

SECOND DIVISION

[G.R. No. 121143, January 21, 1997]

PURIFICACION G. TABANG, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND PAMANA GOLDEN CARE MEDICAL CENTER FOUNDATION, INC., RESPONDENTS.

D E C I S I O N

REGALADO, J.:

This is a petition for *certiorari* which seeks to annul the resolution of the National Labor Relations Commission (NLRC), dated June 26, 1995, affirming in toto the order of the labor arbiter, dated April 26, 1994, which dismissed petitioner's complaint for illegal dismissal with money claims for lack of jurisdiction.

The records show that petitioner Purificacion Tabang was a founding member, a member of the Board of Trustees, and the corporate secretary of private respondent Pamana Golden Care Medical Center Foundation, Inc., a non-stock corporation engaged in extending medical and surgical services.

On October 30, 1990, the Board of Trustees issued a memorandum appointing petitioner as Medical Director and Hospital Administrator of private respondent's Pamana Golden Care Medical Center in Calamba, Laguna.

Although the memorandum was silent as to the amount of remuneration for the position, petitioner claims that she received a monthly retainer fee of five thousand pesos (P5,000.00) from private respondent, but the payment thereof was allegedly stopped in November, 1991.

As medical director and hospital administrator, petitioner was tasked to run the affairs of the aforesaid medical center and perform all acts of administration relative to its daily operations.

On May 1, 1993, petitioner was allegedly informed personally by Dr. Ernesto Naval that in a special meeting held on April 30, 1993, the Board of Trustees passed a resolution relieving her of her position as Medical Director and Hospital Administrator, and appointing the latter and Dr. Benjamin Donasco as acting Medical Director and acting Hospital Administrator, respectively. Petitioner averred that she thereafter received a copy of said board resolution. On June 6, 1993, petitioner filed a complaint for illegal dismissal and non-payment of wages, allowances and 13th month pay before the labor arbiter.

Respondent corporation moved for the dismissal of the complaint on the ground of lack of jurisdiction over the subject matter. It argued that petitioner's position as Medical Director and Hospital Administrator was interlinked with her position as member of the Board of Trustees, hence, her dismissal is an intra-corporate

controversy which falls within the exclusive jurisdiction of the Securities and Exchange Commission (SEC).

Petitioner opposed the motion to dismiss, contending that her position as Medical Director and Hospital Administrator was separate and distinct from her position as member of the Board of Trustees. She claimed that there is no intra-corporate controversy involved since she filed the complaint in her capacity as Medical Director and Hospital Administrator, or as an employee of private respondent.

On April 26, 1994, the labor arbiter issued an order dismissing the complaint for lack of jurisdiction. He ruled that the case falls within the jurisdiction of the SEC, pursuant to Section 5 of Presidential Decree No. 902-A.^[1]

Petitioner's motion for reconsideration was treated as an appeal by the labor arbiter who consequently ordered the elevation of the entire records of the case to public respondent NLRC for appellate review.^[2]

On appeal, respondent NLRC affirmed the dismissal of the case on the additional ground that "the position of a Medical Director and Hospital Administrator is akin to that of an executive position in a corporate ladder structure," hence, petitioner's removal from the said position was an intra-corporate controversy within the original and exclusive jurisdiction of the SEC.^[3]

Aggrieved by the decision, petitioner filed the instant petition which we find, however, to be without merit.

We agree with the findings of the NLRC that it is the SEC which has jurisdiction over the case at bar. The charges against herein private respondent partake of the nature of an intra-corporate controversy. Similarly, the determination of the rights of petitioner and the concomitant liability of private respondent arising from her ouster as a medical director and/or hospital administrator, which are corporate offices, is an intra-corporate controversy subject to the jurisdiction of the SEC.

Contrary to the contention of petitioner, a medical director and a hospital administrator are considered as corporate officers under the by-laws of respondent corporation. Section 2(i), Article I thereof states that one of the powers of the Board of Trustees is "(t)o appoint a Medical Director, Comptroller/Administrator, Chiefs of Services and such other officers as it may deem necessary and prescribe their powers and duties."^[4]

The president, vice-president, secretary and treasurer are commonly regarded as the principal or executive officers of a corporation, and modern corporation statutes usually designate them as the officers of the corporation.^[5] However, other offices are sometimes created by the charter or by-laws of a corporation, or the board of directors may be empowered under the by-laws of a corporation to create additional offices as may be necessary.^[6]

It has been held that an "office" is created by the charter of the corporation and the officer is elected by the directors or stockholders.^[7] On the other hand, an "employee" usually occupies no office and generally is employed not by action of the