

REYNALDO A. FABULA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND R. MECHANICAL DYNAMICS, RESPONDENTS.

G.R. No. 54247. December 19, 1980

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is an appeal by certiorari to review the resolution of the respondent National Labor Relations Commission dated May 30, 1980, in NLRC Case No. RB-IV-21310-78-T, the dis-positive portion of which reads:

"WHEREFORE, the instant appeal should be as it is hereby dismissed for having been filed out of the reglementary period as provided for under Sec. 7, Rule XIII, Book V, of the Rules and Regulations Implementing the Labor Code."

The only question in this appeal is whether or not the petitioner had seasonably filed his appeal with the respondent Commission.

In a Manifestation dated December 5, 1980, the Solicitor General stated, inter alia, that:

"3. A review of the records of the instant case showed that the decision of Labor Arbiter Cresencio J. Ramos dated August 11, 1978 which dismissed petitioner's complaint against private respondent R. Mechanical Dynamic was received by him (petitioner) on October 16, 1978. The record likewise disclosed that petitioner filed his appeal memorandum with respondent National Labor Relations Commission on November 3, 1978. On November 23, 1978 respondent company filed with respondent National Labor Relations Commission a motion to dismiss petitioner's appeal. On May 30, 1980 respondent National Labor Relations Commission promulgated a resolution which dismissed petitioner's appeal "for having been filed out of the reglementary period as provided for under Section 7, Rule XIII, Book V, of the Rules and Regulations Implementing the Labor Code.

4. Petitioner's appeal memorandum of November 3, 1978 was seasonably filed with respondent NLRC, hence was erroneously dismissed. Indeed, from October 16 to November 3, 1978 there were eighteen (18) calendar days. Out of these eighteen (18) calendar days, there were two (2) Saturdays (considered non-working days under the abovementioned rule), two (2) Sundays and four (4) public holidays (October 26 and 27, because of typhoon Kading, pursuant to Memorandum Circular No. 1105 issued by Presidential Assistant Juan C. Tuvera by authority of the President of the Philippines, and October 31 and November 1 by virtue of Proclamation No. 1796 of the President of the Philippines, in celebration of All Saints Day) or a total of eight (8) non-working days. It is thus unquestionable that there were only ten (10) working days from October 16 to November 3, 1980. Consequently, petitioner's appeal memorandum was timely filed on November 3, 1978.

5. Undersigned counsel have conferred with respondent National Labor Relations Commission Commissioners Federico Borromeo and Cecilio T. Seño about the instant case and both agreed to the filing of the foregoing manifestation.

IN THE LIGHT OF THE FOREGOING DISCUSSIONS, undersigned counsel, manifest that they interpose no objection to have the instant case remanded to respondent National Labor Relations Commission for the resolution of petitioner's appeal."

WHEREFORE, the questioned resolution is hereby set aside and the appeal reinstated. No costs.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., and De Castro, JJ., concur.

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