REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **August 22, 2022** *which reads as follows*:

"**G.R. No. 252686 (*Dennis Viernes Binaya,* petitioner *v.* *Josielyn Medina, doing business under the name and style of M8 Manpower Services,* respondent).** — This Court resolves a Petition for Review on *Certiorari*[1] dated July 20, 2020 filed by Dennis Viernes Binaya (*Binaya*), assailing the Decision[2] dated August 16, 2019 and Resolution[3] dated June 17, 2020 of the Court of Appeals (*CA*). The CA earlier partially granted the Petition for *Certiorari*[4] filed by the respondent assailing the Decision[5] dated August 29, 2018 of the National Labor Relations Commission (*NLRC*) sustaining the findings of the Labor Arbiter.

The Antecedents

M8 Manpower Services (*MMS*) is a sole proprietorship engaged in the business of providing janitorial services to various clients, with Binaya as one of its employees. After rendering service, Binaya resigned from work on January 11, 2018.[6] Then, because he was allegedly underpaid by MMS, Binaya filed a Complaint[7] on January 31, 2018 for underpayment of salary, non-payment of holiday pay, non-payment of service incentive leave pay (*SILP*), non-payment of 13th month pay, and non-payment of emergency cost of living allowance (*ECOLA*), before the Labor Arbiter.[8]

According to Binaya, he was hired as a reliever janitor on June 21, 2015 and was assigned at Quezon City General Hospital. On October 1, 2015, he signed an employment contract with MMS for a period of one year and was assigned at the office of the National Police Commission in Quezon City. The

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1 *Rollo*, pp. 11-29.
2 Penned by Associate Justice Pedro B. Corales, with Associate Justices Marlene B. Gonzales-Sison and Louis P. Acosta, concurring; id. at 37-52.
3 Id. at 54-55.
4 Id. at 56-73
5 Penned by Presiding Commissioner Grace M. Venus, with Commissioner Mary Ann P. Daytia, concurring, and Commissioner Leonard Vinz O. Ignacio, dissenting; id. at 76-83.
6 Id. at 92.
7 Id. at 186.
8 Id. at 38.

contract was renewed for another two years. As evidenced by handwritten payslips, Binaya's daily wage was: ₱370.00 from October 2015 to November 2016; ₱380.00 from December 2016 to February 2017; ₱395.00 from March 2017 to May 2017; and ₱400.00 from June 2017 to January 11, 2018. A ₱400.00 cash bond was also deducted from his monthly salary from October 2015 to January 11, 2018.[9]

According to MMS, Binaya received proper wages and benefits. It presented the affidavit[10] of Katherine Anne S. Borre, MMS' Finance Officer, to show the payment of the correct amount of salary, overtime pay, holiday pay, ECOLA, 13th month pay, SILP, and night shift differential, less mandatory deductions. Binaya was given a basic pay of ₱502.00 per day in accordance with the minimum wage rate for non-agricultural employees in the National Capital Region, plus ₱10.00 ECOLA. MMS questioned Binaya's entitlement to holiday pay in the absence of any allegation as to when he rendered work during holidays.[11]

The Labor Arbiter partially granted Binaya's complaint in his Decision[12] dated July 9, 2018, ruling as follows:

> **WHEREFORE**, premises considered, the complaint for money claims filed by Dennis V. Binaya is hereby partially granted. Respondents are hereby ordered to pay complainant, as per attached computation:
>
> 1. Salary Differentials
> 2. Service Incentive Leave Pay
> 3. Holiday Pay
> 4. 13th month pay
> 5. Attorney's fees (10%) of the judgment award[.]
>
> Less the amount already received by complainant as reflected in the payrolls submitted by respondents.
>
> All other claims are denied for lack of merit.
>
> **SO ORDERED.**[13]

MMS appealed from the ruling of the Labor Arbiter. For the first time on appeal, MMS submitted additional evidentiary support consisting of payroll sheets for the periods of June 1, 2015 to October 31, 2017, and January 1 to 15, 2018. MMS explained that Binaya was only employed from August 17, 2015 to June 11, 2018. MMS reasoned that the payroll sheets were submitted only on appeal because they were still being located and verified from their archives during the proceedings before the Labor Arbiter.[14]

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9 Id.
10 Id. at 205-206.
11 Id. at 39.
12 Penned by Labor Arbiter Raul M. Luna; id. at 91-98.
13 Id. at 41.
14 Id.

On August 29, 2018, the NLRC sustained the findings of the Labor Arbiter and denied admission of the payroll sheets for MMS's failure to adequately explain its delay in submitting them.[15] The NLRC ruled as follows:

> **WHEREFORE**, respondent's appeal is hereby **DENIED**. The decision dated 9 July 2018 of Labor Arbiter Raul M. Luna is **AFFIRMED**.
>
> **SO ORDERED**.[16]

MMS filed a motion for reconsideration with the NLRC, which was denied through its October 31, 2018 Resolution.[17]

MMS sought redress before the CA by filing a Petition for *Certiorari*,[18] which was partially granted in the assailed Decision[19] dated August 16, 2019. The CA ruled that Binaya's entitlement to money claims should be reckoned from August 17, 2015, the date that he commenced his employment with MMS, and not from June 21, 2015 as ruled by the Labor Arbiter and the NLRC. The CA also ruled that the basis of the Labor Arbiter and the NLRC in computing Binaya's holiday pay and 13th month pay for June 2016 and October 2017 was wrong, hence, the same should be recomputed.

The CA further ruled that MMS was remiss in giving Binaya the proportionate amount of his SILP only for the remaining six months of his employment, since he had rendered services for two years and 6 months only, or from August 17, 2015 to January 11, 2018, and he already received his SILP in September 2016 and December 2017 pertaining to the two years of service already rendered. The CA likewise found that Binaya was not properly paid his salary for the months of June 2016 and October 2017. As regards the award of attorney's fees, the CA ruled that the NLRC was correct in awarding attorney's fees; however, it clarified that since Binaya was being represented by the Public Attorney's Office (*PAO*), the award of attorney's fees must be deposited in PAO's account pursuant to Republic Act No. 9406.

The dispositive portion of the CA Decision reads:

> **WHEREFORE**, the instant [P]etition for [*C*]*ertiorari* is **PARTIALLY GRANTED.** The August 29, 2018 Decision and October 31, 2018 Resolution of the National Labor Relations Commission, Fourth Division in NLRC LAC No. 08-002854-18 are **MODIFIED** by declaring that private respondent Dennis Viernes Binaya was employed in M8 Manpower Services beginning August 17, 2015 and not paid the proper salary

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[15] Id. at 76-83
[16] Id. at 82.
[17] Id. at 85-88.
[18] Id. at 56-73.
[19] Id. at 37-51.

> for June 2016 and October 2017. Accordingly, the case is REMANDED to the Labor Arbiter for the proper computation of Dennis Viernes Binaya's salary differential, holiday pay, proportionate service incentive leave pay, 13th month pay, and attorney's fees in accordance with the foregoing disquisition. The attorney's fees amounting to 10% of the monetary award shall be deposited to the National Treasury.
>
> **SO ORDERED.**[20]

Binaya filed a motion for reconsideration, which the CA likewise denied in the assailed June 17, 2020 Resolution.[21]

Undaunted, Binaya filed the present Petition for Review on *Certiorari*,[22] praying for the modification of the August 16, 2019 Decision and June 17, 2020 Resolution of the CA to include his entitlement to his salary from June 21, 2015.[23]

Binaya raises only two issues in the instant Petition: (i) whether the payroll sheets should be admitted as additional evidence on appeal, and (ii) whether the payroll sheets were able to prove that the money claims of Binaya were paid.

In its Comment,[24] MMS avers that no new matters or issues are brought on appeal, that the August 16, 2019 Decision and June 17, 2020 Resolution of the CA are not contrary to law, that the delayed submission of payroll sheets on appeal before the NLRC was justified, and that the allegation of forgery of the payroll sheets was not duly proven.

Our Ruling

We rule in favor of petitioner. However, with regard the payroll sheets belatedly submitted by MMS, we rule that these should not be admitted as additional evidence on appeal.

Labor tribunals, such as the NLRC, are not precluded from receiving evidence submitted on appeal, as technical rules are not binding in cases submitted before them.[25] Moreover, any delay in the submission of evidence should be adequately explained and should adequately prove the allegations

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20 Id. at 51.
21 Id. at 54-55.
22 Id. at 56-73.
23 Id. at 29.
24 Id. at 274-285.
25 *Mariano v. Florida Transport and/or Virgilio Florida, Jr.*, G.R. No. 240882, September 16, 2020.

sought to be proven.[26] In *Loon, et al. v. Power Master, Inc., et al.* (*Loon*),[27] We ruled:

> However, liberal policy should still be subject to rules of reason and fairplay. **The liberality of procedural rules is qualified by two requirements: (1) a party should adequately explain any delay in the submission of evidence; and (2) a party should sufficiently prove the allegations sought to be proven**. The reason for these requirements is that the liberal application of the rules before quasi-judicial agencies cannot be used to perpetuate injustice and hamper the just resolution of the case. Neither is the rule on liberal construction a license to disregard the rules of procedure.[28]

We rule that respondent failed to comply with the above requirements.

Respondent submitted the payroll sheets for the periods from June 1, 2015 until October 31, 2017[29] only for the first time on appeal when it appended them to its Memorandum on Appeal. Respondent explained the belated submission of the payroll sheets in this wise:

> x x x. Accordingly, Respondents-Appellants humbly beg the kind indulgence of this commission to peruse and take into account the payroll of QCGH for the period of 01 June 2015 until 15 August 2015 where Complainant-Binaya alleges that he was assigned. Respondents-Appellants were unable to present the same before the labor arbiter *a quo* as they were being verified from the archives of both Respondents-Appellants and QCGH.[30]
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> x x x x
>
> x x x. Respondents-Appellants were only able to attach a portion of the payrolls before the Labor Arbiter as these were being requested from the company archives and verified with QCGH and NAPOLCOM, the complete set is not being submitted before this Honorable Commission.[31]
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> x x x x
>
> Herein, Respondents-Appellants never intended to deliberately suppress any evidence as Respondents-Appellants were doing everything in its power to secure these documents and had hope that it will be ready to submit the same in the Rejoinder but the same was no longer allowed due to the failure of Complainant-Appellee to attend the hearings. It was only recently that they were able to locate the complete payroll statements covering the period 15 August 2015 until 30 September 2015 and 01 January 2016 until 31 December 2017 during which Complainant-Appellee Binaya rendered service in behalf of M8 Manpower. Respondents-

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26 *Misamis Oriental II Electric Service Cooperative (MORESCO II) v. Cagalawan*, 694 Phil. 268, 281 (2012).
27 723 Phil. 515 (2013).
28 Id. at 528. (Citations omitted)
29 *Rollo*, p. 41.
30 Id. at 222-224.
31 Id. at 223.

Appellants never had any intention whatsoever of suppressing evidence contrary to the presumption of the Honorable Labor Arbiter.[32]

We find the foregoing explanations inadequate to justify the belated submission of the said payroll sheets.

As regards the first requirement, it should be noted that petitioner filed his Complaint on January 31, 2018.[33] Thereafter, mandatory conciliation/ mediation conferences were held on March 5 and 12, 2018 before the Labor Arbiter. Since conciliation between the parties failed, the Labor Arbiter required the parties to submit their respective position papers. Petitioner then filed his Position Paper[34] dated April 18, 2018 while respondent filed its Position Paper[35] on April 18, 2018. Subsequently, respondent filed its Reply (To Complainants' Position Paper)[36] on May 9, 2018.

Between the filing of the complaint by petitioner and the submission by respondent of its Position Paper and Reply, the latter had ample time to submit the missing payroll sheets. The lapse of four months from the filing of the complaint until the submission of the Reply is sufficient enough to collect, gather, and submit the missing payroll sheets. Notably, as admitted by Katherine Anne S. Borre, MMS' Finance Officer, she was the one who prepared the payroll sheets of petitioner.[37] Presumably, respondent retained copies of the payroll sheets and these copies were in its possession, and therefore, were readily available for submission. In fact, respondent was able to submit the payroll sheets for the period of November to December 2017 when it appended them in its Position Paper. This batch of payroll sheets was the only one submitted and considered in the proceedings before the Labor Arbiter. We are left to wonder why respondent could not do so for the other payroll sheets.

Notably, respondent failed to explain why the payroll sheets need to be verified by QCGH and NAPOLCOM before it can submit the same to the Labor Arbiter. The assumption is that these payroll sheets were already verified, otherwise, these agencies would not pay respondent its service fees if there were discrepancies in the payroll sheets from the very beginning. Thus, we find that respondent's explanation that the missing payroll sheets still needed verification from QCGH and NAPOLCOM as incredible. The fact that respondent was able to submit the payroll sheets for the period of November to December 2017 means that the other payroll sheets are also in its custody and thus readily available for submission.

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[32] Id. at 222-224.
[33] Id. at 184-186.
[34] Id. at 191-193.
[35] Id. at 197-202.
[36] Id. at 211-214.
[37] Id. at 205-206.

Moreover, even assuming that the payroll sheets need verification from QCGH and NAPOLCOM, respondent should have already clarified this in its Position Paper and Reply at the very least. It was only after the Labor Arbiter rendered an unfavorable decision that the payroll sheets were presented. It should be noted that respondent is in the better position to present the payroll sheets considering that all pertinent personnel files, payrolls, records, and other similar documents — which will show that the claims of employees have been paid — are not in the possession of the employees but are in the custody and control of the employer. However, respondent failed to do so.

Accordingly, the belated submission of respondent of the payroll sheets without sufficient justification casts doubt on its explanation's credibility especially since it does not appear that these documents are newly discovered evidence.

As regards the second requirement, we find that the payroll sheets belatedly submitted by the MMS failed to sufficiently prove that petitioner's money claims were paid. On this point, the case of *Loon*[38] is instructive:

> Furthermore, the respondents failed to sufficiently prove the allegations sought to be proven. Why the respondents' photocopied and computerized copies of documentary evidence were not presented at the earliest opportunity is a serious question that lends credence to the petitioners' claim that the respondents fabricated the evidence for purposes of appeal. While we generally admit in evidence and give probative value to photocopied documents in administrative proceedings, allegations of forgery and fabrication should prompt the adverse party to present the original documents for inspection. It was incumbent upon the respondents to present the originals, especially in this case where the petitioners had submitted their specimen signatures. Instead, the respondents effectively deprived the petitioners of the opportunity to examine and controvert the alleged spurious evidence by not adducing the originals. This Court is thus left with no option but to rule that the respondents' failure to present the originals raises the presumption that evidence willfully suppressed would be adverse if produced.
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> It was also gross error for the CA to affirm the NLRC's proposition that "[i]t is of common knowledge that there are many people who use at least two or more different signatures." The NLRC cannot take judicial notice that many people use at least two signatures, especially in this case where the petitioners themselves disown the signatures in the respondents' assailed documentary evidence. The NLRC's position is unwarranted and is patently unsupported by the law and jurisprudence.
>
> Viewed in these lights, the scales of justice must tilt in favor of the employees. This conclusion is consistent with the rule that the employer's cause can only succeed on the strength of its own evidence and not on the weakness of the employee's evidence.[39]

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38 Supra at note 27.
39 Id. at 530-531.

Here, the authenticity and due execution of the payroll sheets were questioned by petitioner by claiming that his signatures in the payroll sheets were forged. Notably, in some of the payroll sheets,[40] petitioner's signature is lacking. While he raised the issue of forgery, We find no further need to discuss the issue of whether the payroll sheets were forged. As the party alleging forgery, it is incumbent upon petitioner to prove by clear, positive and convincing evidence that his signatures in the payroll sheets were forged. However, as aptly noted by the NLRC, petitioner was denied the opportunity to examine and controvert the payroll sheets presented. Besides, We already ruled that the payroll sheets may no longer be admitted as additional evidence on appeal before the NLRC, and therefore, had no probative value.

Consequently, no evidence can be considered to assess the claim of respondent. As held in *Minsola v. New City Builders Inc., et al.*,[41] the burden of proof rests on the employer to prove payment of salary and other monetary benefits that it is obliged to give under the law as to the performance of work in the usual course of employment, thus:

> In claims for payment of salary differential, service incentive leave, holiday pay and 13th month pay, the burden rests on the employer to prove payment. This standard follows the basic rule that in all illegal dismissal cases the burden rests on the defendant to prove payment rather than on the plaintiff to prove non payment. This likewise stems from the fact that all pertinent personnel files, payrolls, records, remittances and other similar documents – which will show that the differentials, service incentive leave and other claims of workers have been paid – are not in the possession of the worker but are in the custody and control of the employer.[42]

Having failed to overcome its burden of proof, it cannot be said that petitioner was rightfully paid his salary and other monetary benefits.

In sum, the application of a more liberal policy in favor of respondent is unwarranted. The policy of relaxed procedural rules in labor proceedings is mainly for the benefit of the employee, and not the employer.[43] The CA committed reversible error when it admitted as additional evidence the payroll sheets belatedly submitted by respondent.

As to the recomputation made by the CA, we affirm its factual findings that petitioner was paid below the minimum wage in June 2016 and October 2017 as clearly shown in its computation, which was not compliant with the prevailing Wage Order. As shown by the CA, the prevailing wage rate in June 2016 was ₱491.00 while he was only paid ₱481.00.[44] Then on October 2017, the prevailing minimum wage was ₱512.00, but Binaya was only paid

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[40] Id. at 122 and 182.
[41] 824 Phil. 864 (2018).
[42] Id. at 879.
[43] *Reyes v. Rural Bank of San Rafael (Bulacan), Inc.*, G.R. No. 230597, March 23, 2022.
[44] *Rollo*, p. 48.

₱491.00.[45] Consequently, his proportionate 13th month pay, and service incentive leave pay must likewise be recomputed in accordance therewith.

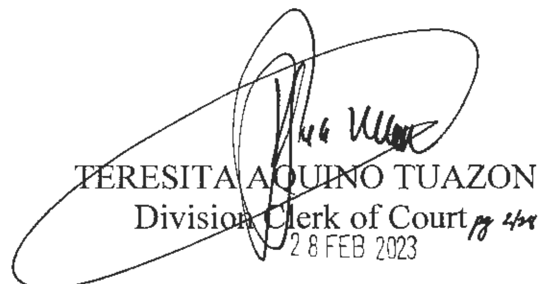
Anent the award of attorney's fees, we uphold the CA's findings upholding the NLRC that petitioner was forced to litigate and thus, incurred expenses to protect his interests given that he was deprived of salary differential, holiday pay, 13th month pay and service incentive leave pay. Considering that his counsel belonged to the Public Attorney's Office, the award of attorney's fees shall be deposited in the National Treasury. Further, the monetary awards herein shall earn legal interest at the rate of 6% *per annum* from finality of this Resolution until fully paid, in accordance with our pronouncement in *Nacar v. Gallery Frames*.[46]

FOR THESE REASONS, the Petition for Review on *Certiorari* dated July 20, 2020 is **GRANTED**. The August 16, 2019 Decision and June 17, 2020 Resolution of the Court of Appeals are **REVERSED** and **SET ASIDE**. M8 Manpower Services is **ORDERED** to pay Dennis Viernes Binaya his salary differentials, service incentive leave pay, holiday pay, and 13th month pay from June 21, 2015 to October 31, 2018, including the proportionate payment that must be made in his favor for the months of June 2016 and October 2017, less the amounts he has already received. He is also entitled to attorney's fees equivalent to 10% of the judgment award, which shall be deposited to the National Treasury. The monetary awards herein shall earn 6% interest per annum from the finality of this Resolution until full payment.

Let this case be remanded to the National Labor Relations Commission for computation of the exact amounts due to Dennis Viernes Binaya consistent with the findings made in this Resolution.

SO ORDERED."

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court
28 FEB 2023

[45] Id. at 49.
[46] 716 Phil. 267 (2013).

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