

SECOND DIVISION

[G.R. No. 144460, April 27, 2001]

**MONCIELCOJI^[1] CORPORATION, PETITIONER, VS. NATIONAL
LABOR RELATIONS COMMISSION AND REMEDIOS B. PANES,
RESPONDENTS.**

D E C I S I O N

BELLOSILLO, J.:

On 5 December 1995 respondent Remedios B. Panes filed a *Complaint* before the Labor Arbiter against petitioner MONCIELCOJI CORPORATION for illegal dismissal, separation pay and non-payment of salary, 13th month pay, overtime pay and special and legal holiday pay. She alleged that she was employed by petitioner on 14 September 1994 as Supervisor with a monthly salary of P4,500.00 until 20 March 1995 when she was told, along with her co-employees, to take a vacation and to report for work after one (1) month. She alleged further that when they reported back for work only few employees were readmitted and she was not among them. She and the other employees who were similarly refused readmission kept returning to resume their work but their efforts proved futile. Petitioner merely promised they would receive separation pay in December 1995. She claimed that neither did she receive her salary corresponding to work performed from 26 to 30 December 1994 nor any holiday pay.

Petitioner, engaged in the garment business, countered that respondent Panes was employed on 24 November 1994 as Sewing Production Supervisor. For the first two (2) days of her work she discharged her tasks very well but thereafter she was often either absent or tardy and failed to properly monitor the performance of her subordinates. Petitioner asserted that on 18 March 1995 it called her attention about the matter and reprimanded her but afterwards she did not report for work anymore.

The Labor Arbiter believed the version of respondent Panes that she reported back for work after she was forced to go on vacation by petitioner but was no longer readmitted. On 12 May 1998 judgment was rendered declaring her dismissal from employment illegal and consequently ordering petitioner to reinstate her to her former position without loss of seniority rights and to pay her back wages of P182,958.75 subject to adjustment upon actual reinstatement and unpaid wages of P937.50. Her other monetary claims were dismissed for lack of merit.^[2]

On 15 March 1999 the National Labor Relations Commission (NLRC) affirmed the assailed ruling but with modification by ordering petitioner to grant respondent Panes separation pay, as prayed for in her *Complaint*, equivalent to one (1) month salary in lieu of reinstatement in addition to back wages.^[3] On 31 May 1999 reconsideration was denied and petitioner sought recourse in the Court of Appeals

through a petition for certiorari.^[4]

On 31 August 1999 the appellate court dismissed the petition pursuant to Sec. 3, Rule 46, of the *Rules of Court* as amended by this Court in *Bar Matter No. 803* for the following deficiencies: (a) no indication of material dates when notice of subject judgment or final order or resolution was received, when a motion for reconsideration was filed and when notice of its denial was received; (b) no sworn certification of non-forum shopping; and, (c) no duplicate original or certified true copy of the *Decision* of the NLRC and such material portions of the record referred to therein.^[5]

Petitioner moved for reconsideration arguing that the required material dates and the sworn certification on non-forum shopping were included in its *Motion for Extension of Time to File Petition for Certiorari*. On 1 August 2000 reconsideration was denied for the reason that (a) the material dates should have been stated in the petition itself; at any rate, no mention was made in the motion for extension of the date of receipt of the *Decision* of the NLRC; and, (b) the certification was subscribed only by petitioner's counsel in violation of Sec. 5, Rule 7, of the *Rules of Court*.^[6]

Petitioner submits that it had the mistaken notion that the statement of material dates in the motion for extension of time filed before the Court of Appeals was substantial compliance with the procedural requirement. On the merits, it insists that respondent Panes abandoned her job as shown by the fact that she filed the case before the Labor Arbiter only after nine (9) months from her alleged dismissal from employment, and that the award of back wages of such amount would cause its bankruptcy.

No reversible error was committed by the Court of Appeals. Section 3, Rule 46, of the *1997 Rules of Civil Procedure* insofar as relevant provides -

Sec. 3. Contents and filing of petition; effect of non-compliance with requirements. - x x x x In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received x x x x^[7]

It x x x x shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution or ruling subject thereof x x x x

The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency x x x x

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.

In the present case, the petition filed before the Court of Appeals failed to mention the date of receipt by petitioner of the 15 March 1999 NLRC *Decision*. It was not accompanied by a duplicate original or certified true copy of the *Decision* and its