, from which it deducted an agency fee, and it had no other clients on collection. They were forced to transfer to FCCSI when their service contracts with Manila Water was about to expire on November 30, 1997. FCCSI was engaged in labor-only contracting which is prohibited by law.[14]

Respondent bill collectors averred that even under the four-fold test of employer-employee relationship, it appeared that Manila Water was their true employer based on the following circumstances: (1) it was Manila Water who engaged their services as bill collectors when it took over the operations of the east zone from MWSS on August 1, 1997; (2) it was Manila Water which paid their wages in the form of commissions every fifteenth (15[th]) and thirtieth (30[th])day of each month; (3) Manila Water exercised the power of dismissal over them as bill collectors as evidenced by the instances surrounding their termination as set forth in their respective affidavits, and by the individual clearances issued to them not by FCCSI but by Manila Water, stating that the same was "issued in connection with his termination of contract as Contract Collector of Manila Water Company"; and (4) their work as bill collectors was clearly related to the principal business of Manila Water.[15]

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Respondent FCCSI, on the other hand, claimed that it is an independent contractor engaged in the business of providing messengerial or courier services, and it fulfills the criteria set forth under Department Order No. 10, Series of 1997.[16] It was issued a certificate of registration by the Department of Labor and Employment (DOLE) as an independent contractor. It was incorporated and registered with the SEC in November 1995. It was duly registered with the Department of Transportation and Communication (DOTC) and the Office of the Mayor of Makati City for authority to operate. It has sufficient capital in the form of tools, equipment, and machinery as attested to by the Postal Regulation Committee of the DOTC after conducting an ocular inspection. It provides similar services to Philippine Long Distance Telephone Company, Smart Telecommunications, Inc., and Home Cable, Inc. Under the terms and conditions of its service agreement with Manila Water, FCCSI has the power to hire, assign, discipline, or dismiss its own employees, as well as control the means and methods of accomplishing the assigned tasks, and it pays the wages of the employees.[17]

The termination of employment of respondent bill collectors upon the expiration of FCCSI's contract with Manila Water did not mean the automatic termination or suspension of the employer-employee relationship between FCCSI and respondent bill collectors. Their termination after their six (6) month floating status, which was allowed by law, was due to the non-renewal of FCCSI's agreement with Manila Water and its inability to enter into a similar contract requiring the skills of respondent bill collectors.[18]

Petitioner Manila Water, for its part, denied that there was an employer-employee relationship between its company and respondent bill collectors. Based on the agreement between FCCSI and Manila Water, respondent bill collectors are the employees of the former, as it is the former that has the right to select/hire, discipline, supervise, and control. FCCSI has a separate and distinct legal personality from Manila Water, and it was duly registered as an independent contractor before the DOLE.[19]

Petitioner further claimed that individual service contracts signed by respondent bill collectors for a 3-month period with Manila Water were valid and legal. The fact that the duration of the engagement was stated on the face of the contract dispels any bad faith on the part of the company. Fixed term contracts are allowed by law. Furthermore, respondent bill collectors' allegation that the incorporation of ACGI was made as a condition of their continued employment was unfounded. They transferred to FCCSI on their own volition.[20]

Petitioner Manila Water also averred that, under its organizational structure, there was no regular plantilla position of bill collector, which was the main reason why respondent bill collectors were not included in the list of MWSS employees absorbed by the company. The company's out-sourcing of courier needs to an independent contractor was valid and legal.

On September 27, 2004, the Labor Arbiter (LA) rendered a decision,[21] the dispositive portion of which reads:

> WHEREFORE, premises considered, the complaints against respondent Manila Water Company, Inc. is dismissed for lack of jurisdiction due to want of employer-employee relationship. Respondent First Classic Courier Services is hereby ordered to pay complainants separation pay equivalent to one (1) month pay for every year of service, to wit:
>
> 1. JOSE P. DALUMPINES - - - - - - - - P36,400.00
> 2. SUSANO MIRANDA - - - - - - - - - P36,400.00
> 3. EDGAR PAMORAGA - - - - - - - - - P29,120.00
> 4. ARTHUR G. LAVISTI - - - - - - - - - P36,400.00
> 5. BENJAMIN TALAVERA, JR. - - - - P36,400.00
> 6. JOSE S.A. SIERRA - - - - - - - - - - - P36,400.00
> 7. MELITANTE D. CASTRO - - - - - - P36,400.00
> 8. BERNARDO S. MEDINA - - - - - - - P36,400.00

9. MELENCIO BAONGUIS - - - - - - - P36,400.00
10. NONITO V. FERNANDEZ - - - - - - P36,400.00
11. LEGARTO ESTEBAN - - - - - - - - - P36,400.00
12. ROMEO B. CASTALONE - - - - - - P36,400.00
13. RAMON C. REYES - - - - - - - - - - - P36,400.00
14. MOISES L. ZAPATERO - - - - - - - - P29,120.00
15. JOSE T. AGUILAR - - - - - - - - - - - P36,400.00
16. ARNULFO T. JAMISON - - - - - - - P36,400.00
17. ANGEL C. GARCIA - - - - - - - - - - - P36,400.00
18. JOSE TEODY P. VELASCO - - - - - P36,400.00
19. AUGUSTUS J. TANDOC - - - - - - - P36,400.00
20. EMMANUEL L. CAPIT - - - - - - - - P36,400.00
21. WILLIAM AGANON - - - - - - - - - - P87,360.00
22. ROBERTO S. DAGDAG - - - - - - - - P36,400.00
23 MIGUEL J. LOPEZ - - - - - - - - - - - - P36,400.00
24. GEORGE CABRERA - - - - - - - - - - P36,400.00
25. BORROMEO ARMAN - - - - - - - - - P36,400.00
26. RONITO R. FRIAS - - - - - - - - - - - - P36,400.00
27. ANTONIO A. VERGARA - - - - - - - P36,400.00
28. RANDY T. CORTIGUERRA - - - - - P36,400.00

TOTAL - - - - - - - P1,055,600.00

SO ORDERED.[22]

Respondent bill collectors and FCCSI filed their separate appeals with the National Labor Relations Commission (NLRC). On March 15, 2006, the NLRC rendered a decision[23] affirming in toto the decision of the LA. Respondent bill collectors filed a motion for reconsideration, but the same was denied in a resolution[24] dated April 28, 2006.

Disgruntled, respondent bill collectors filed a petition for certiorari under Rule 65 of the Rules of Court before the CA. On September 12, 2006, the CA rendered a Decision, the dispositive portion of which reads:

> WHEREFORE, premises considered, the present petition is hereby GIVEN DUE COURSE and the writ prayed for accordingly GRANTED. Consequently, the assailed Decision dated March 15, 2006 and Resolution dated April 28, 2006 of the National Labor Relations Commission are hereby ANNULED and SET ASIDE. A new judgment is hereby entered (a) declaring the petitioners as employees of private respondent Manila Water Company, Inc., and their termination as bill collectors as illegal; and (b) ordering private respondent Manila Water Company, Inc. to pay the petitioners separation pay equivalent to one (1) month for every year of service. In addition, private respondent Manila Water Company, Inc. is liable to pay ten percent (10%) of the total amount awarded as attorney's fees.
>
> No pronouncement as to costs.
>
> SO ORDERED.[25]

Petitioner Manila Water and respondent bill collectors filed a motion for reconsideration. However, the CA denied their respective motions for reconsideration in a Resolution dated November 17, 2006.

Hence, this petition.

Petitioner Manila Water presented the following issues for resolution, whether the CA erred (1) in ruling that an employment relationship exists between respondent bill collectors and petitioner Manila Water; (2) in its

application of Manila Water Company, Inc. v. Peña[26] to the instant case; and (3) in ruling that respondent FCCSI is not a bona fide independent contractor.[27]

The petition is bereft of merit.

In this case, the LA, the NLRC, and the CA reached different conclusions of law albeit agreeing on the same set of facts. It was in their interpretation and appreciation of the evidence that they differed. The CA ruled that respondent FCCSI was a labor-only contractor and that respondent bill collectors are employees of petitioner Manila Water, while the LA and the NLRC ruled otherwise.

"Contracting" or "subcontracting" refers to an arrangement whereby a principal agrees to put out or farm out with a contractor or subcontractor the performance or completion of a specific job, work, or service within a definite or predetermined period, regardless of whether such job, work, or service is to be performed or completed within or outside the premises of the principal.[28]

Contracting and subcontracting arrangements are expressly allowed by law but are subject to regulation for the promotion of employment and the observance of the rights of workers to just and humane conditions of work, security of tenure, self-organization, and collective bargaining.[29] In legitimate contracting, the trilateral relationship between the parties in these arrangements involves the principal which decides to farm out a job or service to a contractor or subcontractor, which has the capacity to independently undertake the performance of the job, work, or service, and the contractual workers engaged by the contractor or subcontractor to accomplish the job, work, or service.[30]

Job contracting is permissible only if the following conditions are met: 1) the contractor carries on an independent business and undertakes the contract work on his own account under his own responsibility according to his own manner and method, free from the control and direction of his employer or principal in all matters connected with the performance of the work except as to the results thereof; and 2) the contractor has substantial capital or investment in the form of tools, equipment, machineries, work premises, and other materials which are necessary in the conduct of the business.[31]

On the other hand, the Labor Code expressly prohibits "labor-only" contracting. Article 106 of the Code provides that there is labor-only contracting where the person supplying workers to an employer does not have substantial capital or investment in the form of tools, equipment, machineries, work premises, among others, and the workers recruited and placed by such person are performing activities which are directly related to the principal business of the employer. In such cases, the person or intermediary shall be considered merely as an agent of the employer who shall be responsible to the workers in the same manner and to the same extent as if the latter were directly employed by him.[32]

Department Order No. 18-02, Series of 2002, enunciates that labor-only contracting refers to an arrangement where the contractor or subcontractor merely recruits, supplies, or places workers to perform a job, work, or service for a principal, and any of the following elements are present: (i) the contractor or subcontractor does not have substantial capital or investment which relates to the job, work, or service to be performed and the employees recruited, supplied, or placed by such contractor or subcontractor are performing activities which are directly related to the main business of the principal; or (ii) the contractor does not exercise the right to control the performance of the work of the contractual employee.[33]

"Substantial capital or investment" refers to capital stocks and subscribed capitalization in the case of corporations, tools, equipment, implements, machineries, and work premises, actually and directly used by the contractor or subcontractor in the performance or completion of the job, work, or service contracted out. The

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"right to control" refers to the right reserved to the person for whom the services of the contractual workers are performed, to determine not only the end to be achieved, but also the manner and means to be used in reaching that end.[34]

In the instant case, the CA found that FCCSI is a labor-only contractor. Based on the factual findings of the CA, FCCSI does not have substantial capital or investment to qualify as an independent contractor, viz.:

> FCCSI was incorporated on November 14, 1995, with an authorized capital stock of P400,000.00, of which only P100,000.00 is actually paid-in. Going by the pronouncement in Peña, such capitalization can hardly be considered substantial. FCCSI and Manila Water make much of the 17 April 1997 letter of Postal Regulation Committee Chairman Francisco V. Ontalan, Jr. to DOTC Secretary Arturo T. Enrile recommending the renewal and/or extension of authority to FCCSI to operate private messengerial delivery services, which states in part:
>
> "Ocular inspection conducted on its office premises and evaluation of the documents submitted, the firm during the six (6) months operation has generated employment to thirty six (36) messengers, and four (4) office personnel.
>
> "The office equipt [sic] with modern facilities such as computers, printers, electric typewriter, working table, telephone lines, airconditioning unit, pigeon holes, working tables and delivery vehicles such as a Suzuki van and three (3) motorcycles. The firm's audited financial statement for the period ending 31 December 1996 [shows] that it earned a net income of P253,000.00. x x x."

The above document only proves that FCCSI has no sufficient investment in the form of tools, equipment and machinery to undertake contract services for Manila Water involving a fleet of around 100 collectors assigned to several branches and covering the service area of Manila Water customers spread out in several cities/towns of the East Zone. The only rational conclusion is that it is Manila Water that provides most if not all the logistics and equipment including service vehicles in the performance of the contracted service, notwithstanding that the contract between FCCSI and Manila Water states that it is the Contractor which shall furnish at its own expense all materials, tools and equipment needed to perform the tasks of collectors. Moreover, it must be emphasized that petitioners who are "trained collectors" performed tasks that cannot be simply categorized as "messengerial." In fact, these are the very functions they were already discharging even before they joined FCCSI which "invited" or "solicited" their placement just about the expiration of their three (3)-month contract with Manila Water on November 28, 1997. The Agreement between FCCSI and Manila Water provides that FCCSI shall "field the required number of trained collectors to the following Customer Relations Branch Office": Cubao, España, San Juan-Mandaluyong, Marikina, Pasig, Taguig-Pateros and Makati.[35]

As correctly ruled by the CA, FCCSI's capitalization may not be considered substantial considering that it had close to a hundred collectors covering the east zone service area of Manila Water customers. The allegation in the position paper of FCCSI that it serves other companies' courier needs does not "cure" the fact that it has insufficient capitalization to qualify as independent contractor. Neither did FCCSI prove its allegation by substantial evidence other than by their self-serving declarations. What is evident is that it was Manila Water that provided the equipment and service vehicles needed in the performance of the contracted service, even if the contract between FCCSI and Manila Water stated that it was the Contractor which shall furnish at its own expense all materials, tools, and equipment needed to perform the tasks of collectors.

Based on the four-fold test of employer-employee relationship, Manila Water emerges as the employer of respondent collectors. The elements to determine the existence of an employment relationship are: (a) the selection and engagement of the employee; (b) the payment of wages; (c) the power of dismissal; and (d) the employer's power to control the employee's conduct. The most important of these elements is the employer's

control of the employee's conduct, not only as to the result of the work to be done, but also as to the means and methods to accomplish it.[36]

The factual circumstances in the instant case are essentially the same as those cited in Manila Water Company, Inc. v. Hermiño Peña.[37] In that case, 121 bill collectors, headed by Peña, filed a complaint for illegal dismissal against Manila Water. The bill collectors formed ACGI which was registered with the SEC. Manila Water, in opposing the claim of the bill collectors, claimed that there was no employer-employee relationship with the latter. It averred that the bill collectors were employees of ACGI, a separate entity engaged in collection services, an independent contractor which entered into a service contract for the collection of Manila Water's accounts. The Court ruled that ACGI was not an independent contractor but was engaged in labor-only contracting, and as such, is considered merely an agent of Manila Water.[38]

The Court ratiocinated that: First, ACGI does not have substantial capitalization or investment in the form of tools, equipment, machineries, work premises, and other materials to qualify as an independent contractor. Second, the work of the bill collectors was directly related to the principal business or operation of Manila Water. Being in the business of providing water to the consumers in the east zone, the collection of the charges by the bill collectors for the company can only be categorized as related to, and in the pursuit of, the latter's business. Lastly, ACGI did not carry on an independent business or undertake the performance of its service contract in its own manner and using its own methods, free from the control and supervision of its principal, Manila Water. Since ACGI is obviously a labor-only contractor, the workers it supplied are considered employees of the principal. Furthermore, the activities performed by the bill collectors were necessary or desirable to Manila Water's principal trade or business; thus, they are regular employees of the latter. Since Manila Water failed to comply with the requirements of termination under the Labor Code, the dismissal of the bill collectors was tainted with illegality.[39]

The similarity between the instant case and Peña is very evident. First, the work set-up between the respondent contractor FCCSI and respondent bill collectors is the same as in Peña. Respondent bill collectors were individually hired by the contractor, but were under the direct control and supervision of the concessionaire. Second, they performed the same function of courier and bill collection services. Third, the element of control exercised by Manila Water over respondent bill collectors is essentially the same as in Peña, manifested in the following circumstances, viz.: (a) respondent bill collectors reported daily to the branch offices of Manila Water to remit their collections with the specified monthly targets and comply with the collection reporting procedures prescribed by the latter; (b) respondent bill collectors, except for Pamoraga and Zapatero, were among the 121 collectors who incorporated ACGI; (c) Manila Water continued to pay their wages in the form of commissions even after the employees alleged transfer to FCCSI. Manila Water paid the respondent bill collectors their individual commissions, and the lump sum paid by Manila Water to FCCSI merely represented the agency fee; and (d) the certification or individual clearances issued by Manila Water to respondent bill collectors upon the termination of the service contract with FCCSI. The certification stated that respondents were contract collectors of Manila Water and not of FCCSI. Thus, this Court agrees with the findings of the CA that if, indeed, FCCSI was the true employer of the bill collectors, it should have been the one to issue the certification or individual clearances.

It should be remembered that the control test merely calls for the existence of the right to control, and not necessarily the exercise thereof. It is not essential that the employer actually supervises the performance of duties of the employee. It is enough that the former has a right to wield the power.[40]

Respondent bill collectors are, therefore, employees of petitioner Manila Water. It cannot be denied that the tasks performed by respondent bill collectors are directly related to the principal business or trade of Manila Water.

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Payments made by the subscribers are the lifeblood of the company, and the respondent bill collectors are the ones who collect these payments.

The primary standard of determining regular employment is the reasonable connection between the particular activity performed by the employee in relation to the usual business or trade of the employer. In this case, the connection is obvious when we consider the nature of the work performed and its relation to the scheme of the particular business or trade in its entirety. Finally, the repeated and continuing need for the performance of the job is sufficient evidence of the necessity, if not indispensability of the activity to the business.[41]

WHEREFORE, in view of the foregoing, the Decision dated September 12, 2006 and the Resolution dated November 17, 2006 of the Court of Appeals in CA-G.R. SP No. 94909 are hereby AFFIRMED.

Costs against petitioner.

SO ORDERED.

Velasco, Jr.,[*] Peralta, Mendoza, and Sereno,[***] JJ., concur.

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[*] Additional member in lieu of Associate Justice Antonio T. Carpio per Special Order No. 897 dated September 28, 2010.

[**] In lieu of Associate Justice Antonio T. Carpio per Special Order No. 898 dated September 28, 2010.

[***] Additional member in lieu of Associate Justice Roberto A. Abad per Special Order No. 903 dated September 28, 2010.

[1] Penned by Associate Justice Martin S. Villarama, Jr. (now a member of this Court), with Associate Justices Lucas P. Bersamin (now a member of this Court) and Monina Arevalo-Zenarosa, concurring; rollo, pp. 572-603.

[2] Id. at 637.

[3] Id. at 573.

[4] Id.

[5] Id.

[6] Id. at 294-295, 573.

[7] Id. at 295.

[8] Id. at 295, 574.

[9] Id. at 574.

[10] Id. at 292, 575.

[11] Id. at 575.

[12] Id.

[13] Id.

[14] Id. at 575-576.

[15] Id. at 576.

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[16] Department Order No. 10, Series of 1997, otherwise known as the rules implementing Article 106 to 109 of Book III of the Labor Code, was revoked by Department Order No. 03, Series of 2001. The new department order continued to prohibit labor-only contracting.

[17] Rollo, pp. 576-577.

[18] Id. at 577.

[19] Id.

[20] Id.

[21] Penned by Executive Labor Arbiter Fatima Jamabro-Franco; id. at 291-320.

[22] Id. at 319-320.

[23] Penned by Presiding Commissioner Lourdes C. Javier; id. at 406-428.

[24] Id. at 450-451.

[25] Id. at 602.

[26] 478 Phil. 68 (2004).

[27] Rollo, p. 799.

[28] Department Order No. 18-02, Series of 2002, Sec. 4(a).

[29] Department Order No. 18-02, Series of 2002, Sec. 1.

[30] Department Order No. 18-02, Series of 2002, Sec. 3.

[31] Manila Water Company, Inc. v. Peña, supra note 26, at 78, citing De los Santos v. NLRC, 423 Phil. 1020, 1032 (2001).

[32] Labor Code, Art. 106.

[33] Department Order No. 18-02, Series of 2002, Sec. 5.

[34] Id.

[35] Rollo, pp. 593-594.

[36] Lopez v. Metropolitan Waterworks and Sewerage System, 501 Phil. 115, 137 (2005); Manila Water Company, Inc. v. Peña, supra note 26, at 81.

[37] Supra.

[38] Id.

[39] Id.

[40] Lopez v. Metropolitan Waterworks and Sewerage System, supra note 36, at 133, citing MAM Realty Development Corporation v. NLRC, 314 Phil. 838, 842 (1995).

[41] Lopez v. Metropolitan Waterworks and Sewerage System, supra note 35, at 433, 453.

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