

THIRD DIVISION

[G.R. No. 102985, March 15, 2001]

**RUBEN BRAGA CURAZA, PETITIONER, VS. THE NATIONAL LABOR
RELATIONS COMMISSION, PEPSI-COLA PRODUCTS
PHILIPPINES, INC. (PCPPI) AND THE PLANT GENERAL
MANAGER, RESPONDENTS.**

D E C I S I O N

GONZAGA-REYES, J.:

This Petition for *Certiorari* seeks the reversal of the Resolution^[1] of the National Labor Relations Commission (NLRC)^[2] dated April 29, 1991 dismissing the appeal of the herein petitioner from the decision of Labor Arbiter Amado M. Solamo dated May 25, 1990 and the Resolution of the NLRC dated October 23, 1991 denying petitioner's motion for reconsideration.

On September 18, 1989, petitioner filed a complaint against respondent Pepsi-Cola Products Philippines, Inc. (PEPSI) for constructive dismissal with the Sub-Regional Arbitration Branch (SRAB) No. X in Butuan City. The complaint included claims for reinstatement, backwages, moral damages and exemplary damages and was docketed as NLRC Case No. SRAB - 10-09-00549-89.^[3]

Based on the submissions of the parties, the Labor Arbiter culled the following factual antecedents:

"Complainant alleged that he has been employed as Butuan Plant Personnel Manager of the Pepsi Cola Bottling Company of the Philippines on 16 November 1981, was absorbed as such by the Pepsi Cola Distributors of the Philippines, Inc. on 25 March 1985, and was finally transferred to respondent Pepsi Cola Products Philippines, Inc. on 25 July 1989 with the last salary of P8,695.00 per month; that respondent PCPPI thru its Plant General Manager relieved complainant of his official function as the Plant Personnel Manager without any valid reason or legal basis and padlocked the office of the latter to prevent him from getting inside to discharge his duties and responsibilities as such; that complainant has been reporting to the plant daily without any work load or assignment and worse is the fact that he was subjected to a close security inspection during time in and out and close security surveillance while inside the plant premises and considered as nothing more than an ordinary worker before the eyes of any employee; that complainant was placed in a very embarrassing condition of employment that will unquestionably affect his well-being which may lead separation from service especially so when the top management, both local and national was pressuring for his resignation contrary to the security of tenure guaranteed under the constitution; that complainant has been and is still suffering from

sleepless nights, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock and social humiliation.

Respondents in its answer alleged that respondent PCPPI commenced its existence and business operations only on 25 July 1989; that respondent PCPPI has a separate and distinct legal personality from Pepsi Cola Bottling Company of the Philippines, Inc. and Pepsi Cola Distributors of the Philippines; that complainant was legally separated from Pepsi Cola Distributors of the Philippines, Inc. and was correspondingly paid his separation pay and other benefits, after which respondent PCPPI offered him employment as Plant Personnel Manager of Butuan Plant; that complainant was not in any manner relieved of his official function as Plant Personnel Manager by respondent PCPPI or any of its responsible officials; that beginning September 2 to September 16, 1989, complainant had not been reporting to his work daily or regularly, without proper leave notification to the Plant General Manager; that worse, starting September 18, 1989, complainant absented himself from his work, and continuing thereafter again without leave notification whatsoever to the Plant Management; that in view of the irregular attendance and/or repeated absences of complainant in his work and considering that his personnel office is the repository of confidential and highly sensitive documents, the Plant Management deemed it proper and wise, as precautionary measure, to have his office properly secured; that the respondent made repeated demands upon complainant to report back to work, but complainant refused and failed to do so, insisting that he has already filed the instant case; that complainant's absences for five (5) consecutive working days without proper notification constitutes grounds for dismissal for cause under existing company rules.

Further, respondents with strong vehemence, deny having pressured complainant to resign or having done any act tending to place him in an "embarrassing condition" as to lead to his "separation from service", neither have respondents violated his security of tenure and consequently, complainant has no legal or factual basis to claim constructive dismissal, praying for reinstatement with backwages and damages considering that the employer-employee relationship between complainant and respondent PCPPI is still subsisting."^[4]

On May 25, 1990, Labor Arbiter Amado M. Solamo rendered his decision^[5] dismissing petitioner's complaint but on account of equitable considerations ordered respondent PEPSI to pay petitioner financial assistance equivalent to one (1) month salary as follows:

"WHEREFORE, let this case be, as it is hereby DISMISSED for lack of merit.

However, on the ground of equity and considering the previous position of the complainant in respondent company, the latter is hereby ordered to pay the complainant financial assistance equivalent to his one (1) month salary.

SO ORDERED."^[6]

Notice of the above mentioned decision was received by petitioner through counsel of record, Attorney Patrick R. Battad, on June 5, 1990. On June 15, 1990, petitioner filed an appeal of the decision with the NLRC.^[7]

On August 13, 1990, petitioner filed a manifestation praying among others that he be considered as counsel of record himself in collaboration with Attorney Patrick Battad and that he henceforth be furnished with all subsequent notices, pleadings, orders, etc. incident to the appeal at his residence or address showed therein.^[8]

On April 29, 1991, the NLRC dismissed petitioner's appeal on the ground that the decision of the Labor Arbiter was final and executory since the appeal of petitioner was filed beyond the ten (10) day period for perfecting an appeal. Moreover, the NLRC stated that the facts and evidence on record substantially supported the findings of the Labor Arbiter in the challenged decision thus:

"WHEREFORE, the appeal is Dismissed for having been filed out of time and the decision appealed from Affirmed.

SO ORDERED."^[9]

On October 23, 1991, the NLRC denied petitioner's motion for reconsideration of the above order as follows:

"WHEREFORE, the instant motion is Denied for lack of merit. No further motion for reconsideration will be entertained.

SO ORDERED."^[10]

Hence this petition where petitioner assigns the following errors committed by the NLRC:

"1. the Honorable respondent FIFTH DIVISION, NATIONAL LABOR RELATIONS COMMISSION, acted arbitrarily and in excess of jurisdiction and/or grave abuse of discretion amounting to lack of jurisdiction when it held the questioned resolutions, ANNEXES "A" and "B" hereof, that petitioner's appeal from the decision of the Labor Arbiter (ANNEX "M") was filed out of time and in precipitately making an entry of judgment (ANNEX "Q") in gross violation of petitioner's constitutional right to due process; and

2. the Honorable respondent COMMISSION acted, likewise, in excess of jurisdiction and/or with grave abuse of discretion when it dismissed the appeal without deciding the same on its merits."^[11]

In support of his petition, petitioner maintains that the NLRC erred in dismissing his appeal from the Decision of the Labor Arbiter on the ground that he filed the same out of time. Petitioner claims that he was notified of the adverse decision of the Labor Arbiter on June 5, 1990 and that he filed his appeal on June 15, 1990 or within the ten (10) day period for perfecting an appeal. He asserts that the verification of his appeal, the Postal Money Order No. 2404511 in the amount of P100.00, the registry receipt (No. 23823) covering the mailing of the copy of the appeal to counsel for respondent, and the stamp of receipt by the SRAB X-Butuan

City are all dated June 15, 1990. Even assuming that his appeal was filed on June 18, 1990 as found by the NLRC or thirteen days after petitioner's counsel, Attorney Patrick Battad, was served a copy of the Labor Arbiter's decision, petitioner contends that the running of the reglementary period begins to run from the date when petitioner or his counsel was served a copy of the decision, whichever is later as provided under paragraph (d), § 4, Rule XII of the New Rules of Procedure of the NLRC.^[12] Since petitioner was not personally served with a copy of the decision of the Labor Arbiter, it is his contention that his right to due process was violated when the Labor Arbiter failed to notify him of the same.

Petitioner also claims that the NLRC likewise acted arbitrarily and in excess of jurisdiction and/or with grave abuse of discretion amounting to lack of jurisdiction in making the Entry of Judgment without first personally serving a copy of its Resolution dated April 29, 1991 dismissing his appeal to him pursuant to the aforementioned NLRC Rule. He argues that he was entitled to notice of the Resolution not only since he was a party to the case but also because he entered his appearance as counsel for himself in his Manifestation and Reply to Respondent's Opposition to Appeal. Petitioner insists that since the April 29, 1991 Resolution of the NLRC was never served on him, the same did not become final for the reglementary period only began to run when the petitioner received a copy of the Resolution on August 2, 1991. Thus, when petitioner filed his motion for reconsideration thereof on August 12, 1991, he argues that the same was properly and timely filed. Consequently, the Resolution of the NLRC dated October 23, 1991 denying his motion for reconsideration for having been filed out of time was also issued with grave abuse of discretion.

It is also petitioner's position that since the NLRC erred in dismissing his appeal, this Court should now decide the following assigned errors he attributed to the Labor Arbiter in his appeal to the NLRC:

"I - THERE ARE SERIOUS ERRORS IN THE FINDINGS OF FACTS WHICH WOULD CAUSE OR HAVE CAUSED GRAVE OR IRREPERABLE DAMAGE OR INJURY TO COMPLAINANT-APPELLANT.

II - THERE IS PRIMA FACIE EVIDENCE OF ABUSE OF DISCRETION ON THE PART OF THE HONORABLE LABOR ARBITER.

III - THE DECISION IS SECURED THROUGH HATRED AND/OR REVENGE WITH GROSS INEFFICIENCY AND IGNORANCE OF THE LAW."^[13]

Petitioner argues that the Labor Arbiter erred in totally disregarding the evidence and arguments presented by him. Petitioner claims that instead of meticulously and judiciously discussing the issues crucial to a proper determination of the case, the Labor Arbiter merely copied word for word a portion of the complaint and answer to constitute a brief statement of the facts thereof and merely copied *in toto* the arguments and discussions contained in the position paper of the respondents to constitute the conclusion of law of his decision in violation of § 15, Rule VII of the New Rules of Procedure of the NLRC.^[14] Moreover, petitioner alleges that at the time Labor Arbiter Amado Solamo rendered his decision, he no longer had authority to do so inasmuch as he was already reassigned to SRAB No. XI and all cases, including the one at bar, pending in SRAB No. X were already transferred to Irving A. Petilla who assumed office as the new Labor Arbiter for the SRAB No. X by virtue