

REMINGTON INDUSTRIAL SALES CORPORATION, PETITIONER, VS. ERLINDA CASTANEDA, RESPONDENT.

G.R. NOS. 169295-96. November 20, 2006

Ponente: PUNO, J.

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PUNO, J.:

Before this Court is the Petition for Review on Certiorari[1] filed by Remington Industrial Sales Corporation to reverse and set aside the Decision[2] of the Fourth Division of the Court of Appeals in CA-G.R. SP Nos. 64577 and 68477, dated January 31, 2005, which dismissed petitioner's consolidated petitions for certiorari, and its subsequent Resolution,[3] dated August 11, 2005, which denied petitioner's motion for reconsideration.

The antecedent facts of the case, as narrated by the Court of Appeals, are as follows:

The present controversy began when private respondent, Erlinda Castaneda ("Erlinda") instituted on March 2, 1998 a complaint for illegal dismissal, underpayment of wages, non-payment of overtime services, non-payment of service incentive leave pay and non-payment of 13[th] month pay against Remington before the NLRC, National Capital Region, Quezon City. The complaint impleaded Mr. Antonio Tan in his capacity as the Managing Director of Remington.

Erlinda alleged that she started working in August 1983 as company cook with a salary of Php 4,000.00 for Remington, a corporation engaged in the trading business; that she worked for six (6) days a week, starting as early as 6:00 a.m. because she had to do the marketing and would end at around 5:30 p.m., or even later, after most of the employees, if not all, had left the company premises; that she continuously worked with Remington until she was unceremoniously prevented from reporting for work when Remington transferred to a new site in Edsa, Caloocan City. She averred that she reported for work at the new site in Caloocan City on January 15, 1998, only to be informed that Remington no longer needed her services. Erlinda believed that her dismissal was illegal because she was not given the notices required by law; hence, she filed her complaint for reinstatement without loss of seniority rights, salary differentials, service incentive leave pay, 13[th] month pay and 10% attorney's fees.

Remington denied that it dismissed Erlinda illegally. It posited that Erlinda was a domestic helper, not a regular employee; Erlinda worked as a cook and this job had nothing to do with Remington's business of trading in construction or hardware materials, steel plates and wire rope products. It also contended that contrary to Erlinda's allegations that the (sic) she worked for eight (8) hours a day, Erlinda's duty was merely to cook lunch and "merienda", after which her time was hers to spend as she pleased. Remington also maintained that it did not exercise any degree of control and/or supervision over Erlinda's work as her only concern was to ensure that the employees' lunch and "merienda" were available and served at the designated time. Remington likewise belied Erlinda's assertion that her work extended beyond 5:00 p.m. as she could only leave after all the employees had gone. The truth, according to Remington, is that Erlinda did not have to punch any time card in the way that other employees of Remington did; she was free to roam around the company premises, read magazines, and to even nap when not doing her assigned chores. Remington averred that the illegal dismissal complaint lacked factual and legal bases. Allegedly, it was Erlinda who refused to report for work when Remington moved to a new location in Caloocan City.

In a Decision[4] dated January 19, 1999, the labor arbiter dismissed the complaint and ruled that the respondent was a domestic helper under the personal service of Antonio Tan, finding that her work as a cook was not usually necessary and desirable in the ordinary course of trade and business of the petitioner corporation, which operated as a trading company, and that the latter did not exercise control over her functions. On the issue of illegal dismissal, the labor arbiter found that it was the respondent who refused to go with the family of Antonio Tan when the corporation transferred office and that, therefore, respondent could not have been illegally dismissed.

Upon appeal, the National Labor Relations Commission (NLRC) rendered a Decision,[5] dated November 23, 2000, reversing the labor arbiter, ruling, viz:

We are not inclined to uphold the declaration below that complainant is a domestic helper of the family of Antonio Tan. There was no allegation by respondent that complainant had ever worked in the residence of Mr. Tan. What is clear from the facts narrated by the parties is that complainant continuously did her job as a cook in the office of respondent serving the needed food for lunch and merienda of the employees. Thus, her work as cook inured not for the benefit of the family members of Mr. Tan but solely for the individual employees of respondent.

Complainant as an employee of respondent company is even bolstered by no less than the certification dated May 23, 1997 issued by the corporate secretary of the company certifying that complainant is their bonafide employee. This is a solid evidence which the Labor Arbiter simply brushed aside. But, such error would not be committed here as it would be at the height of injustice if we are to declare that complainant is a domestic helper.

Complainant's work schedule and being paid a monthly salary of P4,000.00 are clear indication that she is a company employee who had been employed to cater to the food needed by the employees which were being provided by respondent to form part of the benefit granted them.

With regard to the issue of illegal dismissal, we believe that there is more reason to believe that complainant was not dismissed because allegedly she was the one who refused to work in the new office of respondent. However, complainant's refusal to join the workforce due to poor eyesight could not be considered abandonment of work or voluntary resignation from employment.

Under the Labor Code as amended, an employee who reaches the age of sixty years old (60 years) has the option to retire or to separate from the service with payment of separation pay/retirement benefit.

In this case, we notice that complainant was already 60 years old at the time she filed the complaint praying for separation pay or retirement benefit and some money claims.

Based on Article 287 of the Labor Code as amended, complainant is entitled to be paid her separation pay/retirement benefit equivalent to one-half (1/2) month for every year of service. The amount of separation pay would be based on the prescribed minimum wage at the time of dismissal since she was then underpaid. In as much as complainant is underpaid of her wages, it behooves that she should be paid her salary differential for the last three years prior to separation/retirement.

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WHEREFORE, premises considered, the assailed decision is hereby, SET ASIDE, and a new one is hereby entered ordering respondents to pay complainant the following:

1. Salary differential

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P12,021.12

2. Service Incentive Leave Pay

-

2,650.00

3. 13[th] Month Pay differential

-

1,001.76

4. Separation Pay/retirement benefit

-

36,075.00

Total

-

P51,747.88

SO ORDERED.

Petitioner moved to reconsider this decision but the NLRC denied the motion. This denial of its motion prompted petitioner to file a Petition for Certiorari[6] with the Court of Appeals, docketed as CA-G.R. SP No. 64577, on May 4, 2001, imputing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the NLRC in (1) reversing in toto the decision of the labor arbiter, and (2) awarding in favor of respondent salary differential, service incentive leave pay, 13th month pay differential and separation benefits in the total sum of P51,747.88.

While the petition was pending with the Court of Appeals, the NLRC rendered another Decision[7] in the same case on August 29, 2001. How and why another decision was rendered is explained in that decision as follows:

On May 17, 2001, complainant filed a Manifestation praying for a resolution of her Motion for Reconsideration and, in support thereof, alleges that, sometime December 18, 2000, she mailed her Manifestation and Motion for Reconsideration registered as Registered Certificate No. 188844; and that the said mail was received by the NLRC, through a certain Roland Hernandez, on December 26, 2000. Certifications to this effect was issued by the Postmaster of the Sta. Mesa Post Office bearing the date May 11, 2001 (Annexes A and B, Complainant's Manifestation).

Evidence in support of complainant's having actually filed a Motion for Reconsideration within the reglementary period having been sufficiently established, a determination of its merits is thus, in order.

On the merits, the NLRC found respondent's motion for reconsideration meritorious leading to the issuance of its second decision with the following dispositive portion:

WHEREFORE, premises considered, the decision dated November 23, 2000, is MODIFIED by increasing the award of retirement pay due the complainant in the total amount of SIXTY TWO THOUSAND FOUR HUNDRED THIRTY-SEVEN and 50/100 (P62,437.50). All other monetary relief so adjudged therein are maintained and likewise made payable to the complainant.

SO ORDERED.

Petitioner challenged the second decision of the NLRC, including the resolution denying its motion for reconsideration, through a second Petition for Certiorari[8] filed with the Court of Appeals, docketed as CA-G.R. SP No. 68477 and dated January 8, 2002, this time imputing grave abuse of discretion amounting to lack of or excess of jurisdiction on the part of the NLRC in (1) issuing the second decision despite losing its jurisdiction due to the pendency of the first petition for certiorari with the Court of Appeals, and (2) assuming it still had jurisdiction to issue the second decision notwithstanding the pendency of the first petition for certiorari with the Court of Appeals, that its second decision has no basis in law since respondent's motion for reconsideration, which was made the basis of the second decision, was not filed under oath in violation of Section 14, Rule VII[9] of the New Rules of Procedure of the NLRC and that it contained no certification as to why respondent's motion for reconsideration was not decided on time as also required by Section 10, Rule VI[10] and Section 15, Rule VII[11] of the aforementioned rules.

Upon petitioner's motion, the Court of Appeals ordered the consolidation of the two (2) petitions, on January 24, 2002, pursuant to Section 7, par. b(3), Rule 3 of the Revised Rules of the Court of Appeals. It summarized the principal issues raised in the consolidated petitions as follows:

- Whether respondent is petitioner's regular employee or a domestic helper;
- Whether respondent was illegally dismissed; and
- Whether the second NLRC decision promulgated during the pendency of the first petition for certiorari has basis in law.

On January 31, 2005, the Court of Appeals dismissed the consolidated petitions for lack of merit, finding no grave abuse of discretion on the part of the NLRC in issuing the assailed decisions.

On the first issue, it upheld the ruling of the NLRC that respondent was a regular employee of the petitioner since the former worked at the company premises and catered not only to the personal comfort and enjoyment of Mr. Tan and his family, but also to that of the employees of the latter. It agreed that petitioner enjoys the prerogative to control respondent's conduct in undertaking her assigned work, particularly the nature and situs of her work in relation to the petitioner's workforce, thereby establishing the existence of an employer-employee relationship between them.

On the issue of illegal dismissal, it ruled that respondent has attained the status of a regular employee in her service with the company. It noted that the NLRC found that no less than the company's corporate secretary certified that respondent is a bonafide company employee and that she had a fixed schedule and routine of work and was paid a monthly salary of P4,000.00; that she served with petitioner for 15 years starting in 1983, buying and cooking food served to company employees at lunch and merienda; and that this work was usually necessary and desirable in the regular business of the petitioner. It held that as a regular employee, she enjoys the constitutionally guaranteed right to security of tenure and that petitioner failed to discharge the burden of proving that her dismissal on January 15, 1998 was for a just or authorized cause and that the manner of dismissal complied with the requirements under the law.

Finally, on petitioner's other arguments relating to the alleged irregularity of the second NLRC decision, i.e., the fact that respondent's motion for reconsideration was not under oath and had no certification explaining why it was not resolved within the prescribed period, it held that such violations relate to procedural and non-jurisdictional matters that cannot assume primacy over the substantive merits of the case and that they do not constitute grave abuse of discretion amounting to lack or excess of jurisdiction that would nullify the second

NLRC decision.

The Court of Appeals denied petitioner's contention that the NLRC lost its jurisdiction to issue the second decision when it received the order indicating the Court of Appeals' initial action on the first petition for certiorari that it filed. It ruled that the NLRC's action of issuing a decision in installments was not prohibited by its own rules and that the need for a second decision was justified by the fact that respondent's own motion for reconsideration remained unresolved in the first decision. Furthermore, it held that under Section 7, Rule 65 of the Revised Rules of Court,[12] the filing of a petition for certiorari does not interrupt the course of the principal case unless a temporary restraining order or a writ of preliminary injunction has been issued against the public respondent from further proceeding with the case.

From this decision, petitioner filed a motion for reconsideration on February 22, 2005, which the Court of Appeals denied through a resolution dated August 11, 2005.

Hence, the present petition for review.

The petitioner raises the following errors of law: (1) the Court of Appeals erred in affirming the NLRC's ruling that the respondent was petitioner's regular employee and not a domestic helper; (2) the Court of Appeals erred in holding that petitioner was guilty of illegal dismissal; and (3) the Court of Appeals erred when it held that the issuance of the second NLRC decision is proper.

The petition must fail. We affirm that respondent was a regular employee of the petitioner and that the latter was guilty of illegal dismissal.

Before going into the substantive merits of the present controversy, we shall first resolve the propriety of the issuance of the second NLRC decision.

The petitioner contends that the respondent's motion for reconsideration, upon which the second NLRC decision was based, was not under oath and did not contain a certification as to why it was not decided on time as required under the New Rules of Procedure of the NLRC.[13] Furthermore, the former also raises for the first time the contention that respondent's motion was filed beyond the ten (10)-calendar day period required under the same Rules,[14] since the latter received a copy of the first NLRC decision on December 6, 2000, and respondent filed her motion only on December 18, 2000. Thus, according to petitioner, the respondent's motion for reconsideration was a mere scrap of paper and the second NLRC decision has no basis in law.

We do not agree.

It is well-settled that the application of technical rules of procedure may be relaxed to serve the demands of substantial justice, particularly in labor cases.[15] Labor cases must be decided according to justice and equity and the substantial merits of the controversy.[16] Rules of procedure are but mere tools designed to facilitate the attainment of justice.[17] Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be avoided.[18]

This Court has consistently held that the requirement of verification is formal, and not jurisdictional. Such requirement is merely a condition affecting the form of the pleading, non-compliance with which does not necessarily render it fatally defective. Verification is simply intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith.[19] The court may order the correction of the pleading if verification is lacking or act on the pleading although it is not verified, if the attending circumstances are such that strict compliance with the rules may be dispensed with in order that the ends of justice may thereby be served.[20]

Anent the argument that respondent's motion for reconsideration, on which the NLRC's second decision was based, was filed out of time, such issue was only brought up for the first time in the instant petition where no new issues may be raised by a party in his pleadings without offending the right to due process of the opposing party.

Nonetheless, the petitioner asserts that the respondent received a copy of the NLRC's first decision on December 6, 2000, and the motion for reconsideration was filed only on December 18, 2000, or two (2) days beyond the ten (10)-calendar day period requirement under the New Rules of Procedure of the NLRC and should not be allowed.[21]

This contention must fail.

Under Article 223[22] of the Labor Code, the decision of the NLRC shall be final and executory after ten (10) calendar days from the receipt thereof by the parties.

While it is an established rule that the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but jurisdictional, and failure to perfect an appeal has the effect of rendering the judgment final and executory, it is equally settled that the NLRC may disregard the procedural lapse where there is an acceptable reason to excuse tardiness in the taking of the appeal.[23] Among the acceptable reasons recognized by this Court are (a) counsel's reliance on the footnote of the notice of the decision of the Labor Arbiter that "the aggrieved party may appeal. . . within ten (10) working days";[24] (b) fundamental consideration of substantial justice;[25] (c) prevention of miscarriage of justice or of unjust enrichment, as where the tardy appeal is from a decision granting separation pay which was already granted in an earlier final decision;[26] and (d) special circumstances of the case combined with its legal merits[27] or the amount and the issue involved.[28]

We hold that the particular circumstances in the case at bar, in accordance with substantial justice, call for a liberalization of the application of this rule. Notably, respondent's last day for filing her motion for reconsideration fell on December 16, 2000, which was a Saturday. In a number of cases,[29] we have ruled that if the tenth day for perfecting an appeal fell on a Saturday, the appeal shall be made on the next working day. The reason for this ruling is that on Saturdays, the office of the NLRC and certain post offices are closed. With all the more reason should this doctrine apply to respondent's filing of the motion for reconsideration of her cause, which the NLRC itself found to be impressed with merit. Indeed, technicality should not be permitted to stand in the way of equitably and completely resolving the rights and obligations of the parties for the ends of justice are reached not only through the speedy disposal of cases but, more importantly, through a meticulous and comprehensive evaluation of the merits of a case.

Finally, as to petitioner's argument that the NLRC had already lost its jurisdiction to decide the case when it filed its petition for certiorari with the Court of Appeals upon the denial of its motion for reconsideration, suffice it to state that under Section 7 of Rule 65[30] of the Revised Rules of Court, the petition shall not interrupt the course of the principal case unless a temporary restraining order or a writ of preliminary injunction has been issued against the public respondent from further proceeding with the case. Thus, the mere pendency of a special civil action for certiorari, in connection with a pending case in a lower court, does not interrupt the course of the latter if there is no writ of injunction.[31] Clearly, there was no grave abuse of discretion on the part of the NLRC in issuing its second decision which modified the first, especially since it failed to consider the respondent's motion for reconsideration when it issued its first decision.

Having resolved the procedural matters, we shall now delve into the merits of the petition to determine whether respondent is a domestic helper or a regular employee of the petitioner, and whether the latter is guilty of illegal dismissal.

Petitioner relies heavily on the affidavit of a certain Mr. Antonio Tan and contends that respondent is the latter's domestic helper and not a regular employee of the company since Mr. Tan has a separate and distinct personality from the petitioner. It maintains that it did not exercise control and supervision over her functions; and that it operates as a trading company and does not engage in the restaurant business, and therefore respondent's work as a cook, which was not usually necessary or desirable to its usual line of business or trade, could not make her its regular employee.

This contention fails to impress.

In *Apex Mining Company, Inc. v. NLRC*,^[32] this Court held that a househelper in the staff houses of an industrial company was a regular employee of the said firm. We ratiocinated that:

Under Rule XIII, Section 1(b), Book 3 of the Labor Code, as amended, the terms "househelper" or "domestic servant" are defined as follows:

"The term 'househelper' as used herein is synonymous to the term 'domestic servant' and shall refer to any person, whether male or female, who renders services in and about the employer's home and which services are usually necessary or desirable for the maintenance and enjoyment thereof, and ministers exclusively to the personal comfort and enjoyment of the employer's family."

The foregoing definition clearly contemplates such househelper or domestic servant who is employed in the employer's home to minister exclusively to the personal comfort and enjoyment of the employer's family. Such definition covers family drivers, domestic servants, laundry women, yayas, gardeners, houseboys and similar househelps.

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The criteria is the personal comfort and enjoyment of the family of the employer in the home of said employer. While it may be true that the nature of the work of a househelper, domestic servant or laundrywoman in a home or in a company staffhouse may be similar in nature, the difference in their circumstances is that in the former instance they are actually serving the family while in the latter case, whether it is a corporation or a single proprietorship engaged in business or industry or any other agricultural or similar pursuit, service is being rendered in the staffhouses or within the premises of the business of the employer. In such instance, they are employees of the company or employer in the business concerned entitled to the privileges of a regular employee.

Petitioner contends that it is only when the househelper or domestic servant is assigned to certain aspects of the business of the employer that such househelper or domestic servant may be considered as such an employee. The Court finds no merit in making any such distinction. The mere fact that the househelper or domestic servant is working within the premises of the business of the employer and in relation to or in connection with its business, as in its staffhouses for its guest or even for its officers and employees, warrants the conclusion that such househelper or domestic servant is and should be considered as a regular employee of the employer and not as a mere family househelper or domestic servant as contemplated in Rule XIII, Section 1(b), Book 3 of the Labor Code, as amended.

In the case at bar, the petitioner itself admits in its position paper^[33] that respondent worked at the company premises and her duty was to cook and prepare its employees' lunch and merienda. Clearly, the situs, as well as the nature of respondent's work as a cook, who caters not only to the needs of Mr. Tan and his family but also to that of the petitioner's employees, makes her fall squarely within the definition of a regular employee under the doctrine enunciated in the *Apex Mining* case. That she works within company premises, and that she does not cater exclusively to the personal comfort of Mr. Tan and his family, is reflective of the existence of the petitioner's right of control over her functions, which is the primary indicator of the existence of an employer-employee

relationship.

Moreover, it is wrong to say that if the work is not directly related to the employer's business, then the person performing such work could not be considered an employee of the latter. The determination of the existence of an employer-employee relationship is defined by law according to the facts of each case, regardless of the nature of the activities involved.[34] Indeed, it would be the height of injustice if we were to hold that despite the fact that respondent was made to cook lunch and merienda for the petitioner's employees, which work ultimately redounded to the benefit of the petitioner corporation, she was merely a domestic worker of the family of Mr. Tan.

We note the findings of the NLRC, affirmed by the Court of Appeals, that no less than the company's corporate secretary has certified that respondent is a bonafide company employee;[35] she had a fixed schedule and routine of work and was paid a monthly salary of P4,000.00;[36] she served with the company for 15 years starting in 1983, buying and cooking food served to company employees at lunch and merienda, and that this service was a regular feature of employment with the company.[37]

Indubitably, the Court of Appeals, as well as the NLRC, correctly held that based on the given circumstances, the respondent is a regular employee of the petitioner.

Having determined that the respondent is petitioner's regular employee, we now proceed to ascertain the legality of her dismissal from employment.

Petitioner contends that there was abandonment on respondent's part when she refused to report for work when the corporation transferred to a new location in Caloocan City, claiming that her poor eyesight would make long distance travel a problem. Thus, it cannot be held guilty of illegal dismissal.

On the other hand, the respondent claims that when the petitioner relocated, she was no longer called for duty and that when she tried to report for work, she was told that her services were no longer needed. She contends that the petitioner dismissed her without a just or authorized cause and that she was not given prior notice, hence rendering the dismissal illegal.

We rule for the respondent.

As a regular employee, respondent enjoys the right to security of tenure under Article 279[38] of the Labor Code and may only be dismissed for a just[39] or authorized[40] cause, otherwise the dismissal becomes illegal and the employee becomes entitled to reinstatement and full backwages computed from the time compensation was withheld up to the time of actual reinstatement.

Abandonment is the deliberate and unjustified refusal of an employee to resume his employment.[41] It is a form of neglect of duty; hence, a just cause for termination of employment by the employer under Article 282 of the Labor Code, which enumerates the just causes for termination by the employer.[42] For a valid finding of abandonment, these two factors should be present: (1) the failure to report for work or absence without valid or justifiable reason; and (2) a clear intention to sever employer-employee relationship, with the second as the more determinative factor which is manifested by overt acts from which it may be deduced that the employee has no more intention to work.[43] The intent to discontinue the employment must be shown by clear proof that it was deliberate and unjustified.[44] This, the petitioner failed to do in the case at bar.

Alongside the petitioner's contention that it was the respondent who quit her employment and refused to return to work, greater stock may be taken of the respondent's immediate filing of her complaint with the NLRC. Indeed, an employee who loses no time in protesting her layoff cannot by any reasoning be said to have abandoned her work, for it is well-settled that the filing of an employee of a complaint for illegal dismissal with a prayer for

reinstatement is proof enough of her desire to return to work, thus, negating the employer's charge of abandonment.[45]

In termination cases, the burden of proof rests upon the employer to show that the dismissal is for a just and valid cause; failure to do so would necessarily mean that the dismissal was illegal.[46] The employer's case succeeds or fails on the strength of its evidence and not on the weakness of the employee's defense.[47] If doubt exists between the evidence presented by the employer and the employee, the scales of justice must be tilted in favor of the latter.[48]

IN VIEW WHEREOF, the petition is DENIED for lack of merit. The assailed Decision dated January 31, 2005, and the Resolution dated August 11, 2005, of the Court of Appeals in CA-G.R. SP Nos. 64577 and 68477 are AFFIRMED. Costs against petitioner.

SO ORDERED.

Sandoval-Gutierrez, Corona, Azcuna, and Garcia, JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo, pp. 15-33; penned by Justice Arturo D. Brion, concurred in by Justices Delilah Vidallon-Magtolis and Eliezer R. De los Santos.

[3] Id. at 35-36.

[4] Id. at 98-104; penned by Labor Arbiter Vicente R. Layawen.

[5] Id. at 106-128; penned by Presiding Commissioner Raul T. Aquino, concurred in by Commissioners Victoriano R. Calaycay and Angelita A. Gacutan.

[6] Id. at 75-85.

[7] Id. at 118-128.

[8] Annex "D," id. at 50-60.

[9] Section 14, Rule VII of the New Rules of Procedure of the National Labor Relations Commission, provides:

Section 14. Motions for Reconsideration. – Motions for reconsideration of any order, resolution or decision of the Commission shall not be entertained except when based on palpable or patent errors, provided that the motion is under oath and filed within ten (10) calendar days from receipt of the order, resolution or decision with proof of service that a copy of the same has been furnished within the reglementary period the adverse party and provided further, that only one such motion from the same party shall be entertained.

[10] Section 10, Rule VI of the New Rules of Procedure of the National Labor Relations Commission, provides:

Section 10. Period to Resolve Appeal. – The Commission shall resolve the appeal from the decision, order of award of the Labor Arbiter and the Administrator within twenty (20) calendar days from receipt of the answer of the appellee or upon the filing of the last pleading or memorandum required by this Rules. In case of appeal from the decision of the Regional Director or his duly authorized Hearing Officer, the same shall be resolved within ten (10) calendar days.

[11] Section 15, Rule VII of the New Rules of Procedure of the National Labor Relations Commission provides:

Section 15. Period to Decide/Resolve Certification Thereto. – The Commission shall decide/resolve all cases/matters within the prescribed period.

In the event that a case/matter has not been decided/resolved within the prescribed period, the Chairman/Presiding Commissioners shall certify why the decision/resolution has been issued within the said period and a copy thereof served upon the parties.

[12] Section 7, Rule 65 of the 1997 Revised Rules of Court, provides:

Section 7. Expediting proceedings; injunctive relief.—

The court in which the petition is filed may issue orders expediting the proceedings, and it may also grant a temporary restraining order or a writ of preliminary injunction for the preservation of the rights of the parties pending such proceedings. The petition shall not interrupt the course of the principal case unless a temporary restraining order or a writ of preliminary injunction has been issued against the public respondent from further proceeding in the case.

[13] *Supra*, notes 9, 10 and 11.

[14] Section 14, Rule VII of the New Rules of Procedure of the National Labor Relations Commission, *supra* note 9.

[15] *Havtor Management Phils., Inc. v. National Labor Relations Commission*, G.R. No. 146336, December 13, 2001, 372 SCRA 271.

[16] *EDI Staff Builders International, Inc. v. Magsino*, G.R. No. 139430, June 20, 2001, 359 SCRA 212.

[17] *Philippine National Bank v. Sanao Marketing Corporation*, G.R. No. 153951, July 29, 2005, 465 SCRA 307.

[18] *Solicitor General v. Metropolitan Manila Authority*, G.R. No. 102782, December 11, 1991, 204 SCRA 837, 843.

[19] *Shipside Incorporated v. Court of Appeals*, G.R. No. 143377, February 20, 2001, 352 SCRA 346.

[20] *Villarica v. Court of Appeals*, G.R. No. 96085, March 16, 1992, First Division, Minute Resolution.

[21] Section 14, Rule VII of the New Rules of Procedure of the National Labor Relations Commission.

[22] Article 223 of the Labor Code of the Philippines provides:

Article 223. Appeal

Decisions, awards, or orders of the Labor Arbiter are final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards, or orders. xxx

The Commission shall decide all cases within twenty (20) calendar days from receipt of the answer of the appellee. The decision of the Commission shall be final and executory after ten (10) calendar days from receipt thereof by the parties.

[23] *Chong Guan Trading v. NLRC*, G.R. No. 81471, April 26, 1989, 172 SCRA 831, 839.

[24] *Firestone Tire and Rubber Co. v. Lariosa*, G.R. No. L-70479, February 27, 1987, 148 SCRA 187, 190-191.

[25] *Insular Life Assurance Co. v. NLRC*, G.R. No. L-74191, December 21, 1987, 156 SCRA 740, 746; see also the Resolution therein of July 26, 1988; *Blancaflor v. NLRC*, G.R. No. 101013, February 2, 1993, 218 SCRA 366, 370-371.

- [26] Olacao v. NLRC, G.R. No. 81390, August 29, 1989, 177 SCRA 38, 41.
- [27] Pacific Asia Overseas Shipping Corp. v. NLRC, G.R. No. 76595, May 6, 1988, 161 SCRA 122, 130.
- [28] City Fair Corp. v. NLRC, G.R. No. 95711, April 21, 1995, 243 SCRA 572, 576.
- [29] See Judy Philippines, Inc. v. NLRC, G.R. No. 111934, April 29, 1998, 289 SCRA 764; Aquino v. NLRC, G.R. No. 98108, September 3, 1993, 226 SCRA 81-82; Pacaña v. National Labor Relations Commission, G.R. No. 83513, April 18, 1989, 172 SCRA 472.
- [30] Supra note 13.
- [31] Peza v. Alikpala, G.R. No. L-29749, April 15, 1988, 160 SCRA 35.
- [32] G.R. No. 94951, April 22, 1991, 196 SCRA 251, 254-255.
- [33] CA rollo, p. 24.
- [34] Philippine Fuji Xerox Corporation v. NLRC, G.R. No. 111501, March 5, 1996, 254 SCRA 300-301.
- [35] Rollo, p. 27.
- [36] Id.
- [37] Id.
- [38] Article 279 of the Labor Code of the Philippines provides:
- Article 279. Security of Tenure. – In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.
- [39] See Article 282 of the Labor Code of the Philippines.
- [40] See Articles 283 and 284 of the Labor Code of the Philippines.
- [41] Columbus Philippine Bus Corporation v. NLRC, G.R. Nos. 114858-59, September 7, 2001, 364 SCRA 622.
- [42] Nueva Ecija Electric Cooperative II v. NLRC, G.R. No. 157603, June 23, 2005, 461 SCRA 182.
- [43] Sta. Catalina College v. NLRC, G.R. No. 144483, November 19, 2003, 416 SCRA 239-240.
- [44] C. Alcantara & Sons, Inc. v. NLRC, G.R. No. 73521, January 5, 1994, 229 SCRA 109.
- [45] Samarca v. Arc-Men Industries, Inc., G.R. No. 146118, October 8, 2003, 413 SCRA 162; Lambo v. NLRC, G.R. No. 111042, October 26, 1999, 317 SCRA 420.
- [46] Solidbank Corporation v. Court of Appeals, G.R. No. 151026, August 25, 2003, 409 SCRA 554.
- [47] PLDT v. Tiamson, G.R. Nos. 164684-85, November 11, 2005, 474 SCRA 771.
- [48] Sy v. Court of Appeals, G.R. No. 148766, January 22, 2003, 395 SCRA 729.

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