

**NUEVA ECIJA III ELECTRIC COOPERATIVE, INC., PETITIONER, VS.
THE HON. THIRD DIVISION, NATIONAL LABOR RELATIONS
COMMISSION, HON. CRESENCIO RAMOS (IN HIS CAPACITY AS
LABOR ARBITER,...**

G.R. No. 91757. June 11, 1992

Ponente: GRINO-AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-91757/>

GRINO-AQUINO, J.:

This petition for certiorari, is directed against the resolution of the respondent National Labor Relations Commission dated July 28, 1989, which lifted the writ of injunction issued by the National Labor Relations Commission en banc, and dismissed the appeal filed by the petitioner. Petitioner herein, likewise, seeks to set aside the Order of the respondent NLRC dated August 3, 1989, directing the Special Disbursing Officer, Regional Office No. 3 of the Department of Labor and Employment, to release in favor of the private respondents the sum of P204,880 representing the judgment for backwages, cost of living allowances, and damage awarded by the Labor Arbiter.

On May 8, 1987, a complaint for illegal dismissal, and for actual, moral, and exemplary damages, was filed by the Central Luzon Labor Congress (CLLC-LCP), in behalf of its members, Cenon Diaz, Celestino Bagsic, Saturnino Binuya, and Florida Manubay, against the Nueva Ecija III Electric Cooperative, Inc. and its President, Dr. Manuel Padilla.

The petitioner, through counsel, averred that the cause of the dismissal was a complaint filed on February 24, 1986 by some concerned consumers and officers of the Nueva Ecija Electric Cooperative, Inc. III Employees Union regarding: (1) the illegal encashment of mercantile check by Manubay and Binuya; and (2) the illegal withdrawal of forty (40) reels of ASR #410 wires. In the NEECO III, the National Electrification Administration conducted an investigation and on the basis of its findings, it charged Binuya and Manubay with illegal encashment of NEECO III fire loss claim check amounting to P227,569.12. Diaz and Bagsic were charged for illegal withdrawal of forty (40) reels of ASR #410 wires. The respondents were required to submit written explanations within 72 hours.

Binuya and Manubay explained that the encashing of the fire loss claim check of the NEECO III was done upon orders of the General Manager, and that it did not redound to their personal benefit but to the benefit of the cooperative.

Diaz and Bagsic on the other hand, alleged that the sale of the cooperative scrap materials was made by virtue of a Board Resolution to that effect and the release of the forty (40) reels of ASR #410 was duly supported by a requisition voucher and material charge tickets with the approval of the General Manager.

The Investigation Committee, however, found the private respondents guilty as charged and recommended the termination of their services. On April 14, 1987, they were dismissed from the service.

On June 30, 1988, the Labor Arbiter rendered judgment setting aside the findings and conclusions of the Investigation Committee. The Labor Arbiter was convinced that the check was encashed upon the order of the General Manager, and that its encashment did not redound to the personal benefit of the private respondents. He found the dismissal of Diaz and Bagsic unjustified.

The dispositive portion of the Labor Arbiter's decision reads:

"WHEREFORE, judgment is hereby rendered declaring respondents Nueva Ecija Electric Cooperative, Inc., guilty of Illegal Dismissal. Respondents are ordered to reinstate complainants to their former positions and to pay complainants the following sums of money for backwages, cost of living allowance and damages, etc.:

Cenon Diaz - Chief Engineer

P25,500.00 - backwages (P1,700 x 15 mos. 4/15/87 - 7/15/88)

8,550.00 - cost of living allowance (same period)

1,700.00 - 13th month pay, 1987

15,000.00 - moral damages

15,000.00 - exemplary damages

P65,750.00 Total

Saturnino Binuya - OIC, Sta. Rosa

P24,750.00 - backwages (P1,650 x 15 mos. 4/15/87 - 7/15/88)

8,550.00 - cost of living allowance (same period)

1,650.00 - 13th month

10,000.00 - moral damages

10,000.00 - exemplary damages

P54,950.00 Total

Celestino Bagsic - Chief Warehouseman

P22,500.00 - backwages (P1,500 x 15 mos. 4/15/87 - 7/15/88)

8,550.00 - cost of living allowance (same period)

1,500.00 - 13th month pay

7,500.00 - moral damages

7,500.00 - exemplary damages

P47,550.00 Total

Florida Manubay - Teller

P16,950.00 - backwages (P1,130 x 15 mos. 4/15/87 - 7/15/88)

8,550.00 - cost of living allowance (same period)

1,130.00 - 13th month pay

5,000.00 - moral damages

5,000.00 - exemplary damages

P36,630.00 Total

or a grand total of Two Hundred Four Thousand Eight Hundred Eighty Pesos (P204,880.00)." (pp. 73-74, Rollo.)

NEECO appealed to the National Labor Relations Commission. On August 3, 1988, the NLRC rendered judgment dismissing the appeal for tardiness. It held that the records showed that the decision of the Labor Arbiter was received by the petitioner on July 1, 1988, but the appeal was filed only on July 16, 1988. Moreover, petitioner allegedly paid the appeal fee only on July 20, 1988. Since under Section 1(a) of Rule VIII of the Commission, appeal shall be made within ten (10) calendar days from receipt of notice of the decision, accompanied by proof of payment of the required appeal fee, petitioner's appeal was filed out of time. The decision had already become final and executory.

By this petition for certiorari, NEECO seeks a review of that ruling of the NLRC. It alleges that the NLRC gravely abused its discretion:

1. in finding that petitioner's appeal was late although the registry receipt, the certification issued by the Bureau of Post upon request of the Labor Arbiter and the stamp appearing on the face of the envelope of the decision show that it was mailed on July 11, 1988 (not on July 1, 1988), hence, the notice of appeal filed on July 16, 1988 was filed within the mandatory ten (10) day period to perfect an appeal;
2. in refusing to consider the fact that the delay in the payment of the docket fee was caused by the change of petitioner's counsel and by the fact that petitioner passed under the control of the NEA only in May, 1988. In any event, delay in paying the docket fee is riot a ground for the dismissal of the appeal;
3. in ordering the release of the sum of P204,880.00 to the private respondents five (5) days after it promulgated the resolution dismissing the appeal and before petitioner received a copy of said resolution;
4. in ordering the reinstatement of employees who had committed serious crimes against the petitioner;
5. in not finding that breach of trust and fraud warrant dismissal of the offending employees;
6. in not giving faith and credit to the findings of the National Electrification Administration;
7. in affirming the Labor Arbiter's order for the immediate implementation of the writ of execution without awaiting the NLRC's resolution of the petitioner's appeal; and
8. in not annulling the levy on execution and subsequent auction sale conducted by the respondent sheriff Cruz in defiance of the injunction issued by the NLRC en banc.

Petitioner also prays for a writ of prohibition or temporary restraining order to enjoin the public respondents from implementing the assailed decision and order.

The Solicitor General asked to be excused from filing a comment for the NLRC because he is unable to defend its decision.

There is merit in the petitioner's contention that the NLRC gravely abused its discretion when it dismissed its appeal for, as a matter of fact, that appeal was not late. The records show that petitioner received the Labor Arbiter's decision on July 1, 1988, and filed its appeal on July 11, 1988 - the tenth day of the appeal period. The NLRC's finding that petitioner mailed its appeal on July 16, 1988 only was due apparently to the fact that two dates: July 11, 1988 and July 16, 1988 - are stamped on the envelope containing the notice of appeal. Because of

the conflicting dates stamped on the envelope, the Labor Arbiter himself requested the Postmaster on July 22, 1988 to issue a certification as to the exact date when the notice of appeal was mailed. On July 25, 1988, the Postmaster certified that the envelope was mailed on July 11, 1988, but because it was not included among the letters dispatched on that day, for the messenger had already left, so it was dispatched on July 16, 1988, the other date appearing on the envelope.

In view of the rule that when "pleadings, appearances, motions, notices, orders and other papers are filed with the court by registered mail, the date of mailing is considered the date of filing," (San Miguel Corporation vs. NLRC, 180 SCRA 281), we hold that the petitioner's appeal which was mailed on July 11, 1988, as certified by the Postmaster, was filed on time. The fact that the envelope was tardily dispatched by the Post Office on July 15, 1988 (or July 16, 1988) is of no consequence.

Delay in paying the appeal fee (it was paid only on July 20, 1988) was not a ground for the dismissal of the appeal. We ruled in *Aspacio vs. Inciong*, 161 SCRA 180, 181, thus:

"Under Section II, Rule XIII, Book V of the Rules and Regulations Implementing the Labor Code, 'any party aggrieved by the decision of the Commission may appeal such decision to the Secretary of Labor within ten (10) working days from receipt thereof x x x.' Section 12 thereof also provides that 'the appeal must be filed with the Commission within ten (10) working days from receipt of the decision, copy furnished the appellee, who shall in turn file his answer within ten (10) working days from receipt of the appeal.' There is no provision that payment of appeal fee is required to perfect the appeal."

WHEREFORE, the petition for certiorari is GRANTED. The respondent, National Labor Relations Commission, is hereby ordered to give due course to petitioner's appeal and resolve the same on the merits.

SO ORDERED.

Cruz, (Chairman), Medialdea, and Bellosillo, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.