



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated August 1, 2022, which reads as follows:*

**“G.R. No. 259170 (Rachel Mae F. Aquino, *Petitioner* vs. ACS Pro Global Corporation, Liz Jurado, Sam Klein, and Carolyne Luna, *Respondents*).** – Acting on the Motion for Extension of Time to file Petition for Review on *Certiorari*,<sup>1</sup> the Court resolves to **GRANT** it giving petitioner Rachel Mae F. Aquino (Aquino) an extension of thirty (30) days, or from March 15, 2022 until April 14, 2022, within which to file a petition for review on *certiorari*.

Considering the allegations, issues, and arguments adduced in the Petition for Review on *Certiorari*,<sup>2</sup> the Court resolves to **DENY** it for failure to show that the Court of Appeals (CA) committed any reversible error in its assailed Decision<sup>3</sup> dated February 26, 2021 and Resolution<sup>4</sup> dated February 14, 2022 in CA-G.R. SP Nos. 161030 and 161071. The CA correctly held that the National Labor Relations Commission (NLRC) did not commit grave abuse of discretion when it found that Aquino was not illegally dismissed by respondent ACS Pro Global Corporation (ACS).

A petition under Rule 45 of the Rules of Court empowers the Court to review only errors of law committed by the CA. In *Tamayao vs. Coca-Cola Bottlers Philippines, Inc.*,<sup>5</sup> the Court held:

In a Rule 45 review, We examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, and not on the basis of whether the NLRC decision on the merits of the case was correct. If the NLRC ruling has basis in the evidence and the applicable law and jurisprudence, then no grave abuse of discretion exists, and the CA should accordingly dismiss the petition. If grave abuse of discretion exists, then the CA must grant the petition and nullify the NLRC ruling. In our Rule 45 review, We must deny the petition if the CA correctly acted, as in this

<sup>1</sup> *Rollo*, pp. 3-7.

<sup>2</sup> *Id.* at 11-33.

<sup>3</sup> *Id.* at 35-46. Penned by Associate Justice Emily R. Alifio-Geluz and concurred in by Associate Justices Fernanda Lampas Peralta and Zenaida T. Galapate-Laguilles.

<sup>4</sup> *Id.* at 48-51.

<sup>5</sup> G.R. Nos. 227521-22 (Notice), May 14, 2021.

case.<sup>6</sup> (Citations omitted)

The CA found no grave abuse of discretion on the part of the NLRC in rendering its decision and resolution considering that its findings are supported by law and the evidence on record. Corollarily, the Court sees no reason to depart from the rule according finality and respect to the factual findings of labor tribunals, like the NLRC, that have expertise on the matter.<sup>7</sup>

As aptly found by the CA:

We find no grave abuse of discretion when the NLRC concluded that ACS had the lawful option to terminate Aquino's employment due to redundancy caused by the sudden closure of the PCA account. This is a management prerogative that ACS was entitled to exercise, albeit subject to good faith and procedural due process. "Where appropriate and where conditions are in accord with law and jurisprudence, the Court has authorized valid reductions in the work force to forestall business losses, the hemorrhaging of capital, or even to recognize an obvious reduction in the volume of business which has rendered certain employees redundant."

x x x x

There is hardly any basis to conclude that ACS was in bad faith in declaring the three agents handling the PCA account redundant. x x x.

x x x x

Recall that the characterization of service as redundant by an employer is generally not subject to review, unless attended with arbitrary and malicious action or violation of law. x x x Furthermore, "the law does not require that the employer should be suffering financial losses before he can terminate the services of the employee on the ground of redundancy." We are, thus, not inclined to agree that ACS should have further defended the correctness of its business judgment.

The criteria used by ACS in selecting the employees to be terminated for redundancy is a non-issue here. As commonly alleged by both parties and bolstered by the Establishment Termination Report, the PCA account had three customer service representatives, including Aquino. *All three were declared redundant.* Note that Aquino was designated to the PCA account for about three months after completion of the six-month probationary period during which Aquino underwent training. Given that all three agents in the same account were similarly treated, ACS was also in good faith on this aspect.

On procedural due process, the NLRC had sufficient basis in agreeing with the LA that ACS failed to properly comply with the notice requirement to the DOLE, making ACS liable for nominal damages. The July 13, 2018 notice to the DOLE indicated the effectivity date of termination as July 13, 2018. This is inconsistent with the July 12, 2018

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<sup>6</sup> Id.

<sup>7</sup> *Orcullo, Jr. vs. De la Salle University Dasmariñas*, G.R. No. 252653, September 30, 2020.

letter to Aquino, which categorically stated that the termination would be effective after one month and assured that she would be paid for the duration, even if not required to report for work. The law does not prohibit an employer from not requiring a redundant employee to report for work during the one-month notice period, for as long as the period is considered part of the employee's service to the company for which the employee is duly paid.

While the one-month notice to Aquino might negate bad faith on the part of ACS, the one-month notice to the DOLE is a statutory requirement that ACS failed to comply with and is a lapse that should be acknowledged and addressed. Aquino's removal for authorized cause sans faithful compliance with the proper procedure does not invalidate the dismissal. "It obligates the erring employer to pay nominal damages to the employee, as penalty for not complying with the procedural requirements of due process." Thus, the award of nominal damages is proper.

We, however, delete the award of attorney's fees, given that the non-payment of separation pay and other amounts that Aquino is lawfully entitled to, was caused by her refusal to process the exit clearance and receive the amounts in the belief that her termination was invalid. x x x In as recent as *Mejila v. Wrigley Philippines, Inc.*, the award of attorney's fees was deleted for insufficient proof of bad faith on the part of the employer which from the onset offered to pay the employee's wages and other claims, but the employee refused due to a mistaken view. Here, there was also no unjustified withholding or refusal to pay wages on the part of ACS.<sup>8</sup> (Emphasis in the original; citations omitted)

In view of the foregoing, the Court finds that the CA committed no reversible error in finding that the NLRC did not gravely abuse its discretion in ruling that Aquino was validly dismissed by ACS.

However, in conformity with prevailing jurisprudence,<sup>9</sup> the Court imposes legal interest on the monetary awards at the rate of six percent (6%) *per annum* reckoned from the finality of this Resolution until its full payment.

**WHEREFORE**, the petition is **DENIED**. The Decision dated February 26, 2021 and the Resolution dated February 14, 2022 of the Court of Appeals in CA-G.R. SP Nos. 161030 and 161071 are **AFFIRMED** with **MODIFICATION** in that the total monetary awards in favor of petitioner Rachel Mae F. Aquino shall earn legal interest at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until its full satisfaction.

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<sup>8</sup> *Rollo*, pp. 42-45.

<sup>9</sup> *Westminster Seafarer Management Philippines, Inc. vs. Raz*, G.R. No. 249344 (Resolution), April 5, 2022, citing *Nacar vs. Gallery Frames*, G.R. No. 716 Phil. 267, 281 (2013).

**SO ORDERED.”**

By authority of the Court:

*Misael Domingo C. Battung III*  
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*Division Clerk of Court*  
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