



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

MONCHITO R. AMPELOQUIO,
Petitioner,

G.R. No. 196936

Present:

CARPIO, J.,
Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

- versus -

JAKA DISTRIBUTION, INC.,
Respondent.

Promulgated:

JUL 02 2014

X-----X

DECISION

PEREZ, J.:

We here have a petition for review on *certiorari* under Rule 45 of the Rules of Court posing a question on the scope of the reinstatement relief afforded an illegally dismissed employee.

Petitioner Monchito R. Ampeloquio (Ampeloquio) is a reinstated employee of respondent Jaka Distribution, Inc. (JAKA), formerly RMI Marketing Corporation (RMI).

Previously, Ampeloquio had filed a complaint for illegal dismissal against RMI before the National Labor Relations Commission (NLRC). Subsequently, the Labor Arbiter found RMI guilty of illegal dismissal:

WHEREFORE, decision is hereby rendered declaring that [Ampeloquio] is a regular employee of respondent RMI Marketing (now known as JAKA DISTRIBUTION, INC.) and that he was illegally dismissed.

The respondents RMI Marketing Corp., (now known as JAKA DISTRIBUTION, INC.) and Teodoro Barzabal, are ordered to reinstate [petitioner] Monchito Ampeloquio in his former position as merchandiser without loss of seniority rights and other benefits and to pay him backwages and attorney's fees in the total amount of THREE HUNDRED THIRTY THREE THOUSAND FOUR PESOS & 42/100 (₱333,034.42).¹

On 6 August 2004, Ampeloquio resumed work as merchandiser at JAKA and reported at JAKA's outlets within Metro Manila, Shopwise Makati and Alabang. He received a daily wage of ₱252.00, without meal and transportation allowance.

On 4 April 2005, Ampeloquio was transferred outside of Metro Manila, to Lucena City and subsequently to San Pablo City. At that time, he was receiving the same daily wage of ₱252.00, without meal and transportation allowance. Ampeloquio was given a monthly cost of living allowance (COLA) of ₱720.00.

In a Letter dated 16 March 2005 addressed to JAKA's general manager, Ampeloquio requested for salary adjustment and benefits retroactive to the date of his reinstatement, 6 August 2004, and payment of salary differential in the total amount of ₱42,196.00.

In another Letter dated 7 July 2006, Ampeloquio wrote JAKA reiterating his request for salary adjustment and payment of benefits retroactive to his reinstatement, and an increase from his previous request of salary differential which amounted to a total of ₱180,590.00.

Ampeloquio based his request on what other merchandisers of JAKA received:

[The] supposed daily wage [prevailing at the time of his reinstatement] was ₱394.12, COLA at ₱1,200.00 per month, meal allowance of ₱60.00 and transportation allowance from house to outlet [and] vice-versa that his co-employees in the same job received ₱4,500.00 or ₱281.25 daily wage actual cost of transportation expenses and meal

¹ *Rollo*, p. 277.

allowance of ₱60.00 per day; that a messengerial employee receives ₱394.21 or ₱9,641.00 monthly salary plus transportation and meal allowance; x x x.²

Because of the discrepancy in wages, Ampeloquio filed anew before the NLRC, a complaint for underpayment of wages, COLA, non-payment of meal and transportation allowances docketed as NLRC NCR Case No. 00-06-04702-06.³

The NLRC summarized the claims and defenses of the parties, to wit:

x x x [Ampeloquio] seeks entitlement to underpayment or wage differential of ₱142.00, COLA differential of ₱500.00 a month, meal allowance of ₱60.00 per day and average transportation allowance of ₱100.00 per day; that he called the attention of [JAKA's general manager], Mr. Ariel Villasenor about his concern on 16 March 2005 but to no avail although upon second demand his ECOLA was increased to ₱1,200.00 per month starting 16 July 2006.

For their part, [JAKA] avers that it is engaged in the business of distribution of consumer goods; that [Ampeloquio] is their only regular employee as merchandiser; that at the time of the filing of this case, [Ampeloquio] is still working in a supermarket with a monthly salary of ₱7,985.00; that their other merchandiser[s] are outsourced from manpower agencies or are seasonal employees hired during peak season; that the salary of [Ampeloquio] was based on the minimum wage of ₱250.00 and ECOLA of ₱50.00 per day; that it is in the process of computing the wage distortion in the implementation of 2005 wage increase of ₱25.00; that their exemption in the implementation of wage increase expired last 25 June 2006 prior to the filing of this complaint; that they did not act on [Ampeloquio's] demand for money claims due to the pendency of this case.

In their reply, [JAKA] admits that [Ampeloquio] was reinstated in accordance with the Labor Arbiter's decision in the illegal dismissal case; that he received the same rate as that of his co-employees, hence there is no basis for [Ampeloquio's] money claims. On the other hand, [Ampeloquio] stressed the discrepancy and discrimination in the payment of wages which he allegedly suffered as he received lower than that of his co-workers and to substantiate his arguments he submitted the payslips of his co-employees.⁴

The Court of Appeals would summarize the position of JAKA, thus:

² Id. at 167.

³ Id. at 173-179.

⁴ Id. at 167-168.

x x x [Ampeloquio] is receiving a basic rate of ₱6,545.00, ECOLA of ₱1,200.00, transportation allowance of ₱240.00, and medicine allowance of ₱200.00; and that the company had made clear to merchandisers as early as 2004 that transportation reimbursement can only be made in such eventuality and does not include an instance where the employee (merchandiser) leaves his house to go to his assigned outlet or if he leaves his last outlet to go home.⁵

On 25 May 2007, Labor Arbiter Renaldo O. Hernandez granted Ampeloquio's complaint for underpayment of wages, basic and COLA and non-payment of allowances, meal and transportation:

WHEREFORE, premises considered[,] judgment is entered finding that [Ampeloquio] was illegally (*sic*) in bad faith, underpaid his wages, basic, COLA not paid his meal allowance and transportation allowance by [JAKA], ORDERING, hence [JAKA] (*sic*):

1. to pay him from 04/04/2005 to 06/14/2005 the total underpayment of COLA ₱3.85/day + unpaid nonstandard benefit of ₱60.00 meal allowance/day + nonstandard benefit of 36.06 transportation allowance/day, total of ₱99.85/day or ₱2,596.00/month x 2.53 months = ₱6,568.00 unpaid benefits and to pay him from 06/15/2005 – 06/05/2006 the underpayment of ₱122.96/day or ₱3,196.96/month x 11.6 months = ₱37,084.73 total unpaid wage differential, both to earn 12% legal interest from date of suit on 06/05/2006 until finally paid, plus 10% attorney's fees on the total amount in accord with Article 111 of the Labor Code.

2. to pay him moral damage[s] of ₱50,000.00 and exemplary [damages] of ₱10,000.00.⁶

In ruling for Ampeloquio, the Labor Arbiter used the following guideposts:

1. The claim should be limited to the three (3) year prescriptive period, that is, from date of filing 06/05/2006 and back, to 06/05/2003;
2. The existing statutory minimum wages and COLA during said 3-year period, viz:
 1. 06/05/2003 – 07/09/2004 Era of (Basic) W.O. No. NCR-08 effective 11/01/2000 and (COLA) NCR 09 effective 11/05/2001 and 02/01/2002
 Basic P250/day x 26 = P6,500/month + COLA P30.00/day x 26 = P780/month

⁵ Id. at 80.

⁶ Id. at 179.

Daily Take Home $P250 + P30 = P280$
Monthly Take Home $P6,500 + P780 = P7,280$

2. 07/10/2004 – 06/14/2005 Era of W.O. NCR-10 COLA increase of P20.00/day effective 07/10/2004
Basic same + COLA $P50.00 \times P26 = P1,300$
Daily Take Home $P250 + P50 = P300$
Monthly Take Home $P6,500 + P1,300 = P7,800$

3. 06/15/2005 – 06/05/2006 Era of W.O. NCR 11 Basic increase of P25.00/day effective 06/15/2005
Basic $P275/\text{day} \times 26 = P7,150/\text{month}$ + COLA $P50.00/\text{day} \times 26 = P1,300/\text{month}$
Daily Take Home $P275 + P50 = P325$
Monthly Take Home $P7,150 + P1,300 = P8,450.00^7$

On appeal by JAKA, the NLRC proper, in its Resolution dated 29 November 2007 in NLRC LAC NO. 08-002252-07,⁸ noted the exemption of JAKA from the pertinent Wage Order Nos. 10 & 11, and consequently, modified the amounts ordered by the Labor Arbiter to be paid by JAKA to Ampeloquio:

In this case it is undisputed that [Ampeloquio's] claim for salary differential covers the period from his date of reinstatement on 06 August 2004 to the date of the filing of this case on 05 June 2006. x x x.

A close examination of the Wage Orders material to [Ampeloquio's] claim show that under Wage Order No. 10 [on] ECOLA was granted in the amount of P20.00/day from July 10, 2004 and Wage Order No. 11 granted an increase of P25.00/day in the basic daily wage of workers from 16 June 2005 until 10 July 2006.

It appears however, that [JAKA] applied for an exemption in the implementation of Wage Order Nos. 10 and 11 x x x before the National Capitol Region Regional Tripartite Wage and Productivity Board and the latter in their Orders and dated 11 November 2004 and 28 September 2005 respectively granted the former twelve (12) months exemption from 10 July 2004 up to 09 July 2005 and 16 June 2005 until 15 June 2006. x x x.

In view of the foregoing, [Ampeloquio] is only entitled to a salary differential, as follows:

1. From 06 August 2004 to 15 June 2005 there are 269 days at 26 days per month.

⁷ Id. at 176-177.

⁸ Id. at 166-171.

The basic salary under the Wage Order is P250.00 per day plus P50.00 ECOLA. Applying the 12 months exemption or non-implementation of the P20.00 increase in ECOLA, [Ampeloquio] is only entitled to P280.00 per day but since he was paid P252.00 which he admitted, the salary differential for the 269 days period at P28.00 per day is SEVEN THOUSAND FIVE HUNDRED THIRTY-TWO (P7,532.00) PESOS only.

2. From 16 June 2005 up to 05 June 2006 there are 305 working days at 26 days per month.

The basic salary under Wage Order No. 11 was increase by P25.00 or has become P275.00 plus the P50.00 ECOLA making the minimum wage P325.00 per day.

Applying the exemption for 12 months to [Ampeloquio] his basic salary remained at P250.00 but her ECOLA has increased to P50.00 because of the expiration of the period for exemption, hence his salary is P300.00. Considering that he was paid only P252.00 pesos, his salary differential for the period is P48.00 pesos or the total amount of FOURTEEN THOUSAND SIX HUNDRED FORTY (P14,640.00) PESOS only.

[Ampeloquio] is therefore entitled to a total salary differential of only P22,172.00.

[JAKA's] contention that [Ampeloquio] is not entitled to reimbursement of transportation expenses from the latters house to the outlet where he was assigned and back is impressed with merit. [JAKA] submitted a copy of their policies and the pertinent portion, states:

“7. The only transportation expenses allowed to be reimbursed are those incurred from the first outlet to succeeding outlets. The transportation reimbursement shall not include house to first outlet and last outlet to house.” x x x.

[JAKA's] contention that [Ampeloquio] is not entitled to attorney's fees is untenable. Article III of the Labor Code expressly provides that in cases of unlawful withholding or recovery of wages, attorney's fee may be granted to the worker.

However, we agree with [JAKA] that [Ampeloquio] is not entitled to moral and exemplary damages. [Ampeloquio] failed to prove his entitlement with substantial proof that there was bad faith on the part of [JAKA] by its failure to voluntarily pay his salary differential.

WHEREFORE, premises considered, the appeal is **PARTLY GRANTED** and the Decision dated 25 May 2007 is **MODIFIED**

ordering [JAKA] to pay [Ampeloquio] his salary differential in the total amount of ₱22,172.00 and ten percent (10%) thereof as attorney's fees.⁹

Aggrieved by the NLRC's modification of what Ampeloquio obviously perceived as an acceptable monetary award, the latter filed a petition for *certiorari* before the Court of Appeals bemoaning grave abuse of discretion in: (1) the reduction of his award of salary differential to only ₱22,172.00; (2) the deletion of his entitlement to transportation expenses; and (3) the deletion of the award of moral and exemplary damages.

The appellate court in CA-G.R. SP No. 104445¹⁰ dismissed Ampeloquio's petition for *certiorari* finding no grave abuse of discretion in the NLRC's ruling and finding that, in fact, it is supported by substantial evidence:

x x x [Ampeloquio] was employed under circumstances far different from that of his other co-employees. In fact, he never disputed the fact that he is the lone regular merchandiser of JAKA while his other co-employees either work as casual or contractual employees. Thus, since his employment condition or status is different than that of his co-employees, there is no point of comparison as far as their wages and other remunerations are concerned. Precisely, the minimum wage law exists to provide as guideposts for the least pay that an employee must receive for a day's work. It does not serve as restrictions on the right of the employer to provide other monetary or non-monetary benefits to its employees. For as long as [Ampeloquio] is paid the minimum statutory wage rate or his wage rate prior to his illegal dismissal, whichever is higher, he has no cause of action against his employer JAKA as far as wage differential is concerned.

Further, [Ampeloquio] cannot [anchor] his right to equal pay based on wage distortions. For well-settled is the rule that the issue of whether or not a wage distortion exists is a question of fact that is within the jurisdiction of the quasi-judicial tribunals below. Factual findings of administrative agencies are accorded respect and even finality in this Court if they are supported by substantial evidence. As a rule, judicial review by this court does not extend to a reevaluation of the factual circumstances of the case. Specialized agencies are presumed to have gained expertise on matters within their respective fields. Thus, their findings of fact, when supported by substantial evidence, are entitled to great respect and are generally rendered conclusive upon this Court, except only upon a clear showing of palpable error or arbitrary disregard of evidence. A thorough examination of the records of this case reveals no reason to justify a reversal of the factual findings of the NLRC.

⁹ Id. at 169-171.

¹⁰ Id. at 78-90.

Again, after carefully reviewing the [NLRC's] assailed resolutions, this Court finds the same to have been amply supported by substantial evidence.

WHEREFORE, the instant petition for *Certiorari* is **DENIED**.¹¹

Hence, this appeal by *certiorari* raising the following grounds:

1

x x x THE HONORABLE COURT [OF APPEALS] COMMITTED A SERIOUS REVERSIBLE ERROR IN RULING THAT MONCHITO IS ONLY ENTITLED TO WAGES OR SALARY SCALE THAT GOVERNS THE MINIMUM WAGE RATE THEN PREVAILING OR HIS ACTUAL DAILY WAGE RATE, WHICHEVER IS HIGHER AND NOT EQUAL TO THE WAGES AND BENEFITS RECEIVED BY MONCHITO'S CO-EMPLOYEES WHO HAVE BEEN IN THE SERVICE OF THE COMPANY FOR LESSER YEARS BUT WHO ARE RECEIVING FAR MORE BENEFITS AND BIGGER WAGES.

2

THE HONORABLE COURT [OF APPEALS] COMMITTED A SERIOUS REVERSIBLE ERROR IN ITS DECISION WHEREIN IT CONSTRUED UNFAVORABLY ARTICLE 223 OF THE LABOR CODE AS AGAINST [AMPELOQUIO], HEREIN PETITIONER-LABORER WHICH THEREBY RESULTED TO THE VIOLATION OF THE SEPTEMBER 18, 2001 DECISION OF THE LABOR ARBITER WHICH DIRECTED [JAKA] TO REINSTATE [AMPELOQUIO] TO HIS FORMER POSITION AS MERCHANDISER WITHOUT LOSS OF SENIORITY RIGHTS AND OTHER BENEFITS.

3

FINALLY, THE HONORABLE COURT [OF APPEALS] COMMITTED A SERIOUS REVERSIBLE ERROR IN ITS DECISION WHEREIN IT DID NOT AWARD TO [AMPELOQUIO] MORAL AND EXEMPLARY DAMAGES.¹²

The issue for our resolution is the scope *viz-a-viz* wages of reinstatement "without loss of seniority rights and other privileges."

Seniority rights refer to the creditable years of service in the employment record of the illegally dismissed employee as if he or she never ceased working for the employer. In other words, the employee's years of

¹¹ Id. at 88-89.

¹² Id. at 28-29.

service is deemed continuous and never interrupted. Such is likewise the rationale for reinstatement's twin relief of full backwages.¹³

Ampeloquio is correct in asserting that he is a senior employee compared to the other merchandisers whom he himself designates as casual or contractual merchandisers. He is likewise senior to other regular employees subsequently hired by JAKA, specifically two regular messenger employees which Ampeloquio claims receive wages higher than what he is receiving from JAKA.

Attached to the recognition of seniority rights of a reinstated employee who had been illegally dismissed is the entitlement to wages appurtenant thereto.

The case of Ampeloquio is outside the ordinary. His reinstatement was ordered when merchandisers like him were no longer employed by JAKA.

He is **not** entitled to the same terms and conditions of employment as that which was offered to the other regular employees (not merchandisers) subsequently hired by JAKA.

JAKA's decision to grant or withhold certain benefits to other employees is part of its management prerogative as a function of an employer's constitutionally protected right to reasonable return on investments.¹⁴

Ampeloquio cannot likewise compare his wages to that received by "casual or contractual merchandisers" or merchandisers who are admittedly outsourced from manpower agencies or those who are considered seasonal employees hired only during peak season when JAKA is in need of extra merchandisers.

¹³ Labor Code, Article 279.

¹⁴ Constitution, Art. 13, Sec. 3:

x x x x

The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth.

To say the least, these merchandisers are not, strictly speaking, employees of JAKA, but of a service provider company which has a service contract with JAKA. The merchandisers in this case simply perform the work at JAKA's outlets, wearing uniforms approved by JAKA but provided by the service company who is actually their employer. There is no employer-employee relationship between JAKA and these merchandisers.

Receipt by these merchandisers of a benefit such as transportation or meal allowance is part of the monies they receive from their employer and embedded in the contract price of the service agreement the employer has with JAKA.

The existence of an independent and permissible contractor relationship is generally established by considering the following determinants: whether the contractor is carrying on an independent business; the nature and extent of the work; the skill required; the term and duration of the relationship; the right to assign the performance of a specified piece of work; the control and supervision of the work to another; the employer's power with respect to the hiring, firing and payment of the contractor's workers; the control of the premises; the duty to supply the premises, tools, appliances, materials and labor; and the mode, manner and terms of payment.¹⁵

On the other hand, existence of an employer-employee relationship is established by the presence of the following determinants: (1) the selection and engagement of the workers; (2) power of dismissal; (3) the payment of wages by whatever means; and (4) the power to control the worker's conduct, with the latter assuming primacy in the overall consideration.¹⁶

Section 8 of DOLE Department Order No. 10, series of 1997, illuminate:

Sec. 8. *Job contracting*. - There is job contracting permissible under the Code if the following conditions are met:

(1) The contractor carries on an independent business and undertakes the contract work on his own account under his own responsibility according to his own manner and method, free from the control and direction of his

¹⁵ *Escasinas v. Shangri-la's Mactan Island Resort*, G.R. No. 178827, 4 March 2009, 580 SCRA 604, 614.

¹⁶ *Dealco Farms, Inc. v. National Labor Relations Commission*, G.R. No. 153192, 30 January 2009, 577 SCRA 280, 293.

employer or principal in all matters connected with the performance of the work except as to the results thereof; and

(2) The contractor has substantial capital or investment in the form of tools, equipment, machineries, work premises, and other materials which are necessary in the conduct of his business.

In the same vein, seasonal employees hired only for the peak season do not have the same status as regular employees and do not receive amounts considered as part of a compensation and benefits scheme for regular employees. These seasonal employees only receive payment for work rendered during the period for which they were hired, *i.e.*, peak season. The wages and other monies seasonal employees may receive for the duration of their limited employment period constitute bulk or wholesale payment for services rendered.

Seasonal employment involves work or service that is seasonal in nature or lasting for the duration of the season. Seasonal employees differ from those classified as regular employees, in that: (1) the employee must be performing work or services that are seasonal in nature; and (2) he had been employed for the duration of the season.¹⁷

The phrase without loss of seniority rights applies with practical and real effect to Ampeloquio upon his retirement because he will reach earlier than other regular employees of JAKA the required number of years of service to qualify for retirement.

In all, the labor tribunals were right in using as guidepost the existing statutory minimum wages and COLA during the three (3) year prescriptive period within which Ampeloquio can make his money claims.

We are not unaware that reinstatement is the rule and such covers reinstatement to the same or substantially equivalent position without loss of seniority rights and privileges.

In this case, JAKA did not claim exceptions to the rule of reinstatement, *i.e.*, (1) strained relations, or (2) abolition of the position;¹⁸

¹⁷ *Universal Robina Sugar Milling Corporation v. Acibo*, G.R. No. 186439, 15 January 2014.

¹⁸ *Apo Chemical Manufacturing Corporation v. Bides*, G.R. No. 186002, 19 September 2012, 681 SCRA 405, 412; *Employees Association of the Philippine American Life Insurance Company v. NLRC*, G.R. No. 82976, 26 July 1991, 199 SCRA 628, 634.

JAKA immediately complied with the Labor Arbiter's order of reinstatement.

We note that, specifically, JAKA could have claimed that the position of merchandiser no longer exists and has been abolished with the contracting of this job function. However, it merely opted to reinstate Ampeloquio to the same position. There is no quarrel that with his reinstatement, Ampeloquio is now the lone regular merchandiser of JAKA.

The option of reinstatement to a substantially equivalent position does not apply herein as reinstatement to a substantially equivalent position entails the same or similar job functions and not just same wages or salary. As applied to this case, Ampeloquio cannot be reinstated to a messengerial position although such is a regular employment enjoying the same employment benefits and privileges. His employment cannot likewise be converted into a contractual employment as such is actually a downgrade from his regular employment enjoying security of tenure with JAKA.

As the sole regular merchandiser of JAKA, Ampeloquio's reinstatement entitles him, at the minimum, to the standard minimum wage at the time of his employment and to the wages he would have received from JAKA had he not been illegally dismissed, as if there was no cessation of employment. Ampeloquio is likewise entitled to any increase which JAKA may have given **across the board** to all its regular employees. To repeat, Ampeloquio is not entitled to all benefits or privileges received by other employees subsequently hired by JAKA just by the fact of his seniority in the service with JAKA.

The Court of Appeals was correct in its disquisition that:

x x x [W]ithout loss of seniority rights and benefits, this does not necessarily mean equal or more rights than those employees hired by JAKA prior or subsequent to his reinstatement. The rule on how much pay a reinstated employee shall receive is governed by paragraph 3 of Article 223 of the Labor Code which provides as follows:

x x x In any event, the decision of the Labor Arbiter reinstating a dismissed or separated employee, insofar as the **reinstatement aspect is concerned**, shall immediately be executory, even pending appeal. **The employee shall either be admitted back to work under the same terms and conditions prevailing prior to his dismissal** or separation or, at the option of the employer,

merely reinstated in the payroll. The posting of a bond by the employer shall not stay the execution for reinstatement provided therein.

x x x x

When [Ampeloquio] was reinstated on August 6, 2004, he is entitled to receive a salary under the same terms and conditions prevailing prior to his dismissal, provided this complies with the minimum wage law prevailing at the time of reinstatement, in consonance to Article 99, 100 of P.D. No. 442, as amended. Thus, this Court finds and agrees with the computation by the NLRC of [Ampeloquio's] wage rate. While he [Ampeloquio] may have been ordered reinstated to his former position without loss of seniority rights and benefits, this Court cannot agree [with] the strained interpretation given by [Ampeloquio] that since he is the most senior among his co-employees, he should be entitled to the same amount of wages and benefits as that being received by them. x x x Thus, when he was reinstated on August 6, 2004, the salary scale that governs shall be the minimum wage rate then prevailing or his actual daily wage rate, which ever is higher.¹⁹

The reduction of the salary differential award to Ampeloquio by the NLRC, and affirmed by the appellate court, was correct given the exemption to Wage Order Nos. 10 & 11 granted to JAKA.

Given our holding herein, we likewise uphold the deletion by the NLRC and the appellate court of the award of moral and exemplary damages absent a showing of bad faith on the part of JAKA in its corrected payment of wages to Ampeloquio.

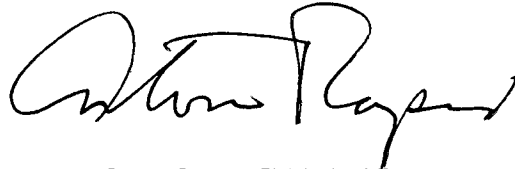
WHEREFORE, the appeal is **DENIED**. The Decision of the Court of Appeals in CA-G.R. SP No. 104445 and the National Labor Relations Commission in NLRC LAC No. 08-002252-07 are **AFFIRMED**. No costs.

SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

¹⁹ *Rollo*, pp. 87-88.

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



ARTURO D. BRION
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice