

THIRD DIVISION

[G.R. NO. 150819, July 27, 2006]

**MARIO SUAN, ET AL., PETITIONERS, VS. COURT OF APPEALS,
PASCUAL LINER, INC., MANUEL PASCUAL, JR., ODOLFO
PASCUAL, ROLANDO PASCUAL, ERLINDA SORIANO, AND MELY
BAUTISTA, RESPONDENTS.**

D E C I S I O N

TINGA, J.:

Petitioners assail the Resolution ^[1] of the Court of Appeals dated February 28, 2001 in CA-G.R. SP No. 62621, which dismissed their petition for certiorari for failure to attach thereto certain relevant documents and pleadings, and failure of counsel to indicate in the petition his PTR number, as well as the Resolution ^[2] dated November 7, 2001, which denied their motion for reconsideration.

A better understanding of this case necessitates a look at the related case of *PASVIL/Pascual Liner, Inc. Workers Union-NAFLU v. NLRC*.^[3] Petitioner union in that case filed a notice of strike with the National Conciliation and Mediation Board-National Capital Region (NCMB-NCR) against respondent PASVIL/Pascual Liner, Inc. (PASVIL) for unfair labor practices consisting of union busting, discrimination and discouraging union membership. After a series of conciliation conferences which failed to amicably settle the dispute, petitioner union staged a strike.

Then Secretary of Labor and Employment Nieves Confesor (Secretary Confesor) assumed jurisdiction over the dispute pursuant to Art. 263, par. (g) of the Labor Code and certified it to the National Labor Relations Commission (NLRC) for compulsory arbitration. Secretary Confesor also directed all striking workers to return to work within 24 hours and for PASVIL to accept them back under the same terms and conditions of employment prevailing before the strike. She further ordered the parties to cease and desist from committing acts that would prejudice the other party or exacerbate the situation.

Notwithstanding these orders, petitioner union continued to picket and barricade PASVIL's premises thereby preventing the workers who wanted to report back to work from entering the premises. Secretary Confesor reiterated her directives and deputized the Station Commander of the Novaliches Police Station to assist in the orderly and peaceful enforcement of her order, including the removal of all forms of obstruction and barricades to ensure free ingress to or egress from PASVIL's premises.

Conciliation conferences were thereafter scheduled on March 28 and April 19, 1995 but only representatives of PASVIL appeared. On this account, an order was issued directing the parties to submit their respective position papers. The parties complied.

On January 15, 1996, the NLRC declared the still-ongoing strike illegal and deemed the union officers who acted as leaders thereof, namely: President Donato Bugtong, Vice President Pedro Fernando, Secretary Rodante Ambas, Treasurer Rodolfo Pascual, Auditor Felizardo Gaspar, Spokesman Conrado Clemente and Board Members Ponciano Gabriel, Sr., Roberto Espejon, Marcelo Mojar, Jr., Arnulfo German, Jose Ogao, Arnel Fortaleza, Merlito Dela Cruz, Rommel Buenavente, Manuel Trinidad, Joselito Mendiola, Pedro Ociones, Guillermo Naranjo and Fredenill Lazo, to have lost their employment status. The charge of unfair labor practice was dismissed for lack of merit.

This Court affirmed the decision of the NLRC as well as its resolution denying reconsideration. We found no grave abuse of discretion on the part of the NLRC when it declared the strike illegal because Secretary Confesor's certification of the labor dispute to the NLRC for compulsory arbitration concomitantly empowered the latter to resolve all questions and controversies arising therefrom, including cases otherwise belonging originally and exclusively to the labor arbiter. We likewise agreed with the finding of the NLRC that members of petitioner union defied the return-to-work order of Secretary Confesor and are thus deemed to have abandoned their work.

Petitioners in this case, whose names allegedly do not appear in the list of employees deemed dismissed by the NLRC, insist that PASVIL persisted in not reinstating them. When they heard of news that PASVIL will be closing down and its properties will be sold, they allegedly informed PASVIL of the unconditional lifting of their picket and pleaded to be allowed to return to work. PASVIL, however, allegedly refused their request and temporarily closed its operations on December 1, 1998.

As a consequence, a complaint for illegal dismissal docketed as NLRC NCR Case No. 00-03-02435-99 was filed by some 230 complainants on March 8, 1999. The complaint was dismissed for lack of merit.

On appeal, the NLRC noted that only six (6) of the 230 complainants verified their position paper. They are: Amado Mendoza, Pepito Enriquez, Salvador Latigay, Valeriano Argarin, Fredenil Lazo, and Romeo Boter. The NLRC also noted that only Mario Suan verified the reply to the position paper submitted by PASVIL although the *Sinumpaang Salaysay*, attached as Annex "A" of the reply, was subscribed and sworn to by the following complainants: Ramon Cunanan, Francisco Salvo, Ronaldo Adonis, Roberto Baetiong, Samuel Gabriel, Gerry Gabriel, Crisologo Neo, Mario Suan, Nelson Reyes, Eduardo Banting, Sonny Barnachea, Salvador Latigay, Danilo Guerra, Roberto Carullo, Antonio Lusania, Narciso Pelenio, Anselmo Bulan, Adriano Dano, Leovino Valenzuela, Rolando Dandan, Julio Lusama, Virgilio Malate, Jose Ogao, Pepito Enriqez, Salinor Bonot, Rolando Lazo, Roberto Amante, Rufino Dionola, Rufino Quenangan, Avelino Coritana, Joseph Valenzuela, Pablito Gabriel, Jose Boter, Valeriano Argarin, Fernando Rivera, Salvador Pusogak, Arthur Ruadap, Felix Demiao, Salvador Mora, Conrado de Luna, Agustin Ombao, Fely Rebulanan, and Antonio Neo.

[4]

The NLRC, therefore, declared that only those complainants who affixed their signatures, and subscribed and swore to the pleadings submitted shall be considered as complainants in the case pursuant to Sec. 9, Rule V of the New Rules of Procedure of the NLRC.

In its decision affirming the findings of the labor arbiter, the NLRC cited the fact that on December 10, 1998, PASVIL's franchise was cancelled by the Land Transportation Franchising and Regulatory Board (LTFRB), as a result of which, its operations were suspended indefinitely. The suspension was partially lifted on March 31, 1999 but PASVIL did not then become fully operational because some of its buses remained grounded. Consequently, some employees could not resume their usual work assignments.

These developments led the NLRC to conclude that the labor arbiter was correct in ruling that there was no illegal dismissal. The closure of the business operations of PASVIL was due to the cancellation of its franchise over which it had no control. The NLRC further declared that the complainants in the case are the very same employees who defied the return-to-work order of Secretary Confesor and whose employment have been deemed terminated by reason of their abandonment thereof.
[5]

The NLRC denied reconsideration in its Resolution dated October 24, 2000.^[6] As aforementioned, the case was elevated to the Court of Appeals on petition for certiorari but the same was dismissed on several technicalities.^[7]

Petitioners now plead the Court to relax the application of the rules of procedure to the end that their petition may be heard on the merits since they have already submitted to the Court of Appeals the documents which they failed to append to their petition for certiorari, as well as the PTR number of their counsel. According to them, they are not among the employees declared by the Court in *PASVIL/Pascual Liner, Inc. Workers Union-NAFLU v. NLRC, supra*, to have lost their employment status. PASVIL's continued refusal to reinstate them allegedly amounts to illegal dismissal.

Respondents, in their Private Respondents' Comment^[8] dated October 15, 2003, insist that petitioners are among the employees who have been declared to have lost their employment status because of their defiance of the return-to-work order issued by Secretary Confesor. Petitioners allegedly took advantage of the cancellation by the LTFRB of PASVIL's franchise to incite the latter's employees to sign what turned out to be a complaint for illegal dismissal. Some of these employees have since returned to work and should be dropped from the case. There is also allegedly no basis for relaxing the rules of procedure to accommodate petitioners.

Petitioners reiterate their arguments in their Reply to Private Respondents' Comment^[9] dated February 24, 2004.

As required in the Resolution^[10] dated March 29, 2004, the parties submitted their respective memoranda in summation of their arguments.

At the outset, we cite with displeasure petitioners' mendacity in stating that they belong to the group of PASVIL employees who have not been terminated from employment and have not lost their employment status by reason of our Decision in *PASVIL/Pascual Liner, Inc. Workers Union-NAFLU v. NLRC*. A close look at the Authorization cited in the petition's verification and attached thereto as Annex "E"