

THIRTEENTH DIVISION

[CA-G.R. SP NO. 131542, March 31, 2014]

TELEPHILIPPINES, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (4TH DIVISION), HON. VENERANDA C. GUERRERO AND OLIVER ALLAN M. LEE, RESPONDENTS.

DECISION

DIMAAMPAO, J.:

This *Petition for Certiorari*^[1] (With Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Of Preliminary Injunction) filed under the 1997 Rules of Civil Procedure ascribes grave abuse of discretion on the part of the National Labor Relations Commission (NLRC) in rendering the *Decision*^[2] dated 31 May 2013 and *Resolution*^[3] dated 15 July 2013, in NLRC-LER Case No. 01-016-13. The impugned *Decision denied the Petition with Prayer for the Issuance of Preliminary Injunction filed under Rule XII (Extraordinary Remedies) of the 2011 NLRC Rules of Procedure*^[4] lodged by petitioner Telephilippines, Inc. (petitioner) while the assailed Resolution found meritless petitioner's *Motion for Reconsideration* thereof.

The case has its provenance in a *Complaint for Illegal Dismissal* filed by private respondent Oliver Allan Lee (private respondent) against petitioner. After weighing the respective postures of the parties, the Labor Arbiter rendered a *Decision*^[5] dated 26 September 2011, adjudging—

“WHEREFORE, premises considered, judgment is here-by rendered declaring complainant (private respondent) to have been illegally dismissed. Respondent Teleperformance Phils.(,) Inc. (petitioner) is hereby ordered to reinstate complainant to his previous position under the Toshiba or any similar account, and to pay backwages, tentatively computed as of the date of this decision, in the amount of Four Hundred Fifteen Thousand Pesos (P415,000.00).

All other claims are dismissed for lack of merit/ jurisdiction.

SO ORDERED.”^[6]

Nonplussed, petitioner sought recourse before the NLRC which, in the *Decision*^[7] dated 31 January 2012, dismissed its *Appeal* and affirmed the Labor Arbiter's Decision. Petitioner moved for a reconsideration but its plea was denied in the Resolution dated 24 April 2012.

Ensuingly, petitioner filed before Us a *Petition for Certiorari (with Urgent Application for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction)*, docketed as C.A. G.R. SP No. 125502.^[8] In a Decision dated 31 January

2013 rendered by Our Fourth Division, the said Petition was dismissed.^[9] Petitioner appealed to the Supreme Court which, in its Resolution^[10] dated 16 September 2013, declared the case closed and terminated.^[11]

During the pendency of the Petition, private respondent filed with the NLRC an *Omnibus Motion (Motion for the Issuance of a Writ of Execution and Motion for Re-computation)*.^[12] Thereafter, the Labor Arbiter issued an Order^[13] dated 21 September 2012 attaching her re-computation, as follows:

“Additional Computation of Complainant's Backwages as per Labor Arbiter's Decision dated 26 September 2011 as affirmed by the Commission (First Division) dated 4/24/12

As of 26 September 2011	=	P415,000.00
Additional Backwages 9/27/11 - 9/27/12 = 12 P36,000.00 x 12 = P432,000.00 13 th month pay P432,000.00/12 = 36,000.00 allowance P2,500.00 x 12 = <u>30,000.00</u>		<u>P768,000.00</u>
Total		P1,183,000.00 ^[14]

As expected, petitioner opposed¹⁵ the re-computation asseverating that private respondent's gross basic salary was only P33,679.80 and not P36,000.00. Moreover, the monetary awards in dispute should not be granted beyond 18 March 2012 since on said date, it had already served upon private respondent a return-to-work order. Private respondent having failed to return to work on 17 March 2012, he was deemed to have abandoned his right to reinstatement and backwages beginning 18 March 2012.^[16]

All the same, the Labor Arbiter approved the re-computation and granted private respondent's *Motion for Issuance of Writ of Execution*. Declaiming against the Labor Arbiter's disposition, petitioner filed a Petition^[17] before the NLRC which subsequently issued a *Temporary Restraining Order* enjoining the Labor Arbiter from implementing the 21 September 2012 Order upon petitioner's filing of the requisite bond.

On 31 May 2013, the NLRC rendered the assailed Decision denying the Petition. The NLRC, in the repugned Resolution, denied petitioner's Motion for Reconsideration thereof.

Perforce, petitioner comes to Us via this Petition anchored on the following grounds:

I

THE PUBLIC RESPONDENT GRAVELY ABUSED ITS DISCRETION WHEN IT RULED THAT PRIVATE RESPONDENT'S BASIC SALARY TOTALED PHP36,179.80, SINCE THIS AMOUNT INCLUDES AN ALLOWANCE THAT IS TREATED SEPARATELY FROM PRIVATE RESPONDENT'S BASIC PAY.

II

THE PUBLIC RESPONDENT GRAVELY ABUSED ITS DISCRETION WHEN IT DISREGARDED EVIDENCE ON RECORD PROVING THAT PRIVATE RESPONDENT REFUSED TO RETURN TO WORK DESPITE NOTICE TO DO SO.

In ruling in favor of private respondent, the NLRC ratiocinated in this wise:

"Private respondent, in his position paper, stated that in June 2010, his salary was increased to P34,303.00, plus an allowance of P2,500.00.

Charmaine Ocampo, petitioner's Asst. Human Resources Manager, confirmed the private respondent's compensation in her Certification dated October 18, 2012. xxx It reads:

'This is to certify that Mr. Oliver Allan Mariano Lee was an employee of Teleperformance Philippines. He was hired December 5, 2006, last position held was Supervisor.

This is to further certify that Mr. Lee's last salary increase was dated June 26, 2010 with the following monthly compensation:

Basic pay	P33,679.80
Allowance	<u>2,500.00</u>
Total	P36,179.80

xxx'

Teleperformance Philippines, Inc. is Telephilippines, Inc.'s former corporate name.

Petitioner's assertion that private respondent was receiving only P33,679.80 is contrary to its own evidence. We cannot allow petitioner to deny the same in order to deprive the private respondent's entitlement.

The order of reinstatement is immediately executory. Petitioner should either re-admit the illegally dismissed private respondent to work under the same terms and conditions prevailing prior to his dismissal, or to reinstate him in the payroll.

Petitioner's contention that the computation should not go beyond March 18, 2012 due to the 'return to work' order is untenable.

We give credence to private respondent's statement that after receipt of the letter from the petitioner requiring him to present himself to the recruitment department for re-profiling and job placement, on May 7, 2012, he saw Reymond Gerard