

U-SING BUTTON AND BUCKLE INDUSTRY AND SY BAN, PETITIONERS, VS. NATIONAL LABOR RELATIONS COM-MISSION, LABOR ARBITER DAISY G. CAUTON-BARCELONA AND CECILIA NAYA, RESPONDENTS.

G.R. No. 94754. May 11, 1993

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

This special civil action for certiorari seeks the reversal of the Resolution dated May 31, 1990 of the National Labor Relations Commission (NLRC) dismissing the appeal of the petitioners from the Labor Arbiter's decision in NLRC Case No. 5-3783-86 entitled, "Cecilia Naya vs. U-Sing Button & Buckle Industry and/or Mr. Sy Ban, Proprietor and General Manager" which ordered the respondents (now petitioners) to pay the complainant, Cecilia Naya, separation benefits.

In June, 1960, Fortunato Naya was employed as a maintenance worker at U-Sing Button and Buckle Industry, located at 158 4th Street, 7th Avenue, Grace Park, Caloocan City. The establishment, as its name suggests, is engaged in the manufacture and sale of buttons and buckles. On May 30, 1986, Naya stopped working on account of illness and died shortly thereafter. His widow, Cecilia Naya, filed in the Manila Arbitration Branch of the Department of Labor & Employment against U-Sing Button and Buckle Industry and its proprietor and general manager, Sy Ban, a claim for separation pay and incentive leave pay due her husband. The claim was docketed as NLRC NCR Case No. 9-3783-86.

Failing to amicably settle the case, the parties were required to submit their respective position papers.

The respondents, in order to escape liability, presented evidence of Fortunato Naya's alleged indebtedness to them in the amount of P16,500.00. They further claimed that they gave him P4,247.00 during his confinement at the Lung Center of the Philippines and donated P3,500.00 to his family when he died.

In her reply affidavit, Cecilia Naya denied any debts incurred by her late husband. She alleged that his signatures acknowledging supposed obligations to the petitioners were forged and that the documents were fabricated. She further claimed that the hospital bills amounted to only P857.40, and that she never signed any receipts for any other amount as she never received any money from the petitioners.

After a hearing conducted by Labor Arbiter Daisy Cauton-Barcelona, who noted significant differences and dissimilarities in the signatures on the receipts presented in evidence by the respondents (now petitioners), a decision was rendered on September 21, 1989 dismissing for lack of factual basis the claim for underpayment but ordered the respondents to pay the complainant separation benefits owing to her late husband, computed from June 1960 to May 1986 at the rate of one-half month pay for every year of service.

Respondents appealed the decision to the National Labor Relations Commission. On June 21, 1990, the Commission dismissed the appeal for failure of the respondents to post a cash or surety bond from a reputable bonding company, in the amount of P18,369.00 which is equivalent to the monetary award in favor of the

claimant.

Respondents' motion for reconsideration of the decision was denied on June 21, 1990 by the Commission.

In their petition for certiorari in this Court, they allege that:

1. the NLRC had no jurisdiction over the case, because "the appointments of the commissioners have not been confirmed by the Commission on Appointments;"
2. the failure of the petitioners to file a surety bond is not a valid ground for the dismissal of the appeal; and
3. the NLRC erred in not rendering judgment in favor of the petitioners and against the private respondent, Cecilia Naya.

The petition has no merit.

Non-confirmation by the Commission on Appointments of the new NLRC Commissioners who were appointed under Republic Act 6715 did not make their appointment null and void. In *Calderon vs. Carale*, 208 SCRA 254, we held that the Chairman and members of the National Labor Relations Commission are not among the officers mentioned in Section 16, Article VII of the 1987 Constitution whose appointments require confirmation by the Commission on Appointments. Therefore, their acts are valid. In any case, the petitioners raised this issue only in their present petition, after their motion for reconsideration was denied by the Commission. They are estopped from repudiating the jurisdiction of the NLRC which they had already recognized.

Anent the surety bond which is required for the perfection of an appeal to the NLRC, Article 223 of the Labor Code, as amended by R.A. No. 6715 (The New Labor Relations Law), as well as Section 7 of the NLRC's Interim Rules, clearly provides that:

"Section 223. Appeal. - x x x.

"In case of a judgment involving a monetary award, an appeal by the employer may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Commission in the amount equivalent to the monetary award in the judgment appealed from."

Section 7 of the NLRC Interim Rules provides:

"For purposes of the bond required under Article 223 of the Labor Code as amended, the monetary award computed as of the date of the promulgation of the decision appealed from shall be the basis of the bond. For this purpose, moral and exemplary damages shall not be included in fixing the amount of the bond.

"Pending the review of the appropriate guidelines for accreditation bonds posted by bonding companies duly accredited by the regular courts, shall be acceptable."

In the case of *Erectors, Inc. vs. NLRC*, 202 SCRA 597, 602-603, this Court ruled that:

"x x x. The equivalence thus expressly prescribed between the amount of the appeal bond and the monetary award, less moral and exemplary damages, made in the decision sought to be appealed not only underscores the fact that the obvious and logical purpose of an appeal bond is to insure, during the period of appeal, against any occurrence that would defeat or diminish recovery under the judgment if subsequently affirmed; it also validates and justifies, at least prima facie, an interpretation that would limit the amount of the bond to the aggregate of the sums awarded other than in the concept of moral and exemplary damages."

An appeal is a purely statutory right, and whoever would avail of it must strictly comply with the requisites, particularly as these are clearly spelled out in the Rules (*Ozaeta vs. Court of Appeals*, 179 SCRA 800).

With respect to the last issue, the records show that at the time Fortunato Naya contracted lung cancer, he had already worked for 26 years with the petitioners without any derogatory record. No doubt the company benefited from his long years of service. At the time of his death, he was already fifty-five years old. Pursuant to the Labor Code, he shall be entitled to termination pay due to illness equivalent to P18,369.00 computed at the rate of one-half month pay for every year of service based on his latest salary of P54 per day, a fraction of at least six months being considered as one whole year.

All doubts in the interpretation of labor and social laws should be resolved in favor of the worker. The factual findings of the NLRC and the Labor Arbiter will not be reviewed by this Court in this special civil action of certiorari, unless they are wildly distorted, or contradicted by the findings of another administrative body, a situation that does not obtain in this case.

WHEREFORE, finding no grave abuse of discretion in the decision of the National Labor Relations Commission in NLRC Case No. 5-3783-86 entitled, “Cecilia Naya vs. U-Sing Button & Buckle Industry, et al.,” the petition for certiorari is hereby DISMISSED. Costs against the petitioner.

SO ORDERED.

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

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