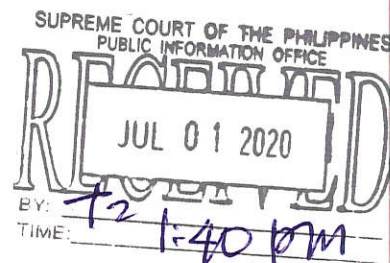




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated January 27, 2020, which reads as follows:

“G.R. No. 240512 (*Maria Lailani L. Hapita v. Cypress Manufacturing Limited and/or Leovic Capili*). – This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated January 26, 2018 and the Resolution³ dated May 17, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 149521.

On December 17, 1997, Maria Lailani L. Hapita (petitioner) started working for Cypress Manufacturing Limited (respondent) as an Assembly Production Operator.⁴ On January 6, 2012, petitioner received a Letter⁵ from respondent, informing her that the latter is transitioning into an “Autoline only factory throughout 2012” (first termination). Because of the transition, petitioner’s position was declared redundant with her last day of work on February 6, 2012. Petitioner signed a Release, Waiver and Quitclaim⁶ (Quitclaim) indicating her position as QA Inspector Lead and declaring petitioner’s receipt of ₱421,151.73 as severance package.⁷

In a Letter⁸ dated September 21, 2012, respondent offered petitioner a job with the position of QA Inspector Senior – a position under QA Inspector Lead Sr. Erlinda R. Rectra. The position had a basic monthly salary of ₱10,835.86.

In a Letter⁹ dated April 6, 2015, respondent informed petitioner that her position as QA Inspector Senior was declared redundant because of a merger

¹ *Rollo*, pp. 26-48.

² Penned by Associate Justice Romeo F. Barza, with Associate Justices Mario V. Lopez (now a Member of this Court) and Victoria Isabel A. Paredes, concurring; *id.* at 53-67.

³ *Id.* at 50-51.

⁴ *Id.* at 126.

⁵ *Id.* at 133.

⁶ *Id.* at 134-135.

⁷ *Id.* at 72.

⁸ *Id.* at 136-139.

⁹ *Id.* at 140-141.

with another company (second termination). Petitioner was informed that her employment was only until June 25, 2015.

On April 20, 2015, a first Absence Without Official Leave (AWOL) Notice¹⁰ was given to petitioner due to the latter's absence from April 16 to 18, 2015. Petitioner was directed to report for work on April 21, 2015. Due to petitioner's continued absence, a second AWOL Notice¹¹ and a third AWOL Notice¹² were sent to petitioner. As a result of petitioner's prolonged unexplained absence, petitioner's employment was terminated on May 11, 2015. A Termination Letter¹³ dated May 11, 2015 was sent to petitioner informing her of respondent's decision to sever her employment. This prompted petitioner to file a complaint for illegal dismissal against respondent on April 23, 2015.¹⁴ Petitioner claimed to have been illegally dismissed twice – on January 6, 2012 and April 6, 2015.

Ruling of the Labor Arbiter

In a Decision¹⁵ dated April 15, 2016, the Labor Arbiter (LA) dismissed petitioner's complaint and ordered petitioner's reinstatement without backwages.¹⁶

The LA found petitioner's first termination on January 6, 2012 valid. The LA interpreted petitioner's receipt of a ₱421,151.73 compensation package as acquiescence to her dismissal. Also, petitioner's Quitclaim effectively barred her from instituting any claim or action against respondent. Lastly, petitioner's re-employment with respondent showed that petitioner recognized the validity of the first termination.¹⁷

The LA ruled that the April 6, 2015 Letter was not a notice of petitioner's second termination but only a notice of redundancy effective June 25, 2015. When petitioner filed the complaint on May 10, 2015, there was no cause of action that had accrued yet.¹⁸

Petitioner's absence from April 16, 2015 to May 10, 2015 was not considered an act of abandonment. Respondent failed to show that petitioner's absence was coupled with an intent to abandon her job. Petitioner's absence was merely based on her mistaken interpretation of the April 6, 2015 Letter.¹⁹

¹⁰ Id. at 147.

¹¹ Id. at 148.

¹² Id. at 149.

¹³ Id. at 172-173.

¹⁴ Id. at 29. Docketed as NLRC Case No. RABIV-05-00587-15-C before the Regional Arbitration Branch of Calamba City, Laguna. In the LA's April 15, 2016 Decision, it was stated that petitioner filed a complaint on May 10, 2015. *See id.* at 74 and 182. The May 10, 2015 complaint presumably refers to the amended complaint filed by petitioner.

¹⁵ Penned by Labor Arbiter Danna M. Castillon; *id.* at 176-183.

¹⁶ Id. at 183.

¹⁷ Id. at 180-181.

¹⁸ Id. at 182.

¹⁹ Id. at 183.

Therefore, the LA restored the status *quo* by ordering petitioner to return to work *sans* any backwages.

Aggrieved, both parties appealed before the National Labor Relations Commission (NLRC). Respondent alleged that the status *quo* cannot be achieved because petitioner's position does not exist anymore. Respondent maintained that petitioner's second termination was valid due to petitioner's AWOL, insubordination, and gross neglect of duty prior to the effectivity of petitioner's official termination as a result of her position being declared redundant in 2015.²⁰ Petitioner claimed that the LA gravely abused its discretion when it did not find her illegally dismissed and when it did not grant her monetary claims.

Ruling of the National Labor Relations Commission

In a Decision²¹ dated August 17, 2016, the NLRC overturned the LA's decision finding petitioner's first dismissal valid. The NLRC found no proof that respondent "transform[ed its business] into an Autoline only factory throughout 2012." Neither was there any proof that the affected organization units were abolished. The NLRC noted that only petitioner was dismissed due to redundancy. There was also no specific position declared redundant in the notice. There was also no written notice served to the Department of Labor and Employment (DOLE) to prove that there really was a redundancy of certain company positions. Although petitioner's position (*i.e.*, QA Inspector Lead) was deemed redundant, petitioner was re-hired six months later for almost the same position (*i.e.*, QA Inspector Senior).²²

However, the NLRC found petitioner's second dismissal valid because the proper requisites were met, namely: (1) appropriate notice to petitioner on April 13, 2015;²³ (2) notice to the DOLE one month prior to the implementation of the redundancy program (*i.e.*, on March 17, 2015) together with an Establishment Termination Report²⁴ and list of employees affected; (3) good faith in abolishing the redundant positions due to actual merger with Spansion, Inc. in 2015; and (4) fair and reasonable criteria in ascertaining the positions to be abolished/declared redundant via internal correspondences with Spansion, Inc.²⁵

The NLRC found petitioner guilty of being AWOL from April 16, 2015 to May 10, 2015. The charges of insubordination and gross neglect of duty were set aside because respondent's notices to petitioner only charged her with being on AWOL.²⁶

²⁰ See April 6, 2015 Letter; *id.* at 140-141.

²¹ Penned by Commissioner Gina F. Cenit-Escoto, with Presiding Commissioner Gerardo C. Nograles and Commissioner Romeo L. Go, concurring; *id.* at 217-240.

²² *Id.* at 232-233.

²³ *Id.* at 234.

²⁴ *Id.* at 129.

²⁵ *Id.* at 233-234.

²⁶ *Id.* at 237.

The NLRC found petitioner entitled to backwages from the time she was illegally dismissed on February 6, 2012 up to the time she was re-hired in September 2012. The amount of backwages petitioner was entitled to was deemed offset with the ₱167,089.25 retirement pay petitioner received from respondent in 2012.²⁷

Petitioner's claim for a termination package as a result of the 2015 redundancy was denied. Petitioner's AWOL was proof that petitioner failed to comply with respondent's condition – particularly, that the employee must remain in good standing and on active payroll up until the termination date.²⁸

Unfazed, petitioner elevated the matter to the CA via a Petition for *Certiorari* under Rule 65 of the Rules of Court.

Ruling of the Court of Appeals

On September 19, 2018, the CA dismissed the petition for want of grave abuse of discretion by the NLRC. The CA affirmed the NLRC's findings but additionally ordered respondent to pay petitioner ₱50,000.00 moral damages and ₱50,000.00 exemplary damages.

The appellate court upheld the invalidity of the first termination and the validity of the second termination. The CA computed petitioner's award of backwages and separation pay for the illegal dismissal last January 6, 2012, as follows:

Petitioner's basic monthly salary	₱17,047.88
No. of months from the time petitioner was separated from service in 2012 (<i>i.e.</i> , February 6, 2012 to September 2012)	x <u>7</u>
Backwages	<u>₱119,335.16</u>
Petitioner's basic monthly salary	₱17,047.88
No. of years in service (from December 1997 to September 2012)	x <u>15</u>
Separation Pay	<u>₱255,718.20</u>
Backwages	₱119,335.16
Separation Pay	<u>255,718.20</u>
Petitioner's total award	<u>₱375,053.36</u> ²⁹

The CA noted that petitioner received ₱421,151.73 – a sum greater than petitioner's total award. The amount petitioner then received was deemed payment for the ₱375,053.36 that petitioner is entitled to.³⁰

²⁷ Id. at 237-238.

²⁸ Id. at 238.

²⁹ Id. at 62.

³⁰ Id. at 64.

Petitioner's claim for salary differential was denied. The CA explained that petitioner's employment in September 2012 constituted a new job because petitioner's first employment was effectively terminated on February 6, 2012. The execution of petitioner's second employment contract was construed as petitioner's acceptance of the lower salary.³¹ However, the CA awarded petitioner ₱50,000.00 as moral damages and ₱50,000.00 as exemplary damages because of respondents' bad faith in dismissing petitioner on February 6, 2012.³²

With petitioner's motion for reconsideration denied in a Resolution³³ dated May 17, 2018, petitioner filed the instant Petition for Review on *Certiorari*³⁴ under Rule 45 of the Rules of Court. Petitioner insists that the second termination was invalid and that her dismissal due to being on AWOL was improper.

On December 27, 2018, respondents Cypress Manufacturing Limited and Leovic Capili jointly filed their comment.³⁵

The Court's Ruling

The petition is denied for lack of merit.

Jurisprudence requires compliance with the following requisites in implementing a valid redundancy program:

x x x (1) written notice served on both the employees and the Department of Labor and Employment at least one month prior to the intended date of retrenchment; (2) payment of separation pay equivalent to at least one month pay or at least one month pay for every year of service, whichever is higher; (3) good faith in abolishing the redundant positions; and (4) fair and reasonable criteria in ascertaining what positions are to be declared redundant and accordingly abolished.³⁶

As discussed by the NLRC, all four criteria were met. The same factual conclusion was made by the CA.

Petitioner insists that she was constructively dismissed in 2015. She claimed that she felt compelled to give up her employment when she was forced to sign a quitclaim one week after she received the notice of redundancy. Thus, "[s]he decided not to work because the same is considered already as her termination."³⁷

³¹ Id. at 65.

³² Id. at 65-66.

³³ Id. at 50-51.

³⁴ Id. at 26-47.

³⁵ Id. at 110-125.

³⁶ *Arabit v. Jardine Pacific Finance, Inc. (Formerly MB Finance)*, 733 Phil. 41, 59 (2014).

³⁷ *Rollo*, p. 31.

The NLRC and the CA found that petitioner refused to report for work despite respondent's three separate notices for petitioner to report back for work.³⁸ Respondent's policy states that an employee's failure to return to work despite three notices serves as notification of the employee's termination after the third notice of AWOL.³⁹ Petitioner does not refute respondent's policy but only claims that she was constructively terminated because she was coerced into signing a waiver and quitclaim.⁴⁰ As against petitioner's unsubstantiated allegation that she was forced to sign a waiver, this Court believes the NLRC and the CA's factual conclusion that petitioner was justly dismissed for being on AWOL.

However, We find petitioner entitled to a salary differential from the time she was re-hired in September 2012 up to the time she was validly dismissed in April 2015.

While the CA computed petitioner's backwages and separation pay using her original monthly salary of ₱17,047.88, the CA justified petitioner's lower monthly salary of ₱10,835.86 when petitioner was re-hired in September 2012 because petitioner's "first employment with [respondent] was cut."⁴¹ This is incorrect.

Article 294⁴² of the Labor Code, as renumbered by Department Advisory No. 01, states:

Art. 294. *Security of Tenure.* – An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits of their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

Since the first termination was illegal, Article 294 requires that petitioner be given whatever she was previously entitled to. This does not only include petitioner's reinstatement to her old position but also the amount of compensation previously received. When petitioner was "re-hired" in September 2012, she was actually reinstated. Thus, petitioner should have been paid her basic monthly salary of ₱17,047.88 instead of ₱10,835.86. The monthly salary difference of ₱6,212.02 shall earn a 6% annual legal interest from the time petitioner filed her complaint until the same is fully paid in accordance with this Court's ruling in *Nacar v. Gallery Frames*.⁴³

On petitioner's entitlement to ₱50,000.00 moral damages and ₱50,000.00 exemplary damages, this Court resolves to affirm the same.

³⁸ Id. at 54.

³⁹ Id. at 65.

⁴⁰ Id. at 32.

⁴¹ Id. at 64.

⁴² Formerly Article 279 of the Labor Code.

⁴³ 716 Phil. 267, 282-283 (2013).

Respondent never questioned the CA's award of moral and exemplary damages. Following Section 9, Rule 65 of the Rules of Court, "execution may issue for any damages or costs awarded in accordance with Section 1 of Rule 39." Section 1, Rule 39 allows execution as a matter of right if no appeal has been duly perfected. Only petitioner questioned the CA's January 26, 2018 Decision via the instant petition. In the instant petition, petitioner specifically prayed for the affirmance of her right to moral and exemplary damages. Thus, the CA's decision awarding petitioner moral and exemplary damages became final and binding on the parties.

WHEREFORE, the instant petition is **DENIED**. The Decision dated January 26, 2018 and the Resolution dated May 17, 2018 of the Court of Appeals in CA-G.R. SP No. 149521 is **AFFIRMED with MODIFICATION** in that petitioner Maria Lailani L. Hapita is entitled to her monthly salary differential of ₱6,212.02 from September 2012 until May 11, 2015 with a six percent (6%) annual interest from the time the complaint was filed until the amount is fully paid.

The awards of ₱50,000.00 moral damages and ₱50,000.00 exemplary damages shall earn a six percent (6%) annual interest from the finality of this Resolution until fully paid.⁴⁴

SO ORDERED."

Very truly yours,

Mis PDC Batt
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Division Clerk of Court

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⁴⁴ *Nacar v. Gallery Frames*, 716 Phil. 267, 283 (2013).

