370 Phil. 452

SECOND DIVISION

[G.R. No. 122627, July 28, 1999]

WILSON ABA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (FOURTH DIVISION) AND ALFONSO VILLEGAS, RESPONDENTS.

D E C I S I O N

BELLOSILLO, J.:

WILSON ABA filed against Hda. Sta. Ines and/or Alfonso Villegas a complaint for illegal dismissal, legal holiday pay, premium pay on holiday and rest day, service incentive leave pay, separation pay, and salary and 13th month differentials.[1] In his Position Paper[2] Aba claimed he worked at Hda. Sta. Ines from 26 December 1976 until his termination on 27 August 1990 due allegedly to his union activities. Hda. Sta. Ines and Villegas vehemently denied Aba's accusations and claimed that the latter was not even in their employ. To prove their point, they submitted copy of a complaint filed by Aba, this time against Hda. Fatima and/or Alfonso Villegas for underpayment of salaries. In the complaint, Aba claimed he was employed by Hda. Fatima on 5 January 1972 until the filing of the complaint on 6 December 1990. In view of the overlapping periods of employment, Hda. Sta. Ines and Villegas concluded it was impossible for Aba to have been employed simultaneously by Hda. Fatima and by Hda. Sta. Ines as he could not have served two (2) employers at the same time, especially when these employers were 15 kilometers apart from each other.

On 17 November 1993 Labor Arbiter Geoffrey P. Villahermosa dismissed the instant complaint with prejudice considering the apparent inconsistency in Aba's periods of employment.[3] In his Appeal[4] Aba complained that the case should not have been dismissed as one pertained to illegal dismissal, while the other to unpaid salaries. Consequently, they should have been consolidated and decided on the merits.

On 10 March 1994 the National Labor Relations Commission remanded the case to the Labor Arbiter for a decision on the merits as there were still essential factual matters which had to be ascertained.

On remand, both parties submitted their respective position papers. In his Position Paper, Aba alleged this time that he started working at Hda. Sta. Ines as early as 1968. On the other hand, private respondents maintained they never employed Aba. As proof, they presented a copy of the decision in RAB Case No. 09-418-90-D, *Cresencio Abriga, Sr. et al v. Hda. Fatima and/or Alfonso Villegas*. In that case, Aba was awarded P1,846.00 representing his 13th-month pay from Hda. Fatima. Private respondents also submitted the affidavits of Cristito Tabio and Moises Ponce, timekeeper and "*cabo*," respectively, at Hda. Sta. Ines attesting that Aba was never employed by Hda. Sta. Ines.

On 25 January 1995 the Labor Arbiter dismissed the case holding that there was no employer-employee relationship between the parties. Aba appealed ascribing error on the Labor Arbiter for rendering judgment based solely on position papers and without the benefit of any hearing. Too, Aba claimed private respondents failed to overcome the burden of proving that his termination was for a valid cause.

Nonetheless, upon verification of the appeal, it was shown that Aba had failed to pay the appeal docketing fee contrary to his assertion in the prefatory paragraph of his *Memorandum of Appeal.*[5] Consequently, the NLRC dismissed his appeal for non-payment of the appeal docketing fee.[6] Aba timely filed his *Motion for Reconsideration* together with the appeal docketing fee. Likewise, Aba filed a *Supplemental Brief for the Complainant-Appellant*.[7] Therein, he attempted to relate in chronological order his employment with Hda. Sta. Ines from 1968 to 1990 and attached therewith the affidavits of hacienda workers Gaudioso C. Rumbo[8] and Enrique T. Manaquil.[9] But the NLRC denied Aba's motion; hence, this petition.

Is delay in paying the appeal docketing fee fatal to petitioner's appeal? The Office of the Solicitor General opines that the dismissal of petitioner's appeal for failure to pay the appeal docketing fee on time was not in consonance with the constitutional mandate to protect labor and settled jurisprudence. Accordingly, it moves for the setting aside of the decision of the NLRC which dismissed Aba's appeal and motion for reconsideration for non-payment of the appeal docketing fee.

The petition is impressed with merit. "Appeal" means the elevation by an aggrieved party of any decision or award of a lower body to a higher body by means of a pleading which includes the assignment of errors, arguments in support thereof, and the reliefs prayed for.[10] On the other hand, "perfection of an appeal" includes the filing, within the prescribed period, of the memorandum of appeal containing, among others, the assignment of error/s, arguments in support thereof, the relief sought and, in appropriate cases, posting of the appeal bond.[11] An appeal bond is necessary only in case of a judgment involving a monetary award, in which case, the appeal may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Commission in the amount equivalent to the monetary award in the judgment appealed from.[12]

In the instant case, it is undisputed that the appeal was filed within the reglementary period. The memorandum of appeal contained an assignment of errors, the arguments in support thereof, and the reliefs sought. No appeal bond was necessary as the decision being appealed did not contain any monetary award. Nowhere is it written that payment of appeal docketing fee is necessary for the perfection of the appeal. Therefore, there is no question that the appeal in the instant case has been perfected and the failure to pay the appeal docketing fee is not fatal. Besides, it is settled jurisprudence that technical rules of evidence are not binding in any proceedings before the Commission or any of the labor arbiters.[13] It has been the policy of this Court to resolve labor disputes with the view of compassionate justice towards the working class.

Corollarily, this issue has already been squarely resolved in *C.W. Tan Mfg. v. NLRC*[14] wherein we ruled -