

**BECTON DICKINSON PHILS., INC. AND WILFREDO JOAQUIN,
PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION,
HON. LABOR ARBITER EDGARDO M. MADRIAGA AND REINERIO Z.
ESMAQUEL, RESPON...**

G.R. Nos. 159969 & 160116. November 15, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

Before the Court are these consolidated identical petitions for review on certiorari to reverse and set aside the same issuances of the Court of Appeals (CA) in CA-G.R. SP No. 74424, to wit:

a)

Decision[1] dated May 16, 2003, affirming an earlier decision of the National Labor Relations Commission [NLRC] which dismissed petitioners' appeal thereto from an adverse decision of the Labor Arbiter on account of petitioners' failure to comply with NLRC Resolution No. 01-02 amending NLRC Rules of Procedure and for being devoid of merit; and

b)

Resolution[2] dated September 5, 2003, denying petitioners' motion for reconsideration.

Petitioner Becton Dickinson Philippines, Inc. (Becton, Phils., for brevity), is a domestic corporation engaged in the business of importation, warehousing, exportation, manufacture, assembly, sale at wholesale, and promotion of health care products needed by hospitals, doctors, laboratories, and pharmaceutical companies. The company is a wholly-owned subsidiary of Becton Dickinson Worldwide, Inc., U.S.A. based in New Jersey, United States of America (U.S.A.) and with operations in the Asia Pacific Region under the charge of Becton Dickinson Asia Pacific (Becton, Asia, for short), which is based in Singapore. On the other hand, petitioner Wilfredo Joaquin (Joaquin, hereafter), was formerly the Country Manager of Becton, Phils. when herein private respondent Reinerio Z. Esmaquel filed On October 24, 2001 before the Labor Arbiter of the National Capital Region (South Sector) a single complaint for "Illegal dismissal and underpayment of separation and retirement benefits with actual, moral and exemplary damages and attorney's fees and payment of backwages from time of termination until final judgment",[3] therein naming both petitioners as respondents.

In a Decision dated March 26, 2002,[4] Labor Arbiter Edgardo M. Madriaga found Becton, Phils. and Joaquin to have acted jointly and in concert in terminating Esmaquel's employment and declared the latter's dismissal illegal, but held Becton, Phils. solely liable for payment of backwages, separation pay and retirement benefit differential, moral and exemplary damages and attorney's fees.

This notwithstanding, Joaquin nevertheless joined Becton, Phils. in assailing the Labor Arbiter's decision by way

of appeal[5] to the National Labor Relations Commission (NLRC).

Upon dismissal of their appeal by the NLRC per Decision dated August 8, 2002[6] and the denial of their motion for reconsideration per Resolution dated September 30, 2002,[7] Becton, Phils. and Joaquin jointly filed with the Court of Appeals a petition for certiorari with application for temporary restraining order and/or preliminary injunction[8] under Rule 65 of the Rules of Court, which petition was eventually dismissed by the appellate court per Decision dated May 16, 2003. Petitioners Becton, Phils. and Joaquin jointly filed a motion for reconsideration.[9] On September 12, 2003, petitioners, through counsel, received a copy of the appellate court's Resolution dated September 5, 2003, denying their motion for reconsideration.

Presently, however, Joaquin is no longer the Country Manager of Becton, Phils. and he already resides in the U.S.A. once again. In view of the need to have his verification on his petition and certification against non-forum shopping notarized and authenticated with the Philippine Consulate in the U.S.A., petitioner Joaquin separately filed via registered mail on September 29, 2003 a Motion for Extension of Time to File a Petition for Review dated September 27, 2003,[10] praying for an extension of 15 days or until October 11, 2003, within which to file his petition for review on certiorari, the original copy of which motion the Court actually received on October 7, 2001 and his petition thereafter docketed as G.R. No. 159969.

Also, on September 29, 2003 (the Monday after the 15-day reglementary period which fell on a Saturday) petitioner Becton, Phils. separately filed via registered mail its own petition for review which, upon actual receipt by this Court on October 16, 2003, was docketed as G.R. No. 160116.

As earlier stated, both petitions assail and seek the annulment of the same decision and resolution of the Court of Appeals (CA) in CA-G.R. SP No. 74424.

On January 26, 2004, the Court resolved to consolidate[11] the two (2) petitions upon petitioners' motion[12] therefor. Considering the arguments raised in the two petitions, respondent's comment, and petitioners' reply, the Court resolved to give due course thereto. And, with the filing of the parties' respective memoranda, the case is now ripe for final determination.

The facts as culled from the voluminous records before us, are as follows:

In 1989, Becton, Phils. had two (2) main divisions, namely: (a) the Medical Division; and (b) the Diagnostics Division. Jesus Fargas headed the Medical Division, while the position of head of the Diagnostics Division was vacant. Also vacant was the position of Country Manager of Becton, Phils.

On September 12, 1989, private respondent Reinerio Z. Esmaguel started his stint with Becton, Phils. as Director of Sales and Marketing of the Diagnostics Division. He held this position until March 1998.

As Sales and Marketing Director of the company's Diagnostics Division, respondent reported to Becton, Asia's Vice President of Diagnostics Sector. He was in charge of the overall supervision of twenty-three (23) employees working under the sales and marketing organization. He was responsible for the attainment of sales and profit targets as well as the long term growth and development of the diagnostic business of Becton, Phils. He reviewed and approved the company's country marketing plans and budget before submission to Becton, Asia. He oversaw the implementation of marketing plans through the sales and marketing managers. He represented the company in the meeting of the Southeast Asia Steering Committee and Asia Pacific Supply Chain Management Committee of the different affiliates of Becton Dickinson Worldwide, Inc. in the Asia-Pacific Region.

For his commendable performance as Sales and Marketing Director, respondent received numerous citations and awards, the most notable of which was the President's Club Award which he received in 1993 with the distinction

that he was the only recipient of this award in Becton's Asia Pacific Region.

In March, 1998, Jesus Fargas was promoted to the position of Country Manager for Becton, Phils. Respondent, on the other hand, was appointed Business Director thereof, reporting, this time, to the Country Manager instead of the Vice President of Diagnostics Sector of Becton, Asia. Respondent was responsible for sales and marketing of Infectious Disease Diagnostic, Immunocytometry System, and Instrument Service for the Asia Pacific Region. He held this position up to December, 1999.

As Business Director, respondent exceeded the sales target given him by the Becton, Phils. for fiscal year 1999 and for which the Company gave his team free trip incentive to Europe. In 1999, respondent also received a Business Excellence Award from Becton, Phils.

In January, 2000, Becton, Phils. reorganized under the concept of "Go To Market." For purposes of selling its products, Becton, Phils. had organized two (2) divisions, namely, the Sales Division and the Marketing Division, and designated respondent as the Director of Sales. As such, respondent was responsible for the whole sales force for all products of the company. The Marketing Division, on the other hand, was placed under the Office of the Country Manager and the same was in charge of the preparation of marketing plans, including advertising and promotional programs and in booking orders/sales to distributors of Becton, Phils.

Under the foregoing reorganization, the Sales Division was responsible for in-market sales or the sale of all the products of the company to the distributors. The distributors who buy the products at wholesale, in turn, are the ones selling the products to the end users. The company is, however, generally responsible for the sale promotions of the company's products to the end users.

Consistent with his work performance, respondent achieved the sales target assigned to him, for which reason, Becton, Phils. awarded his team free trip to the U.S.A.

Eventually, respondent was also appointed one of the members of the Becton Dickinson (BD) Philippines Leadership Team, a group within Becton, Phils., which was responsible for the formulation of policies and rules of the company.

In November, 2000, pursuant to its established policies and guidelines for terminating employees, Becton, Phils. retrenched nine (9) employees, giving them separation benefits in accordance with such guidelines. Its very own Country Manager, Jesus Fargas, was among those whose services were terminated. Accordingly, each of them received separation benefits computed as follows:

Adjusted No. of Years of

SEPARATION PAY = Monthly x 3 x Service

Salary

where,

Adjusted

Monthly = Monthly X 13/12

Salary Salary

In addition thereto, the nine (9) terminated employees were also paid retirement benefits under the company's Retirement Plan, computed as follows:

Monthly No. of Years of

RETIREMENT BENEFITS = Salary X 1.5 X Service

Thereafter, each of the nine (9) terminated employees executed separate Release and Quitclaim.

After Country Manager Jesus Fargas left the company, respondent was considered for said position. Pending the appointment of a Country Manager, Becton, Asia created a "Self-Managed Team" to run the day-to-day operations of the company. The "Self-Managed Team" was composed of seven (7) members consisting of four (4) Filipinos and three (3) foreigners. Respondent was named one of the four (4) Filipino members of the said team.

On May 16, 2001, Becton, Asia announced the appointment of petitioner Wilfredo Joaquin, a former Filipino citizen who later acquired American citizenship, as the new Country Manager of Becton, Phils.

Being a stranger to the company's operations, as well as to the customers of Becton, Phils., Joaquin sought respondent's assistance to address serious problems of the company, and to orient him in the mechanics of the company's sales and marketing efforts in the Philippines.

Then, on that fateful day of July 10, 2001 or barely two (2) months from Joaquin's assumption of his position as Country Manager, Becton, Phils. served upon respondent a notice of termination^[13] of employment effective August 10, 2001, on the ground that his position has been declared redundant. In full, the notice reads:

July 10, 2001

To : R. Z. Esmaguél

From : Z. L. del Mundo

Dear Rene

For the past weeks, the BD Philippines Leadership Team has been discussing the roles of each function within the BD Philippines Organisation.

With the move toward building strong and empowered teams and organizations due to business exigencies, the time has come to review the role and services being provided by each team member.

It is unfortunate that your position has been made redundant due to this restructuring. We therefore regret to advise you of your termination on the ground of redundancy effective August 10, 2001. Please return all company properties on or before July 16, 2001.

We are determined to do our best to assist you by providing the necessary support. Please refer to the attachment for the details of your payout. We also wish to remind you that if you have any stock options, kindly exercise them within 90 days of your termination date from the company.

We thank you for your service to the company. Do let us know if you have any other concerns as we are most willing to assist in any way that we can.

Yours sincerely,

Becton Dickinson Philippines, Inc.

By:

Zenaida del Mundo (Sgd.)

Becton, Phils. offered to pay separation benefits to respondent computed as follows:

Monthly No. of Years of

SEPARATION PAY

= Salary X 1.38 X Service

plus retirement pay computed as follows:

Montly No. of Years of

RETIREMENT BENEFITS

= Salary X .75 X Service

Respondent objected to his termination because, as member of the BD Philippines Leadership Team, he was not aware of any meeting or discussion of the team about the roles of his position in the organization. The roles of his position/function in the company have never been placed in the agenda for meeting of the BD Philippines Leadership Team. Respondent asked Joaquin why his position was declared redundant but Joaquin could not give him any plausible reason except that the redundancy of his position was due to restructuring of the company organization.

Respondent asked Joaquin if he had taken into consideration in declaring redundant his position, the guidelines/rules for termination of employment as directed by Becton, Asia's President, namely: (a) to retain the best employee; (b) consider the performance of the employee for the last three (3) years; and (c) refrain from taking decision based on individual salary. Joaquin failed to answer this question.

Respondent further protested when he was informed that the separation benefits to be paid to him was way below those received by the nine (9) employees previously terminated. He demanded an equal treatment from the company, considering that he rendered exemplary service thereto and that he is being terminated involuntarily.

This notwithstanding, he was terminated and required to sign a Release and Quitclaim,[14] otherwise, his separation pay and retirement benefits will be withheld. Respondent found no other alternative but to give in, and reluctantly signed the document.

On September 19, 2001, respondent, through counsel, sent Becton, Phils. a letter[15] protesting his termination from service and/or illegal dismissal and demanded full payment of his separation pay and retirement benefits.

In its letter dated September 26, 2001,[16] counsel of Becton, Phils. rejected respondent's claim, explaining that he had been given his full separation pay and retirement benefits (net of outstanding retirement loan and 50% share in the car loan) in addition to which, he was also given a laptop computer, a Nokia 8850 cellular phone, free of charge, and that he had already signed a Release and Quitclaim.

Aggrieved, respondent filed on October 24, 2001 a complaint against Becton, Phils. and Wilfredo Joaquin with the Arbitration Branch of the NLRC for illegal dismissal, underpayment of separation pay and retirement benefits, actual, moral, and exemplary damages, and attorney's fees.

On March 26, 2002, Labor Arbiter Edgardo M. Madriaga rendered a decision, dispositively reading as follows:

WHEREFORE, judgment is hereby rendered:

- The dismissal of complainant is declared illegal;
- Respondent company is ordered to pay complainant Esmaguil:

a)

Backwages of P197,525.00 per month reckoned from August 11, 2001 until actually paid;

b)

Separation pay differential of P4,148,024.76 with legal interest from date of judgment until actually fully paid;

c)

Retirement benefit differential of P1,765,873.50 with legal interest from date of this judgment until actually paid;

d)

Moral damages of P300,000.00.

e)

Exemplary damages of P300,000.00.

f)

Attorney's fees in an amount equivalent to 10% of the total of all the foregoing amounts.

SO ORDERED.

Therefrom, petitioners Becton, Phils. and Joaquin jointly appealed to the NLRC which, in a decision dated August 8, 2002,[17] affirmed that of the Labor Arbiter, to wit:

WHEREFORE, for failure to comply with the NLRC Resolution 01-02 amending the NLRC Rules of Procedure, and for being devoid of merit, the appeal is hereby dismissed.

SO ORDERED.

With their motion for reconsideration having been denied by the NLRC in its Resolution of September 30, 2002,[18] petitioners Becton, Phils. and Joaquin jointly went to the Court of Appeals (CA) via a petition for certiorari under Rule 65 of the Rules of Court, whereat their recourse was docketed as CA-G.R. SP No. 74434.

As stated at the threshold hereof, the Court of Appeals, in a Decision dated May 16, 2003, dismissed petitioners' recourse thereto and affirmed the assailed NLRC decision and resolution, thus:

WHEREFORE, in the light of the foregoing, the petition for certiorari is DISMISSED and the assailed Decision and Resolution of the public respondent NLRC are AFFIRMED.

The Urgent Motion (for Issuance of Preliminary Injunction) being merely adjunct to the main suit, the same must pro tanto be DENIED.

SO ORDERED.

Their motion for reconsideration having been denied by the appellate court in its Resolution dated September 5, 2003, Becton, Phils. and Joaquin, this time separately, filed with this Court their respective petitions for review on certiorari under Rule 45 of the Rules of Court. Eventually, the two petitions were consolidated per this Court's minute Resolution[19] of 26 January 2004.

As we see it, the consolidated petitions raise two main issues: procedural and substantive.

The procedural issue: whether or not the Court of Appeals erred in not finding grave abuse of discretion on the part of the NLRC when the latter dismissed petitioners' appeal from the Labor Arbiter's decision for petitioners' failure to comply with NLRC Resolution 01-02 (Series of 2002) due to lack of a certification of non-forum shopping.

The substantive issue: whether or not the Court of Appeals erred in not finding grave abuse of discretion on the part of the NLRC when the latter dismissed the same appeal on the additional ground of "being devoid of merit".

We DENY.

The Court shall first address the procedural issue.

NLRC Resolution No. 01-02 (Series of 2002), amending the NLRC Rules of Procedure, provides:

SECTION 4. REQUISITIES FOR PERFECTION OF APPEAL. a) The Appeal shall be filed within the reglementary period as provided in Section 1 of this Rule; shall be verified by appellant himself in accordance with Section 4, Rule 7 of the Rules of Court, with proof of payment of the required appeal fee and the posting of a cash or surety bond as provided in Section 6 of this Rule; shall be accompanied by memorandum of appeal in three (3) legibly typewritten copies which shall state the grounds relied upon and the arguments in support thereof, the relief prayed for, and a statement of the date when the appellant received the appealed decision, resolution or order and a certification of non-forum shopping with proof of service on the other party of such appeal. A mere notice of appeal without complying with the other requisites aforesaid shall not stop the running of the period for perfecting an appeal. (Emphasis supplied).

The NLRC dismissed petitioners' appeal from the Labor Arbiter's decision for violation of the foregoing rule due to lack of a certification of non-forum shopping. The Court of Appeals rejected petitioners' plea for the liberal application of the rules in their case, where admittedly, petitioners filed their certification of non-forum shopping twenty-one (21) days late. Partly says the appellate court in its assailed decision of May 16, 2003:

The certificate of non-forum shopping as provided [in the aforequoted provision of NLRC Resolution No. 01-02] is mandatory and should accompany pleadings filed before the NLRC. Its language is very clear and needs no further interpretation, to wit: xxx.

xxx xxx xxx

The perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but jurisdictional upon the court a quo, and the failure to perfect that appeal renders its judgment final and executory. A fundamental precept is that the reglementary periods under the Rules are to be strictly observed for being considered indispensable interdictions against needless delays and an orderly discharge of judicial business. The strict compliance with such periods has more than once been held to be imperative, particularly and most significantly in respect to perfection of appeals. The finality of a judgment becomes a fact upon the lapse of the reglementary period to appeal if no appeal is perfected, and the court loses all jurisdiction over the case, and it becomes the ministerial duty of the court concerned to order execution of the judgment. After the judgment has become final and executory, vested rights are acquired by the winning party. Just as the losing party has the right to file an appeal within the prescribed period, so also the winning party has the correlative right to enjoy the finality of the resolution of the case.

The failure of the petitioners to comply with the aforementioned NLRC Resolution is fatal to their cause for their non-compliance with the requirement relative to the filing of certificate of non-forum shopping did not toll the running of the period for perfecting their appeal. Perfection of appeal on time is mandatory and jurisdictional. Failure to do so makes the March 26, 2002 Decision of the Labor Arbiter final and executory. (Words in bracket added).

In this recourse, petitioners put emphasis on the supposed basis to justify their assertion of liberal application of the rules, namely, to avoid miscarriage of substantial justice, allegedly on account of NLRC's total disregard of the evidence material to or decisive of the controversy. On this score, petitioners presently fault the Court of Appeals for not finding grave abuse of discretion on the part of the Commission.

It is relevant to note that petitioners are aware of the fact that compliance with the requisites for perfecting an appeal is the general rule, and non-compliance therewith is the exception. Petitioners, however, insist that their case falls within the exception.

In resolving this issue, it may well be stressed that the right to appeal is not a natural right nor is it part of due process, for it is merely a statutory privilege that must be exercised in the manner and according to procedures laid down by law.[20] Petitioners cannot insist, as there is no duty on the part of the court or the NLRC for that matter, to take cognizance of an appeal which has not been perfected in accordance with the rules of procedure laid down therefor. It is only in the exercise of courts' sound judicial discretion and in the interest of substantial justice, that this Court may suspend the rules should it find cogent reasons for doing so.

Crucial to the resolution of the procedural issue of whether or not the Court should now suspend the rules is the resolution of the next issue which pertains to the substantive aspect of the case. Should there be grave abuse of discretion on the part of the appellate court in resolving the factual and legal issues raised before it as regards the alleged illegal dismissal of herein respondent, then the Court shall have a cogent reason to suspend the rules.

This brings us to the substantive aspect of the case.

The Court will first focus on petitioners' basic submission that respondent was validly and legally terminated as Sales Manager on the ground of redundancy, and finally on their contention that respondent's claim is barred by the Release and Quitclaim signed by him.

On the matter of redundancy, the Labor Arbiter ruled, and both the NLRC and the Court of Appeals unanimously agreed therewith, that:

The record supports the finding that the Company and Joaquin disregarded totally the Company's guidelines in declaring [respondent's] position redundant.

The principal reason why [respondent's] position was declared redundant is the fact that he was the highest paid employee with a monthly salary of P197,525.00. The Company's main purpose in terminating [respondent] was to cut down expenses and it did so by dismissing him in one fell swoop, camouflaging its malice by using the ground of redundancy. Thus was violated the Company rule that the decision to terminate must not be based on salary. The Company certainly could not find fault with [respondent's] performance. In 1999 his work performance was "outstanding". In 2000 his work performance was "very good". For the FY 2000, [respondent] achieved 104% sales performance. Hence, there were violations of the Company rules to retain the best employee; to consider the performance of the employee for the last three years; protect the best people; and remove those who least contribute.

There is no clear proof that [respondent's] services are in excess of the Company's reasonable demands and requirements; and that there is no other alternative available to the Company except to dismiss [respondent]. The superfluity of [respondent's] position has not been established. There has been no previous overhiring of

employees. On the contrary, the Company had already terminated nine (9) employees. There is no proof of decreased volume of business. Indeed, [respondent] had overshoot the sales target – he achieved 104% sales performance. Neither is there proof that the Company had dropped a product line or service.

The Company does have standards or criteria in choosing who to dismiss, but it violated them. On the other hand, it had hewed closely to these standards when it terminated the nine (9) other employees.

The records supports the finding that the Company treated [respondent] in a way different from its treatment of aforesaid nine (9) employees not only in the matter of termination but also in the matter of separation pay and retirement benefits.[21] (Emphasis and words in bracket ours)

As may be noted from the foregoing excerpt from the Labor Arbiter's decision, the substantive issue of validity of respondent's termination of employment on the alleged ground of redundancy is basically factual in nature. There's no question that Rule 45 of the Rules of Court provides that only questions of law may be raised in a petition for review on certiorari, the reason being that this Court is not a trier of facts. It is not for this Court to reexamine and reevaluate the evidence on record.

As held by this Court in the very recent case of *Dusit Hotel Nikko vs. National Union of Workers in Hotel*: [22]

... the factual findings of the NLRC, as affirmed by the CA, are accorded high respect and finality unless the factual findings and conclusions of the Labor Arbiter clash with those of the NLRC and the CA, in which case, the Court will have to review the records and the arguments of the parties to resolve the factual issues and render substantial justice to the parties.

In *Alfaro vs. Court of Appeals*, [23] the Court, per Justice Artemio V. Panganiban, applied the same ruling, and further explained the reasons therefor, to wit:

The Supreme Court is not a trier of facts, and this doctrine applies with greater force in labor cases. Factual questions are for the labor tribunals to resolve. In this case, the factual issues have already been determined by the labor arbiter and the National Labor Relations Commission. Their findings were affirmed by the CA. Judicial review by this Court does not extend to a reevaluation of the sufficiency of the evidence upon which the proper labor tribunal has based its determination.

Indeed, factual findings of labor officials who are deemed to have acquired expertise in matters within their respective jurisdictions are generally accorded not only respect, but even finality, and are binding on the Supreme Court. Verily, their conclusions are accorded great weight upon appeal, especially when supported by substantial evidence. Consequently, the Supreme Court is not duty-bound to delve into the accuracy of their factual findings, in the absence of a clear showing that the same were arbitrary and bereft of any rational basis.

It bears stressing herein that the factual findings of the Labor Arbiter were, upon review, affirmed in toto by the NLRC, and thereafter, by the Court of Appeals. A heavy burden, as it were, rests upon petitioners to convince the Court that it should take exception from such a settled rule.

Considering petitioners' vehement plea for the suspension of the rules pertaining to the perfection of appeal despite the contrary practice thereto, the Court painstakingly reviewed the records of the case together with the parties' pleadings. Unfortunately, even after thoroughly going over petitioners' pleadings, the Court finds no cogent reason to take exception from this governing rule. Since the factual findings of the Labor Arbiter are supported by substantial evidence, the Court upholds the factual conclusion that redundancy was not duly established by evidence. Besides, this conclusion conforms with jurisprudence on the matter.

Redundancy is one of the authorized causes of dismissal, which, in the leading case of *Wiltshire File Co., Inc. vs. NLRC*, [24] this Court had occasion to explain the nature of, in the following manner:

x x x redundancy in an employer's personnel force necessarily or even ordinarily refers to duplication of work. That no other person was holding the same position that private respondent held prior to the termination of his services, does not show that his position had not become redundant. Indeed, in any well organized business enterprise, it would be surprising to find duplication of work and two (2) or more people doing the work of one person. We believe that redundancy, for purposes of the Labor Code, exists where the services of an employee are in excess of what is reasonably demanded by the actual requirements of the enterprise. Succinctly put, a position is redundant where it is superfluous, and superfluity of a position or positions may be the outcome of a number of factors, such as overhiring of workers, decrease in volume of business, or dropping of a particular product line or service activity previously manufactured or undertaken by the enterprise. (Emphasis supplied.)

Respondent duly questioned the validity of using the ground of redundancy as basis for his forced separation from the company. On the other hand, however, aside from their plain allegation that respondent's "position has been made redundant due to restructuring"[25], and that "the Company was constrained to terminate the services of complainant as a consequence of organizational changes which were necessitated by a decrease in the volume of sales of the Company,"[26] petitioners utterly failed to establish by substantial evidence that indeed, respondent's position in the company became redundant due to concrete and real factors recognized by law and relevant jurisprudence. Evidently cognizant of such neglect, petitioners attempted to correct the situation by now attaching a photocopy of the Report of Independent Auditors Punongbayan & Araullo dated October 10, 2001 as Annex "C"[27] to their petition before this Court to substantiate their allegations before the Labor Arbiter. Unfortunately, this Court is not a trier of facts and evidence not presented during the trial cannot be considered at all.

Besides, although the Court is mindful, and thus held in *Dole Philippines, Inc. vs. NLRC*,[28] that the characterization of an employee's services as no longer necessary or sustainable, and therefore, properly terminable, is an exercise of business judgment on the part of the employer, and that the wisdom or soundness of such characterization or decision is not subject to discretionary review, provided of course that violation of law or arbitrary or malicious action is not shown, the Court in the above-cited case of *Dusit Hotel Nikko* nevertheless emphasized that:

... like other rights, there are limits thereto. The managerial prerogative to transfer personnel must be exercised without grave abuse of discretion, bearing in mind the basic elements of justice and fair play. Having the right should not be confused with the manner in which that right is exercised. Thus, it cannot be used as a subterfuge by the employer to rid himself of an undesirable worker.... (Emphasis ours.)

Along the same vein is this Court's ruling in *Metrolab Industries, Inc. vs. Roldan-Confesor*,[29] to wit:

... the exercise of management prerogatives was never considered boundless. Thus, in *Cruz vs. Medina* (177 SCRA 565 [1989]), it was held that management's prerogative must be without abuse of discretion...

All these point to the conclusion that the exercise of managerial prerogatives is not unlimited. It is circumscribed by limitations found in law, a collective bargaining agreement, or the general principles of fair play and justice (*University of Sto. Tomas v. NLRC*, 190 SCRA 758 [1990])... (Emphasis ours).

We agree with respondent that when Becton, Asia laid down guidelines for terminating employees and petitioner Becton, Phils. applied these in previously laying off nine (9) of its employees, Becton, Phils. committed grave abuse of discretion in not applying the same criteria in respondent's case. There is reason and basis for the State, through the NLRC in this case, to intervene and reexamine the validity of petitioner company's exercise of its managerial prerogatives in declaring a certain position redundant insofar as in so doing, the rights of respondent to said position is jeopardized.

Moreover, even after a thorough review of the records of this case, the Court finds no valid and acceptable explanation for the unequal treatment by petitioner Becton, Phils. in the manner of termination of the nine (9)

employees and that of respondent, and therefore agrees with the Labor Arbiter that such discriminatory act is abhorrent to the basic principles of social justice and protection of labor, akin to a violation of the equal protection clause enshrined in the Constitution.

Indeed, it smacks of incredulity to believe that a topnotch employee who has contributed much to the growth of the company and for which the latter even reciprocated him with honors and awards, suddenly in a span of less than two (2) months from the time a new company Country Manager assumed post, would wake up one morning with a notice that his position is already superfluous and therefore he is no longer needed.

Petitioners also contend that respondent already signed a Release and Quitclaim which forthwith bars any further claims against the company. The Labor Arbiter, however, ruled that:

[Respondent] is not on equal footing with the Company; he was in a precarious financial position; he needed the money, to be given to him by the Company; so he signed, otherwise his family would starve. [Respondent's] signing of the Release and Quitclaim as a condition for payment to him of the separation pay and "Goodwill" does not bar him from seeking the full measure of his right or to demand benefits to which he is legally entitled or to question the legality of his dismissal. (Words in bracket ours).

The rule on the matter is as follows:

The validity of quitclaims executed by laborers has long been recognized in this jurisdiction. In *Periquet vs. National Labor Relations Commission* (186 SCRA 724 [1990]), this Court ruled that not all waivers and quitclaims are invalid as against public policy. If the agreement was voluntarily entered into and represents a reasonable settlement of the claims of the employee, it is binding on the parties and may not later be disowned simply because of a change of mind. Such legitimate waivers resulting from voluntary settlements of laborer's claims should be treated and upheld as the law between the parties (*Labor Congress of the Philippines vs. NLRC*, 292 SCRA 469, 477 [1998]). However, when as in this case, the voluntariness of the execution of the quitclaim or release is put into issue, then the claim of employee may still be given due course (*Talla vs. National Labor Relations Commission*, 175 SCRA 479, 480-481 [1989]). The law looks with disfavor upon quitclaims and releases by employees pressured into signing the same by unscrupulous employers minded to evade legal responsibilities (*Labor Congress, supra.*). (Emphasis ours.)[30]

The factual and legal bases of the Labor Arbiter's ruling on the supposed Release and Quitclaim are well established. We cannot subscribe to petitioners' reasoning that the foregoing ruling on the validity and binding effect of releases and quitclaims apply only to rank-and-file workers, and find no application to respondent in this case, who happens to be a highly intelligent man who once held the top sales position at petitioner company. There is no nexus between intelligence, or even the position which the employee held in the company when it concerns the pressure which the employer may exert upon the free will of the employee who is asked to sign a release and quitclaim. A lowly employee or a sales manager, as in the present case, who is confronted with the same dilemma of whether signing a release and quitclaim and accept what the company offers them, or refusing to sign and walk out without receiving anything, may do succumb to the same pressure, being very well aware that it is going to take quite a while before he can recover whatever he is entitled to, because it is only after a protracted legal battle starting from the labor arbiter level, all the way to this Court, can he receive anything at all. The Court understands that such a risk of not receiving anything whatsoever, coupled with the probability of not immediately getting any gainful employment or means of livelihood in the meantime, constitutes enough pressure upon anyone who is asked to sign a release and quitclaim in exchange of some amount of money which may be way below what he may be entitled to based on company practice and policy or by law.

It may likewise be noted that what respondent received when he signed the Release and Quitclaim was less than half of what he is entitled to under the circumstances, as correctly computed by the Labor Arbiter in his March 26,

2002 decision. This is another reason why the Court cannot rely upon such Release and Quitclaim to validly bar respondent from thereafter claiming additional benefits from petitioner Becton, Phils.

Finding no merit in the substantive aspect of the present petitions, the Court has no legal basis to rule in favor of liberal application of procedural rules in this case by suspending the same and allowing due course to petitioners' appeal before the NLRC despite violation of NLRC Resolution No. 01-02 (Series of 2002) for lack of a certification of non-forum shopping.

All told, the Court finds no reversible error with the assailed decision and resolution of the Court of Appeals. As it is, no grave abuse of discretion may be imputed by said court upon the NLRC, which merely abides by its own rules of procedure.

Worse, even if the aforesaid procedural and technical infirmities were to be ignored, the Court finds no cogent reason to depart from, much more nullify and set aside, the challenged decision and resolution of the Court of Appeals because definitely, no grave abuse of discretion could be imputed to the NLRC in affirming the decision of the Labor Arbiter on its merits.

WHEREFORE, the instant petitions are DENIED and the assailed Decision and Resolution of the Court of Appeals AFFIRMED.

Costs against petitioners.

SO ORDERED.

Panganiban, (Chairman), Corona, and Carpio-Morales, JJ., concur.

Sandoval-Gutierrez, J., on official leave.

[1] Penned by Associate Justice Amelita G. Tolentino, with Associate Justices Sergio L. Pestaño (ret.) and Mariano C. Del Castillo, concurring; Rollo of G.R. No. 159969, Vol. I, pp. 71-90.

[2] Ibid., pp. 92-93.

[3] Ibid., p. 117.

[4] Ibid., pp. 271-294.

[5] Ibid., pp. 295-315.

[6] Ibid., pp. 429-434.

[7] Ibid., pp. 461-462.

[8] Ibid., pp. 463-701.

[9] Ibid., pp. 889-909.

[10] Ibid., pp. 3-8.

[11] Ibid., p. 1040.

[12] Ibid., p. 946.

[13] Ibid., p. 104.

[14] Ibid., p. 107a-108.

[15] Ibid., pp. 1337-1340.

[16] Ibid., pp. 1341-1342.

[17] Ibid., pp. 429-434.

[18] Ibid., pp. 502-503.

[19] Ibid., p. 1040.

[20] Ongpauco vs. Court of Appeals, G.R. No. 134039, December 21, 2004, citing Veloria vs. Comelec, 211 SCRA 907 [1992]; Borre vs. Court of Appeals, 158 SCRA 560 [1988].

[21] Labor Arbiter's Decision dated March 26, 2002, pp. 16-17; Rollo, Vol. 1, pp. 286-287.

[22] G.R. No. 160391, August 9, 2005.

[23] 363 SCRA 799 [2001].

[24] 193 SCRA 665 [1991].

[25] Letter of termination dated July 10, 2001 (footnote no. 13).

[26] Petitioners' Position Paper, p. 6; Rollo, p. 124.

[27] Rollo, Vol. 1, pp. 95-103.

[28] 365 SCRA 124 [2001].

[29] 254 SCRA 182 [1996].

[30] Philippine Carpet Employees Association vs. Philippine Carpet Manufacturing Corporation, 340 SCRA 383 [2000].

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