

## THIRD DIVISION

[ G.R. No. 154379, October 31, 2008 ]

**PCI TRAVEL CORPORATION, PETITIONER, VS. NATIONAL LABOR  
RELATIONS COMMISSION (3<sup>RD</sup> DIVISION) & NUBE-  
AMEXPEA/PCI TRAVEL EMPLOYEES UNION, RESPONDENTS.**

### R E S O L U T I O N

**NACHURA, J.:**

Before us is a petition for review seeking to nullify the Resolution<sup>[1]</sup> of the Court of Appeals, dated March 27, 2001, which dismissed the petition for *certiorari* on technical grounds; and the Resolution<sup>[2]</sup> dated July 10, 2002, denying reconsideration thereof in CA-G.R. SP No. 63635.

Sometime in 1994, respondent NUBE-AMEXPEA/PCI Travel Employees Union filed a Complaint for unfair labor practice against petitioner PCI Travel Corporation. It claimed that petitioner had been filling up positions left by regular rank-and-file with contractual employees, but were performing work which were usually necessary and desirable in the usual business or trade of the petitioner. Respondent prayed that the Labor Arbiter order the petitioner to pay the "contractual employees" the differentials between the wages/benefits of regular employees and the actual wages/benefits paid to them from the first day of their employment, plus moral and exemplary damages, and attorney's fees of not less than P300,000.00 per employee.

Petitioner moved to dismiss the complaint on the ground that the Union was not the real party-in-interest. Subsequently, petitioner manifested that while it was ready and willing to prove that said employees were provided by independent legitimate contractors and that it was not engaged in labor-only contracting in a position paper yet to be submitted, petitioner prayed that the Labor Arbiter first resolve the issues raised in their motion to dismiss.

Ruling that a motion to dismiss was a prohibited pleading, the Labor Arbiter rendered a decision on the merits dated October 16, 1998, in favor of the respondent. As culled from the Labor Arbiter's Decision, the dispositive portion reads as follows:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. Respondent is declared guilty of unfair labor practice;
2. The above-named "contractual employees" are declared regular employees;

3. Respondent is ordered to pay:

- a. "Contractual Employees" the differentials between the wages and benefits of regular employees and their actual wages and benefits, to be computed by the Socio-Economic Analyst of this Office;
- b. Moral damages in the amount of Twenty Thousand (P20,000.00) Pesos each "contractual employee";
- c. Exemplary damages in the amount of Ten Thousand (P10,000.00) Pesos each "contractual employee"; and
- d. Ten percent (10%) of the total award as attorney's fees.<sup>[3]</sup>

On appeal, the NLRC affirmed with modification the decision of the Labor Arbiter deleting the awards of damages for lack of sufficient basis. It upheld the Labor Arbiter's ruling that a motion to dismiss was a prohibited pleading and that petitioner failed to rebut the respondent's contentions when it allegedly opted not to file a position paper. Aggrieved, petitioner filed a petition for *certiorari* with the Court of Appeals.

On March 27, 2001, the CA issued the assailed Resolution dismissing the petition outright for petitioner's failure to attach copies of pleadings and documents relevant and pertinent to the petition. More importantly, the verification and certification of non-forum shopping was signed by Elizabeth Legarda, President of the petitioner-corporation, without submitting any proof that she was duly authorized to sign for, and bind the petitioner-corporation in these proceedings.

Petitioner filed a motion for reconsideration, alleging that the Rules of Court does not require the submission of proof of due authorization to sign the verification and certification of non-forum shopping for a petition to prosper. Nonetheless, petitioner subsequently filed a manifestation stating that earnest efforts and diligence have been exerted in searching for said board resolution, but to no avail.<sup>[4]</sup>

Unperturbed, the CA denied the motion for reconsideration stating that without such board resolution or secretary's certificate, Elizabeth Legarda cannot be deemed fully clothed by the corporation to act for and on its behalf.

Hence, the instant petition. The respondent was required to comment.<sup>[5]</sup> As borne by the records, several Court resolutions addressed to the respondent, through its counsel, were either returned unserved or unheeded. Respondent then filed a Manifestation with Motion to Resolve<sup>[6]</sup> averring its inability to file a comment and its willingness to submit the case for resolution based on the records.

The following issues were raised by the petitioner for consideration:

**I**

THE FINDING OF THE COURT OF APPEALS THAT THE PRESIDENT OF PCI TRAVEL WAS NOT AN AUTHORIZED REPRESENTATIVE OF THE PETITIONER IS ERRONEOUS, AS THE TRUTH OF THE MATTER IS THAT