

THIRD DIVISION

[G.R. NO. 164816, September 27, 2006]

**MA. ELLAINE D. PANAGA, PETITIONER, VS. COURT OF APPEALS,*
RESPONDENT.**

DECISION

CARPIO MORALES, J.:

Petitioner, Ma. Ellaine D. Panaga, Senior Personnel Supervisor of Toyota Cubao, Inc., filed a complaint^[1] for illegal dismissal against her employer and its officials Leo Ferreira, Emmanuel Que, Lourdes de Lara and Eliza Lolita Julian.

By Decision^[2] of March 31, 2003, the Labor Arbiter rendered judgment against Toyota Cubao, Inc. et al., the dispositive portion of which decision reads:

WHEREFORE, premises considered, judgment is hereby rendered ordering the respondents Toyota Cubao, Inc./Leo Ferreira/Emmanuel Que/ Lourdes De Lara/ Eliza Lolita Julian to:

- 1) reinstate complainant Ma. Ellaine D. Panaga to her former position without loss of seniority rights;
- 2) pay complainant the amount of ONE HUNDRED SIXTY ONE THOUSAND EIGHT HUNDRED NINETY SEVEN PESOS & 91/100 (P161,897.91) representing her backwages, proportionate 13th month pay, unpaid salary and attorney's fees.

All other claims are DISMISSED for lack of merit.^[3]

On appeal, the National Labor Relations Commission (NLRC) reversed the Labor Arbiter's decision,^[4] disposing as follows:

WHEREFORE, the appealed decision dated March 31, 2003 is SET ASIDE. Finding the complainant to be lawfully dismissed, her complaint for illegal dismissal is hereby dismissed. Respondent Toyota Cubao, Inc. is however ordered to pay the complainant the following:

- (a) P9,597.82, representing the complainant's proportionate 13th month pay from 1/1/02-8/7/02; and
- (b) P3,663.90, representing her unpaid salary from 8/1/02-8/7/02.

All other claims should be dismissed for lack of merit.

On petition for certiorari, the Court of Appeals, by Resolution^[5] of May 12, 2004, dismissed petitioner's petition which was found to be fatally flawed, thus:

. . . [T]he instant petition for certiorari is fatally flawed **for not containing an affidavit of proof of service as required in Section 13 of Rule 13, and for appending only the decisions of the Labor Arbiter and the NLRC, petitioner's Motion for Reconsideration and the NLRC Order denying the same, without the other pertinent pleadings and part of the records to support the petition pursuant to Section 1 of Rule 65.**

x x x x (Emphasis and underscoring supplied)

Petitioner's counsel filed a Motion for Reconsideration of the appellate court's resolution. From the counsel's statement in the motion that the two annexes to the petition - the Motion for Reconsideration of the NLRC decision and the NLRC order denying the same - "were detached unnoticed from the copy of the petition that went to [the] Division while in the process of being transmitted for appropriate disposition," it would appear that petitioner's counsel misunderstood the resolution. That could explain why he again attached to the motion for reconsideration the said two documents. Additionally, he submitted pages of the "Handbook on Personnel Policies and Benefits (1999 Revision)" of Toyota Cubao, Inc.

On the absence of affidavit of proof of service, petitioner's counsel pointed out his substantial compliance with the Rules, "evident in the fact that the [o]riginal of the petition bears the rubber acknowledgment stamp of the NLRC, whereas the post office registry receipts issued by the Quezon City Post Office were stapled there[to] - P.O. No. 5643 to the Solicitor General and P.O. No. 5642 to Atty. Maria Cynthia A.V. Sardillo, counsel for private respondents."

By Resolution^[6] of July 16, 2004, the appellate court denied petitioner's motion for reconsideration in this wise:

In the Motion for Reconsideration dated May 31, 2004, **without the required affidavit of proof of service** (Section 1, Rule 13), is DENIED. (sic) Instead of submitting the other lacking pleadings and other part of the records, the motion insists that the petition filed is complete with the annexes, contrary to what appears on record. **Withal, the dismissal Order of May 12, 2004, did not say that the petitioner's Annexes "C" and "D" are missing. What We said in the dismissal order is that aside from the decisions of the Labor Arbiter and the NLRC, petitioner's Motion for Reconsideration and the order denying the same, the other required pleadings and part of the records to support the petition to Section 1 of Rule 65** (sic). (Emphasis and underscoring, partly in the original and partly supplied)

Hence, the present petition, faulting the appellate court to have "acted without or in excess of jurisdiction or with grave abuse of discretion in dismissing the meritorious petition, and later denying the motion for reconsideration."

Section 1, Rule 65 of the Rules of Court reads:

SECTION 1. *Petition for Certiorari.* - When any tribunal, board or officer