

SECOND DIVISION

[G.R. No. 159358, July 15, 2009]

**EUREKA PERSONNEL & MANAGEMENT SERVICES, INC.,
PETITIONER, VS. EDUARDO VALENCIA, RESPONDENT.**

DECISION

BRION, J.:

We resolve the Rule 45 petition filed by Eureka Personnel and Management Services, Inc. (*Eureka*) to challenge the Court of Appeals (CA) decision^[1] and resolution^[2] in CA-G.R. SP No. 61553. The appellate court upheld the National Labor Relations Commission (NLRC)'s decision dismissing Eureka's appeal for having been filed out of time.^[3]

FACTUAL ANTECEDENTS

Eureka, a local recruitment agency, hired respondent Eduardo Valencia (*Valencia*) as an electrical engineer for its principal, Haif Trading and Contracting Establishment of Saudi Arabia (*principal* or the *company*), under a one-year employment contract. According to Eureka, Valencia had to undergo a three-month probationary period under the contract.

On October 17, 1998, Eureka deployed Valencia to Saudi Arabia where he was given an orientation at the principal's head office and assigned to the Design Department. Eureka contends that Valencia's superiors and fellow electrical engineers found him to be incapable of doing shop drawings. As a result, the company transferred Valencia to the Technical Department. Since Valencia's performance remained unsatisfactory, the company terminated his employment for his failure to meet the required probationary standards.

On the other hand, Valencia claims that he passed the rigid interview Eureka conducted prior to his deployment. Valencia attributes the sudden termination of his employment to his December 30, 1998 complaint to the Administrative Manager that he was not being paid his monthly salary and food allowance. Valencia was allegedly told to wait as he was being transferred to another branch; instead, the company terminated his services and repatriated him on January 6, 1999.

When Valencia arrived in the Philippines, he filed a complaint against Eureka with the Overseas Workers Welfare Administration where Eureka failed to explain the cause of Valencia's early repatriation.

Subsequently, Valencia filed a complaint against Eureka with the NLRC. After hearing, the labor arbiter rendered a decision whose dispositive portion states:^[4]

IN LIGHT OF THE [SIC] ALL THE FOREGOING, the respondents are ordered to pay the complainant: 1) 3 months salary for the unexpired portions of the contract for the sum of US\$2,340.00; 2) unpaid salary and food allowance for December 1998 in the sum of US\$780.00 and SR\$200.00 respectively; and 3) salary from 1-7 January 1999 in the amount of US\$210.00.

SO ORDERED.

Eureka claims that it received the labor arbiter's decision on November 22, 1999 and timely filed its notice of appeal on December 2, 1999. The NLRC, however, found that the labor arbiter's decision was served on Eureka on November 21, 1999 as shown by the registry return card, and, consequently, dismissed the appeal for having been filed out of time.

On February 18, 2000, Eureka moved for a reconsideration of the NLRC's decision, alleging that the Postmaster of the Malate Post Office would certify to the fact that the decision was actually delivered to Eureka on November 22, 1999, and not on November 21, 1999. Eureka attached a copy of the postmaster's certification to its supplemental motion for reconsideration filed on May 12, 2000. The certification reads:

This is to certify that according to the record of this office Registered Letter No. 0559 sent by the National Labor Relations Commission - Quezon City processed on November 19, 1999 addressed to Eureka Personnel and Management Service, Inc. at 1913 L. Guinto St. Malate Manila was duly delivered on November 22, 1999.

The NLRC denied Eureka's motion for reconsideration on August 31, 2000.

Eureka brought the NLRC decision to the CA through a petition for *certiorari*^[5] on the allegation that the NLRC committed grave abuse of discretion when it dismissed its appeal despite the postmaster's certification that Eureka presented.

The CA, in its March 28, 2003 decision, held that the NLRC did not abuse its discretion when it denied Eureka's appeal for having been filed out of time.^[6] The CA found that the registry receipt [registry return card] is sufficient proof of the date of receipt of any notice served by the NLRC; thus, the NLRC was not obliged to accept the postmaster's certification that Eureka offered to prove that it received the labor arbiter's decision on November 22, 1999, and not on November 21, 1999. The CA also cited the Implementing Rules of the NLRC which specifically disallow any motion to extend the period to perfect the appeal; thus, "it is only right not to consider petitioner's supplemental motion for reconsideration." Lastly, the CA held that the case presented no exceptional reason for the CA to relax its procedural rules in Eureka's favor, nor even to change the findings of the labor arbiter. The CA also denied Eureka's Motion for Reconsideration in its August 7, 2003 Resolution.^[7]

THE PETITION

Eureka now comes to this Court through this petition for review on *certiorari*^[8] on the claim that the CA rulings in its March 28, 2003 decision and its August 7, 2003 resolution were legally incorrect.

Eureka contends that it filed a timely appeal with the NLRC on December 2, 1999, since it received the labor arbiter's decision on November 22, 1999, not on November 21, 1999, as found by the NLRC. Eureka relies on the certification issued by the Postmaster of Malate; unfortunately, the certification could not be issued in time to be attached to Eureka's motion for reconsideration of the NLRC's dismissal of its appeal; Eureka filed its motion on February 18, 2000, and could only present the Postmaster's certification on May 12, 2000, *via* a supplemental motion, because it took some time before the postal service could trace the mail matter.

Eureka further argues that the most competent authority to state when the labor arbiter's decision was served is the Malate Post Office - the office that processed the mail and served it on Eureka. Thus, the postmaster's certification should have been considered in determining the timeliness of Eureka's appeal. Eureka also asserts that the registry return card the NLRC relied upon is not even in the records of the NLRC. As between an inexistent registry return card and Eureka's postmaster's certification, Eureka posits that the NLRC and the CA should have given more credence to the latter.

Valencia, on the other hand, insists that Eureka's appeal was filed out of time, since it received the Labor Arbiter's decision on November 21, 1999 (evidenced by the registry return card found on page 60 of the NLRC records), but filed its appeal only on December 2, 1999 - *i.e.*, after the lapse of the period to appeal. Valencia points out that the postmaster's certification submitted by Eureka appears to be of dubious origin, as it was neither under oath nor properly sealed. Even if the postmaster's certification was genuine, it could still not affect the case, as it was submitted after the period to file a motion for reconsideration had lapsed.

Valencia also underscores the fact that Eureka did not file the correct amount of the bond to perfect its appeal with the NLRC; it filed a supersedeas bond in the amount of only P35,000.00, when the total amount of the monetary award granted to Valencia is US\$3,330.00, or the equivalent of P134,232.30,^[9] plus SR\$200.00.

THE COURT'S RULING

We deny the petition for lack of merit.

***Preliminary Procedural Consideration:
The Petition is Fatally Incomplete***

From the beginning, Eureka wholly relied on the certification allegedly issued by the Postmaster of the Malate Post Office.

We observe that despite the imputed importance of the Postmaster's certification to Eureka's claim, *Eureka did not even bother to attach it to the pleadings filed before this Court*, thereby preventing us from examining this document. We note, too, that