

THIRD DIVISION

[CA-G.R. SP No. 126369, June 03, 2014]

**LEANE B. BOSTON, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION (FIRST DIVISION) HONORABLE
LABOR ARBITER EDUARDO G. MAGNO, WALLEM MARITIME
SERVICES, INC., AND WALLEM SHIPMANAGEMENT LTD.,
RESPONDENTS.**

DECISION

BUESER, J.:

Before Us is a Petition for Certiorari assailing the Resolution dated April 30, 2012 issued by the National Labor Relations Commission in NLRC NCR CA Co. 042225-04 (AE11-11), which affirmed the October 11, 2011 Order of the Labor Arbiter. Aforesaid Labor Arbiter's Order granted herein private respondents' motion for restitution.

The material and relevant facts, as culled from the record, are as follows:

The present legal controversy involves a claim of petitioner for compensation benefits out of the death of her husband as well as other benefits of her minor children.^[1]

On September 3, 2004, the Labor Arbiter rendered a Decision in petitioner Leane Boston's favor granting her full disability compensation and other benefits on account of the death of her husband Emiliano Boston, Jr. as well as her minor children in accordance with the CBA including damages.^[2] The dispositive portion of the aforesaid Decision reads:

xxx xxx xxx

"WHEREFORE, premises considered, judgment is hereby rendered ordering respondents to pay jointly and severally complainant the following:

- a. SIXTY THOUSAND US DOLLARS (US\$60,000.00) as death compensation benefits for the late Emiliano D. Boston, Jr.;
- b. FORTY FIVE THOUSAND US DOLLARS (US\$45,000.00) representing payment for the three minor children of the complainant and the deceased, namely, Emil Jhonne B. Boston, Jhonne Paul B. Boston and Mae Anne B. Boston, at US\$15,000.00 each;
- c. TWO HUNDRED FIFTY THOUSAND PESOS (P250,000.00) representing exemplary damages for the besmirched reputation and blackened memory inflicted upon the deceased and his family in respondents'

avoidance of liability under the CBA and callousness to the cause of the complainant and the surviving minor children; and

d. FOUR HUNDRED THOUSAND PESOS (P400,000.00) for moral damages;

e. Attorney's fees in the sum of equivalent to ten percent (10%) of the total award as herein ordered.

All other money claims are hereby denied for lack of merit.

SO ORDERED."[3]

xxx xxx xxx

Private respondents Wallem Services, Inc. (Wallem Services, for brevity) and Wallem Shipmanagement, Inc. (Wallem Shipmanagement, for brevity) appealed to the National Labor Relations Commission.[4]

On October 18, 2004, the NLRC rendered its Decision affirming the Labor Arbiter's ruling.[5]

Nonetheless, during the pre-execution proceedings before the Labor Arbiter, Wallem Services, Inc. and Wallem Shipmanagement, Inc. agreed to settle the judgment award with petitioner. Thus, petitioner herein received from private respondents full satisfaction of the judgment award.[6]

This, notwithstanding, private respondents filed a Petition for Certiorari before this Court. The Petition was docketed as CA-G.R. SP No. 92744.[7]

On July 21, 2006, the Special First Division of this Court modified the decisions of both the Labor Arbiter and NLRC.[8] The decretal portion of this Court's ruling declares:

"**WHEREFORE**, the assailed October 18, 2005 Decision is **MODIFIED** as follows: (a) to delete the award of moral and exemplary damages as well as attorney's fees in the Labor Arbiter's September 18, 2005 decision; and (b) to absolve petitioner Lubica Protection and Indemnity (Phils.), Inc. from the solidary liability for private respondent's claim for death compensation benefits. The rest is **AFFIRMED in toto**.

SO ORDERED."[9]

Private respondents herein, seeking for the restitution of what it alleged as overpayment, filed a motion for restitution before the Labor Arbiter *a quo*.[10]

On October 11, 2011, the Labor Arbiter issued an Order, granting restitution in favor of private respondents.[11] The dispositive portion of the Order reads:

"WHEREFORE, the Motion of Respondents is hereby GRANTED. Let a Writ of Execution be issued for the restitution of complainant to return the amount of P415,603.13 representing award of damages and attorney's fees.

SO ORDERED.”^[12]

By way of special appearance, petitioner herein appealed the Labor Arbiter’s Order to the NLRC.^[13]

On April 30, 2012, the NLRC, by way of a Resolution, however, denied the appeal,^[14] the dispositive portion of which reads:

“**WHEREFORE**, the appeal is **DENIED** and the Order of the Labor Arbiter directing restitution of the damages and attorney’s fees to respondents as contained in the Order dated 11 October 2011 is hereby **AFFIRMED**.

SO ORDERED.”^[15]

On May 25, 2012, petitioner, again by way of special appearance, filed her motion for reconsideration of the aforesaid Order.^[16]

On June 14, 2012, this Court’s First Division denied petitioner’s motion for reconsideration.^[17]

Hence, the present Petition.

Petitioner is raising the following:

I

THAT THE HONORABLE PUBLIC RESPONDENT NLRC, FIRST DIVISION HAD COMMITTED CLEAR AND PALPABLE ERROR AND GRAVE ABUSE OF DISCRETION WHEN IT DISMISSED THE MEMORANDUM OF APPEAL INTERPOSED IN CONNECTION WITH THIS CASE.

II

THAT THE DECISION OF THE HONORABLE PUBLIC RESPONDENT NLRC AND THE HONORABLE LABOR ARBITER A QUO IS VOID *AB INITIO* CONSIDERING THAT PETITIONER WAS NOT PROPERLY SUMMONED FOR WHICH JURISDICTION OVER PETITIONER HAS NOT BEEN ACQUIRED BY THE HONORABLE PUBLIC RESPONDENT NLRC AND THE HONORABLE LABOR ARBITER A QUO.

III

THAT THE HONORABLE PUBLIC RESPONDENT NLRC AND THE HONORABLE LABOR ARBITER A QUO HAD COMMITTED CLEAR AND PALPABLE ERROR AND GRAVE ABUSE OF DISCRETION WHEN IT APPLIED IN THIS CASE ON RETROACTIVE BASIS THE NEW RULES PROMULGATED BY THE HONORABLE PUBLIC RESPONDENT NLRC AFTER PETITIONER HAD RECEIVED THE PAYMENT OF THE JUDGMENT AWARD IN CONNECTION WITH THIS CASE.

IV

THAT THE HONORABLE PUBLIC RESPONDENT NLRC AND THE HONORABLE LABOR ARBITER A QUO HAS JURISDICTION OVER THIS CASE CONSIDERING THAT RECOVERY OF AN ALLEGED OVERPAYMENT IS