

SECOND DIVISION

[CA-G.R. SP No. 113237, May 21, 2014]

**PHILIPPINE LAMP POST OFFICE MANUFACTURING
CORPORATION AND/OR JESSICA R. MERCEDES, PETITIONERS,
VS. NATIONAL LABOR RELATIONS COMMISSION AND SIXTH
DIVISION AND OLIVER MALAYA, RESPONDENTS.**

DECISION

GAERLAN, S.H., J.:

This is a Petition for *Certiorari*^[1] under Rule 65 of the Revised Rules of Court, filed by petitioners Philippine Lamp Post Manufacturing Corporation and Jessica Mercedes, seeking the reversal and the setting aside of the 15 December 2009 Decision^[2] and the 29 January 2010 Resolution^[3] of the National Labor Relations Commission (NLRC) in NLRC LAC Case No. 12-003321-07. In its assailed Decision and Resolution, the NLRC affirmed the 30 October 2007 Decision^[4] of the Labor Arbiter which found respondent Oliver Malaya illegally dismissed from employment.

FACTS OF THE CASE

On 4 May 1998, Oliver Malaya (Malaya) was employed as a welder by Philippine Lamp Post Corporation (PLPC) with a daily wage of P350.00. After working as a welder for almost nine years, Malaya, on 16 October 2006, was informed by Jessica Mercedes (Mercedes), President of PLPC, that effective immediately, he will no longer work as a welder but will assume the duties of a mere helper. Malaya immediately manifested his protest since his new designation involves a demotion in rank but he nevertheless continued to report to work until he was purportedly harassed by a certain policeman, in collusion with Mercedes' brother, who threatened him to stop reporting to work. The harassment allegedly took place on 17 October 2006, when the said certain policeman, who was accompanied by Junjun Mercedes, brother of Mercedes, allegedly threatened him and asked him to go home and not to report to work again. The incident was reported by Malaya to the barangay where it was recorded in the blotter report.^[5]

This prompted Malaya to file an action for illegal dismissal against petitioners before the Labor Arbiter. In addition to his prayer that his severance from employment be declared unlawful and that he be awarded separation pay, Malaya likewise prayed for the payment of emergency cost of living allowance and 13th month pay.^[6]

To refute the allegation in the Complaint, petitioners countered in their Position Paper^[7] that Malaya was not terminated from employment but failed to report to work in the morning of 19 October 2006. For also failing to report to work on the succeeding days, Malaya is deemed to have abandoned his work.

In a Decision^[8] dated 30 October 2007, the Labor Arbiter sustained the complaint for illegal dismissal filed by Malaya and found petitioners liable for separation pay, backwages and proportionate 13th month pay. The labor official held that Malaya was constructively dismissed from employment because his continued employment was rendered impossible by the threats employed by the petitioners. It was likewise pointed out that nothing on the records suggests any positive act on the part of the complainant indicative of his intention to abandon his job. The decretal portion of the Labor Arbiter Decision reads:

"WHEREFORE, premises above considered, the decision is hereby rendered declaring the dismissal of the complainant illegal, and as a consequence, ordering respondent corporation through the individual respondents to pay him separation pay equivalent to one (1) month pay for every year of service in the amount of P45,000.00 since reinstatement appears to be no longer feasible plus backwages equivalent to twelve (12) months in the amount of P109,200.00 and proportionate 13th month pay for 2006 as above computed, all in the aggregate of P161,927.41, plus 10% of the total award as attorney's fees. "

On appeal, the NLRC affirmed the findings of the Labor Arbiter that Malaya was constructively dismissed from employment. According to the NLRC, petitioners failed to adduce substantial evidence to prove that an overt act was performed by Malaya to sever his employment. What further negates the employer's abandonment theory was the immediate filing of the complaint for illegal dismissal which is inconsistent with abandonment. On the contrary, the NLRC found the version of Malaya that he was constructively dismissed from employment worthy of belief and held that when Malaya protested to his demotion, petitioners employed threats and harassed him and thus leaving him with no other choice but to leave his employment.^[9]

The NLRC refused to reconsider its earlier Decision in its Resolution^[10] dated 29 January 2010.

Undaunted, petitioners elevated the adverse NLRC Decision and Resolution *via* this instant Petition for *Certiorari* before this Court praying for the allowance of their petition raising the sole issue of:

ISSUE:

WHETHER OR NOT PUBLIC RESPONDENT ACTED WITHOUT OR IN EXCESS OF ITS JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT AFFIRMED THE DECISION OF THE LABOR ARBITER.^[11]

THIS COURT'S RULING

The petition is bereft of merits.

At the onset, we must stress the well-settled rule that factual findings of labor officials, who are deemed to have acquired expertise in matters within their jurisdiction, are generally accorded not only respect but even finality by the courts when supported by substantial evidence, *i.e.*, the amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion. In fact, judicial