

## SECOND DIVISION

[ G.R. No. 171327, June 18, 2010 ]

**ESTRELLA VELASCO, PETITIONER, VS. TRANSIT AUTOMOTIVE  
SUPPLY, INC. AND ANTONIO DE DIOS, RESPONDENTS.**

### DECISION

**CARPIO, J.:**

#### The Case

Before the Court is a petition for review assailing the 1 September 2005 Decision<sup>[1]</sup> and 3 February 2006 Resolution<sup>[2]</sup> of the Court of Appeals in CA-G.R. SP No. 53901.

#### The Antecedent Facts

Estrella Velasco (petitioner) was an employee of Transit Automotive Supply, Inc. (respondent corporation) from 1972 to 1993. Petitioner was originally hired as accounting clerk and later became the head of the Accounting Department while concurrently the Secretary to the President and General Manager, and Comptroller. Petitioner alleged that in January 1993, she was asked to resign as Comptroller and to concentrate on the preparation of respondent corporation's Income Statement. Jose F. Andan was then appointed Comptroller. When petitioner refused, her office table, things and personal belongings were allegedly transferred without her consent. Petitioner took a leave of absence for the whole month of February 1993. In a letter dated 5 March 1993,<sup>[3]</sup> respondent corporation called petitioner's attention that she had been absent without official leave since 1 March 1993. Respondent corporation required petitioner to explain her absence within three days from receipt of the letter; otherwise, her absence would be considered an abandonment of her duties and responsibilities. In her answer dated 31 March 1993,<sup>[4]</sup> petitioner through her counsel alleged that she had nothing to explain because in February 1993, she was verbally informed by respondent corporation's President and General Manager, Antonio De Dios (De Dios), to resign from her employment as Comptroller. Petitioner then filed an action for constructive dismissal against respondent corporation and De Dios (collectively, respondents).

#### The Decision of the Labor Arbiter

In his Decision<sup>[5]</sup> dated 29 October 1993, the Labor Arbiter dismissed the complaint. The Labor Arbiter ruled that petitioner was holding multiple positions and that respondents only exercised their management prerogative. The Labor Arbiter noted that there was no diminution in petitioner's salary and benefits. The Labor Arbiter also noted that as per petitioner's own evidence, she was applying with a multinational firm while she was on leave during the whole month of February 1993, thus showing that she had no intention to return to respondent corporation.

Petitioner appealed to the National Labor Relations Commission (NLRC).

### **The Decision of the NLRC**

In its Decision<sup>[6]</sup> promulgated on 23 November 1994, the NLRC found that petitioner was constructively dismissed from employment. The NLRC ruled that petitioner's reinstatement was logical except that it was not proper due to the strained relationship between the parties. Hence, the NLRC allowed the recovery of separation pay. The NLRC ruled:

WHEREFORE, premises considered, the decision dated October 29, 1993 is hereby Vacated and Set Aside and a new one Entered ordering the respondent to pay the complainant the amount of P521,325.00, representing backwages from March, 1993 up to September 30, 1994; separation pay in the amount of P608,212.50, representing the twenty one (21) years of service; and attorney's fees equivalent to 10% of the award pursuant to law.

All other claims are dismissed for lack of merit.

SO ORDERED.<sup>[7]</sup>

Respondents came to this Court assailing the 23 November 1994 Decision of the NLRC. The case was docketed as G.R. No. 119424.

Respondents alleged that the NLRC "in a glaring gesture of partiality, merely copied the appeal memorandum of the private respondent *verbatim* including all its blatant errors not only of grammar and spelling but also of fact and law without examining the evidence on record nor studying the existing jurisprudence on the matter."

In an unsigned Resolution<sup>[8]</sup> dated 30 September 1996, this Court ruled that while it held that it was proper for the Court of Appeals to copy the facts of the case as summarized in the Appellee's Brief, a judicial or quasi-judicial tribunal like the NLRC should not be allowed to copy *verbatim* and *in toto* the appeal memorandum's conclusion of law. This Court ruled that that the NLRC should make its own analysis and should show how the law and jurisprudence justify the conclusion it had reached. This Court deemed the NLRC's decision incomplete and ordered the NLRC to render a new decision on the case.

Thus, the NLRC promulgated a new Decision<sup>[9]</sup> on 27 January 1998. The NLRC ruled that petitioner's transfer was a demotion. The NLRC ruled that from performing a managerial function, petitioner was asked to perform a clerical task although she retained her salary and rank.

The dispositive portion of the NLRC Decision reads:

Accordingly, premises considered, the decision appealed from is hereby vacated and a new one entered declaring respondent guilty of illegal