

EIGHTH DIVISION

[CA-G.R. SP. NO. 128305, February 06, 2015]

ALEXANDER BEADO, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, AND LIGAYA R. SECRUZ, RESPONDENTS.

D E C I S I O N

ANTONIO-VALENZUELA, J.:

This is the Petition for Certiorari^[1] filed by Alexander Beado ("petitioner Beado"), imputing grave abuse of discretion amounting to lack of jurisdiction on the part of the National Labor Relations Commission ("NLRC") in issuing the following: (1) *Resolution*^[2] dated 23 October 2012 ("assailed Resolution"); (2) *Resolution*^[3] dated 29 November 2012.

Ligaya Secruz ("private respondent Ligaya") filed the Complaint^[4] for non-payment of separation pay, retirement benefits, moral, and exemplary damages, before the Labor Arbiter, against Panda Disco House and its manager petitioner Beado.

Private respondent Ligaya filed the Position Paper/Affidavit (For the Complainant),^[5] and alleged: private respondent Ligaya worked as a waitress at Panda Disco House, per Occupational/Individual Mayor's Permit;^[6] Panda Disco House hired private respondent Ligaya on 26 December 1989 with a daily salary ranging from P384.00 to P481.00, per handwritten payslips;^[7] on 30 December 2010, Panda Disco House closed its operations for no apparent reason, and failed to give private respondent Ligaya her separation pay and retirement benefits; private respondent Ligaya was entitled to separation pay and retirement benefits because when Panda Disco House closed, private respondent Ligaya had reached the retirement age of 65 years old, and had worked for 22 years at the Panda Disco House; private respondent Ligaya was entitled to moral and exemplary damages because Panda Disco House and petitioner Beado deliberately failed to pay private respondent Ligaya her mandatory benefits.

Panda Disco House and petitioner Beado did not appear, nor did they file their position papers, before the Labor Arbiter.

On 5 March 2012, the Labor Arbiter issued the Decision dated 10 January 2012.^[8] Its dispositive portion read:

WHEREFORE, premises considered, respondents Panda Disco House and Alexander Beado are hereby ordered to pay complainant Ligaya R. Secruz her retirement pay in the amount of P204,356.25 plus attorney's fees in the amount of P20,435.62.

All other claims are denied.

SO ORDERED.^[9]

According to petitioner Beado, he was not notified of the proceedings before the Labor Arbiter, and only acquired knowledge thereof when he received a copy of the Decision dated 10 January 2012. Petitioner Beado appealed to the NLRC without filing the appeal bond.

On 23 October 2012, the NLRC issued the assailed Resolution,^[10] and dismissed petitioner Beado's appeal for failure to post the requisite appeal bond.

Petitioner Beado filed the Motion for Reconsideration.^[11] The NLRC denied the Motion.

Petitioner Beado files this Petition for Certiorari^[12] imputing grave abuse of discretion on the NLRC when the NLRC dismissed his appeal for failure to post an appeal bond.

The pivotal issue is whether the NLRC committed grave abuse of discretion when it dismissed petitioner Beado's appeal for failure to post an appeal bond.

Petitioner Beado answers in the affirmative. The NLRC committed grave abuse of discretion when it dismissed petitioner Beado's appeal for failure to post an appeal bond.

The Petition for Certiorari^[13] thrusts: petitioner Beado was not the owner of the Panda Disco House nor was he the employer of private respondent Ligaya; the owner of the Panda Disco House was petitioner Beado's father Avelino Beado, and petitioner Beado merely managed the business temporarily when his father died; petitioner Beado was not liable to pay private respondent Ligaya's separation pay and retirement benefits since petitioner Beado was not the owner of the Panda Disco House; private respondent Ligaya failed to prove that petitioner Beado was her employer, thus petitioner Beado was exempt from posting the required appeal bond.

Private respondent Ligaya answers in the negative. The NLRC did not commit grave abuse of discretion when it dismissed petitioner Beado's appeal for failure to post an appeal bond.

Private respondent Ligaya's Comment (On the Petition for Certiorari)^[14] parries: the right to appeal is a mere statutory privilege, and the party appealing must strictly comply the law's requirements to perfect the appeal; under the Labor Code, the posting of a bond is indispensable in perfecting an appeal; petitioner Beado failed to post the required bond, thus he failed to perfect his appeal; petitioner Beado's contention that he was not the employer of private respondent Ligaya was without merit, because petitioner Beado admitted that he took over the Panda Disco House after the death of his father, and managed and controlled the operations of the Panda Disco House; private respondent Ligaya's continuous employment at the Panda Disco House without petitioner Beado terminating her only proved that petitioner Beado succeeded Avelino Beado as private respondent Ligaya's employer.