SUPREME COURT
THIRD DIVISION

MASAGANA CONCRETE PRODUCTS, KINGSTONE CONCRETE PRODUCTS and ALFREDO CHUA,
***Petitioners*,**

-versus-

G.R. No. 106916
September 3, 1999

NATIONAL LABOR RELATIONS COMMISSION and RUBEN MARIÑAS,
***Respondents*.**
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D E C I S I O N

GONZAGA-REYES, *J.*:

This Petition for Certiorari assails the Decision[1] dated July 21, 1992 and the Resolution dated August 25, 1992 of herein public respondent National Labor Relations Commission (NLRC) which affirmed with modification the Labor Arbiters' Decision[2] dated June 15, 1991, ordering herein petitioners to reinstate private respondent, Ruben Mariñas, "without loss of seniority rights and privileges with full backwages". The assailed Decision of the NLRC deleted the award of attorney's fees in favor of the private respondent Ruben Mariñas for lack of sufficient basis.

The antecedents are summarized by the Solicitor General as follows:

> "Petitioners Masagana Concrete Products and Kingstone Concrete Products are licensed business establishments owned and managed by petitioner Alfredo Chua.
>
> Sometime in May 1983, Masagana Concrete Products hired private respondent Ruben Mariñas as truck helper at the compensation of P107.00 a day. The name of the establishment was later changed to Kingstone Concrete Products. Private respondent worked continuously for petitioners until November 30, 1990.
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> On November 30, 1990, Chua accused Mariñas of tampering a "vale sheet" and was ordered to leave the business premises. Mariñas returned the next day but he was not allowed to enter the premises of Masagana Concrete Products or Kingstone Concrete Products. On December 3, 1990, he sent a letter to Chua requesting that he (Mariñas) be allowed to return to work. This request was ignored by petitioners. Mariñas discovered that he had been replaced by a certain "Anton" and that his (Mariñas') time card was no longer in the rack (Records, p. 35).
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> On December 7, 1990, Mariñas filed a complaint against petitioners before public respondent's Arbitration Branch, Region IV (docketed as NLRC Case No. RB-IV-12-3534-90), for Unfair Labor Practice, Illegal Dismissal, Overtime Pay, Legal Holiday Pay, Premium Pay for Holiday and Rest Day Service Incentive Leave, Violation of P.D.s 525, 171, 1123, 1614, 1634, 1678, 851, 928, 1389, 1614 and 1715 (Records, p. 1).
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> On December 17, 1990, a copy of the Notification and Summons was sent to Alfredo Chua, President/Manager, Masagana Concrete Products, Kingstone Concrete Products, at Bo. Mayamot, Antipolo Rizal, notifying petitioners of the initial hearing set on January 16, 1991 before Labor Arbiter Ambrosio B. Sison (Records, p. 2). The registry return card for the Notification and Summons shows that it was received by petitioners on January 8, 1991 (Records, p. 7).

> On January 16, 1991, the hearing date, only respondent Mariñas appeared before the Labor Arbiter. Assisted by counsel, Mariñas filed his "Sinumpaang Salaysay". The hearing was reset to February 1, 1991 (Records, p. 11). Petitioners were notified by registered mail of the February 1, 1991 hearing on January 30, 1991 (Records, p. 14).
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> On February 1, 1991, no one appeared for petitioners. On that date, Mariñas requested that he be allowed to file his position paper on February 21, 1991, the new hearing date (Records, p. 13). On February 7, 1991, a copy of Notice of Hearing was sent to petitioners (Records, p. 15).
>
> On February 15, 1991, Mariñas filed his Position Paper without Annexes (Records, pp. 16-29). On February 21, 1991, he submitted the Annexes to his Position Paper (Records, pp. 30-36).
>
> At the hearing set on February 21, 1991, only Mariñas appeared before the Labor Arbiter, although petitioners were notified thereof on February 20, 1991 (Records, p. 40). The hearing of the case was reset to March 11, 1991. On page 38 of the record is a Notice of Hearing addressed to "MR. ALFREDO CHUA, President/Manager, Masagana Concrete Products, Kingstone Concrete Product, Bo. Mayamot, Antipolo, Rizal" and informing him of the hearing set on March 11, 1991 at 10:00 a.m. The Notice of Hearing warned Chua that: "Failure on your part to attend this scheduled hearing on the same (shall) be conducted ex-parte after which the case (shall be) submitted for resolution." Also written on the face of the Notice of Hearing are the words: "REG. MAIL ON 2.21-91" and an unidentified initial, although there is no registry receipt or registry return card for the notice.
>
> On March 11, 1991, petitioners again failed to appear before the Labor Arbiter, so that the case was submitted for resolution."[3]

The labor arbiter deemed herein petitioners' non-appearance as a continued failure on their part to controvert the facts as claimed by private respondent, Ruben Mariñas. Thus, on June 15, 1991 it

rendered a decision finding the dismissal unjustified. The dispositive portion of the decision reads:

> "Considering the evidence adduced by complainant and finding the action set forth in the complaint to have been sufficiently established, judgment is hereby rendered ordering respondents:
>
> 1. To reinstate complainant to his former position without loss of seniority rights and privileges with full backwages computed from the time the same was withheld from him on November 30, 1990 up to the date of this decision or in the total amount of P51,467.00 (P107.00 x 26 working days = P2,782.00 monthly wage x 18 ½ months). This backwages shall continue to be paid by the respondents until complainant is actually reinstated to his former position or at the option of respondents reinstate him in the payroll.
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> 2. To pay complainant attorney's fees in the amount equivalent to 10% of the backwages.
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>   The monetary award contained herein is a joint and several liability of respondents Masagana Concrete Products, Kingstone Concrete Products or Alfredo Chua.
>
> 3. Claims for moral and exemplary damages are dismissed for lack of merit, while the charge for unfair labor practice, and other monetary claims are, as they are, hereby dismissed for having withdrawn.
>
> SO ORDERED."[4]

Aggrieved by the aforequoted Decision, the petitioners appealed to the NLRC on July 19, 1991.

On July 21, 1992, the NLRC rendered a decision in favor of private respondent, Ruben Mariñas, the dispositive portion of the decision reads, to wit:

> "WHEREFORE, premises considered, the appealed decision is hereby AFFIRMED, with modification deleting the award of attorney's fees.
>
> SO ORDERED."[5]

On August 13, 1992, private respondent, Ruben Mariñas filed a Motion for Reconsideration, with respect to the deletion of the award of attorney's fees. Herein petitioners also filed a Motion for Reconsideration arguing that they were deprived of their constitutional right to due process of law; that the labor arbiter failed to acquire jurisdiction over their person; and that they have a meritorious defense.

On August 25, 1992, the NLRC denied both motions for reconsideration for lack of merit.

On October 5, 1992, herein petitioners appealed to this Court by petition for certiorari under Rule 65 of the Rules of Court assailing the aforesaid resolutions of the NLRC on grounds of grave abuse of discretion amounting to lack of excess of jurisdiction and raising the following assignment of errors:

I

> THE RESPONDENT COMMISSION ACTED WITH GRAVE ABUSE OF DISCRETION IN FINDING THAT THE PETITIONERS WERE NOT DEPRIVED OF DUE PROCESS.

II

> THE RESPONDENT COMMISSION ACTED WITH GRAVE ABUSE OF DISCRETION IN NOT FINDING THAT THE LABOR ARBITER NEVER ACQUIRED JURISDICTION OVER THE PERSONS OF THE PETITIONERS.

III

THE RESPONDENT COMMISSION SERIOUSLY ERRED IN THE APPLICATION OF SEC. 4 (a), RULE III OF THE NEW RULES OF PROCEDURE OF THE NLRC.

IV

THE RESPONDENT COMMISSION ERRED IN NOT FINDING THAT THE PETITIONERS HAVE A MERITORIOUS CASE NECESSITATING THE SETTING ASIDE OF THE DECISION OF THE LABOR ARBITER.

In brief, petitioners allege that both decisions of the labor arbiter and herein public respondent NLRC are void for the following reasons, to wit: (1) that there was no valid service of summons; (2) that the labor arbiter did not acquire jurisdiction over their persons; and (3) that private respondent, Ruben Mariñas abandoned his job, thus, he was not illegally dismissed.

In this case, the service of summons or notices was governed by Sections 4 and 5 of Rule IV of the then Revised Rules of Procedure of the National Labor Relations Commission[6] which took effect fifteen (15) days after its approval on November 5, 1986. They respectively provide:

"SECTION 4. Service of notices and resolutions. — a) Notices or summons and copies of orders, resolutions or decisions shall be served personally by the bailiff or the duly authorized public officer or by registered mail on the parties to the case within five (5) days from receipt thereof by the serving officer; Provided that where a party is represented by counsel or authorized representative, service shall be made on the latter.

x x x."

"SECTION 5. Proof and completeness of service. — The return is prima facie proof of the facts indicated therein. Service by registered mail is complete upon receipt by the addressee or his agent."

Thus, under the NLRC Rules of Procedure, summons on the respondent shall be served personally or by registered mail on the party himself. Such service is deemed completed upon receipt by the addressee or his agent.

Herein petitioners do not deny the fact that the notices or summons served upon them by registered mail were correctly addressed at their business address. However, they claim that even though said notices or summons were correctly sent by registered mail to their business address these notices or summons were received by "impostors or persons unknown to them." As a result, petitioners assert that they were not properly served with notices or summons in the scheduled hearings before the labor arbiter, and the labor arbiter did not acquire jurisdiction over their persons. They were not afforded due process when the labor arbiter found them liable for illegal dismissal.

Petitioners' contention has no merit.

Well-settled is the rule that in quasi-judicial proceedings, before the NLRC and its arbitration branch, procedural rules governing service of summons are not strictly construed. Substantial compliance thereof is sufficient.[7] The constitutional requirement of due process with respect to service of summons, only exacts that the service of summons be such as may reasonably be expected to give the notice desired.[8] It is also a fundamental rule that unless the contrary is proved, official duty is presumed to have been performed regularly and judicial proceedings regularly conducted.[9] This presumption of the regularity of the court proceedings includes presumptions of regularity of service of summons.[10] It is therefore incumbent upon herein petitioners to rebut these presumptions with competent and proper evidence. For the return is prima facie proof of the facts indicated therein.[11]

The records disclose that:

> "1) Notification and summons was sent to respondent Alfredo Chua by registered mail and there is an illegible signature in the Registry Return Receipt (p. 7, Rollo); 2) The Notice of Hearing for February 1, 1991 was sent by registered mail to respondent

> Chua and the Registry Return Receipt (p. 14, Rollo) was signed by one Ragayunal; 3) a xerox copy of the demand letter (p. 31, Rollo) of counsel for complainant was sent to respondent Alfredo Chua and the Registry Return Receipt was signed by someone whose signature was illegible; 4) a xerox copy of complainant's Sinumpaang Salaysay (p. 33, Rollo) was sent to respondent Alfredo Chua and the Registry Return Receipt was signed by one Freddie Tolentino; 5) The notice of hearing for March 11, 1991 was sent by registered mail to respondent Alfredo Chua and the Registry Return Receipt (p. 40, Rollo) was signed by one Jonathan;"[12]

In the instant case, the bare assertion of the petitioners that the summons and/or notices of the scheduled hearings sent by registered mail were received by "impostors or persons unknown to them," requires substantiation by competent evidence. Mere allegation is neither equivalent to proof[13] nor evidence.[14] The registry return receipt states that "a registered article must not be delivered to anyone but the addressee, or upon the addressee's written order."[15] Thus, the persons who received the notice were presumably able to present a written authorization to receive the same and we can assume that the notices were duly received in the ordinary course of events. It is a legal presumption, born of wisdom and experience, that official duty has been regularly performed; that the proceedings of a judicial tribunal are regular and valid, and that judicial acts and duties have been and will be duly and properly performed.[16] The burden of proving the irregularity in official conduct, if any, is on the part of petitioners who in this case clearly failed to discharge the same.

Petitioners had the opportunity to substantiate their claim that the notices were received by impostors or unknown persons by submitting necessary supporting documents in their memorandum of appeal which they seasonably filed before the respondent NLRC. Article 223 (d) of the Labor Code allows an appeal from a decision of the Labor Arbiter "if serious errors in the findings of facts are raised which would cause grave or irreparable injury to the appellant." The NLRC, in the exercise of its appellate powers, is authorized to correct, amend or waive any error, defect or irregularity in substance or in form.[17] Thus, this Court has allowed evidence to be submitted on

appeal,[18] emphasizing that, in labor cases, technical rules of evidence are not binding.[19] Petitioners failed to adduce their evidence on appeal.

Notably, notwithstanding the allegation that the notices have not been received, petitioners actually received a copy of the labor arbiter's adverse decision and then seasonably pleaded their case before the NLRC despite the fact that nobody purportedly signed or received the registry return receipt[20] in their behalf. As aptly opined by public respondent NLRC, viz:

> "To our mind, all the foregoing notices were duly received by respondents or their representatives but they wittingly or unwittingly chose to ignore the same and they now complain of lack of due process after they lost the case below by their own default.
>
> Whether or not respondents deliberately ignored the summons and notices or whether those who received the same in their behalf failed to deliver the same because of lack of instruction or negligence is of no moment.
>
> What matters is that the summons and notices as evidenced by the Registry Return Receipts did reach respondent Chua's business address so as to enable this Commission to acquire jurisdiction over respondents.
>
> A contrary view would enable parties to resist our jurisdiction by mere manifestation that summons and notices by registered mail were received by unknown persons or impostors.
>
> Besides, the disputable presumption that notices were regularly sent and received in the ordinary course of events has not been overcome by respondents' mere allegations of receipt of notices by impostors or persons unknown."[21]

We agree that there was sufficient compliance with the procedure for service of summons and/or notices of the scheduled hearings upon the petitioners. The return is prima facie proof of the facts indicated

therein and service by registered mail is deemed completed even only upon receipt by an agent of the addressee.

It must be pointed out that the determination of whether the persons who actually signed the proof of return were employees, impostors or persons unknown to petitioners is a factual issue clearly beyond the ambit of a petition for certiorari. A petition for certiorari under Rule 65 of the Rules of Court does not include a correction of its evaluation of the evidence upon which the proper labor officer or office based on his or its determination but is confined to issues of jurisdiction or grave abuse of discretion.[22] We find no basis from the records to hold that the NLRC went beyond its jurisdiction or gravely abused its discretion when it rejected the claim of petitioners that they were never served any copy of the notices and summons of the scheduled hearings before the Labor Arbiter and that the persons who allegedly signed the registry return cards correspondingly attached thereto were total strangers to herein petitioners.

Equally without merit is herein petitioners' contention that they were not afforded due process when the Labor Arbiter rendered its decision based only on the evidence adduced by private respondent Ruben Mariñas. The authority of the labor arbiter to render judgment based solely on the evidence adduced by a complainant is explicitly sanctioned by then Section 10[23] (b & c) of Rule VII of the Revised Rules of Procedure of the NLRC, which provides:

> "SECTION 10. Non-appearance of Parties. —
>
> a) x x x
>
> b) In case of non-appearance by the respondent, despite due notice, during the complainant's presentation of evidence, the complainant shall be allowed to present evidence ex-parte, subject to cross-examination by the respondent, where proper, at the next hearing. Upon completion of such presentation of evidence for the complainant, another notice of hearing for the reception of the respondent's evidence shall be issued, with a warning that failure of the respondent to appear

shall be construed as submission by him of the case for resolution without presenting his evidence.

c) In case of unjustified non-appearance by the respondent during his turn to present evidence, despite due notice, the case shall be considered submitted for decision on the basis of the evidence so far presented."

In Helpmate Inc. vs. NLRC citing M. Ramirez Industries and/or Manny Ramirez vs. Secretary of Labor, et al., 266 SCRA 111, the Court stated:

> "The essence of due process is that a party be afforded reasonable opportunity to be heard and to submit any evidence he may have in support of his defense. In administrative proceedings such as the one at bench, due process simply means the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of."[24]

Herein petitioners' failure to present their defense was due to their neglect to participate in the proceedings at the arbitration level. In any event, petitioners were able to seek the reconsideration of the adverse decision of the Labor Arbiter when they filed their timely appeal before the NLRC. A party who has availed of the opportunity to present his position cannot claim to have been denied due process.[25] Despite such opportunity, petitioner failed to convincingly establish that their defense is meritorious.

As regards the issue on illegal dismissal, petitioners contend that private respondent Ruben Mariñas was not illegally dismissed, rather private respondent Ruben Mariñas abandoned his job by simply failing to work starting December 1990.

The contention is without merit. Abandonment as a just and valid ground for dismissal requires the deliberate, unjustified refusal of the employee to resume his employment.[26] Mere absence or failure to report for work, after notice to return, is not enough to amount to such abandonment.[27] For a valid finding of abandonment, two factors must be present, viz: (1) the failure to report for work or

absence without valid or justifiable reason; and (2) a clear intention to sever employer-employee relationship,[28] with the second element as the more determinative factor being manifested by some overt acts.[29] In abandonment, there must be a concurrence of the intention to abandon and some overt acts from which an employee may be deduced as having no more intention to work.[30] The intent to discontinue the employment must be shown by clear proof that it was deliberate and unjustified[31] a fact that herein petitioners failed to show.

As gathered from the factual findings of the labor arbiter, Mariñas' absence from work was not without valid or justifiable reason. He was prevented from returning to work after he was accused by petitioner Alfredo Chua, owner and manager of both Masagana Concrete Products and Kingstone Concrete Products, of tampering a "vale sheet" on November 30, 1990. On the next day, he was not allowed entry. In his letter dated December 3, 1990 Mariñas pleaded to be allowed to return to work, but this was not heeded. No investigation was conducted to determine his liability in connection with the tampering incident and Mariñas was not allowed any opportunity to controvert the accusation against him. Surprisingly, it was only after eight (8) days or on December 15, 1990, when the complaint for illegal dismissal had already been filed on December 7, 1990, that petitioner Chua advised him to report for work provided that the former admit in writing his mistake in a "vale sheet." While there was no formal termination of his services, Mariñas was constructively dismissed when he was accused of tampering the "vale sheet" and prevented from returning to work. Constructive dismissal does not always involve forthright dismissal or diminution in rank, compensation, benefit and privileges.[32] For an act of clear discrimination, insensibility, or disdain by an employer may become so unbearable on the part of the employee that it could foreclose any choice by him except to forego his continued employment.[33] In this case, Mariñas had to resign from his job because he was prevented from returning back to work unless he admitted his mistake in writing and he was not given any opportunity to contest the charge against him. It is a rule often repeated that unsubstantiated accusation without anything more are not synonymous with guilt and unless a clear, valid, just or authorized ground for dismissing an

employee is established by the employer the dismissal shall be considered unfounded.[34]

The filing of the complaint for illegal dismissal on December 7, 1990, or six (6) days after his alleged abandonment negates the charge of abandonment. The fact that Mariñas eventually resigned from his job and is presently employed in another company[35] does not run counter to this Court's finding that no intent to abandon or sever the employer-employee relationship was clearly established to support the claim of a valid and justified dismissal. It is highly illogical for an employee to "abandon" his employment and thereafter file a complaint for illegal dismissal.[36] Abandonment is not compatible with constructive dismissal.[37]

Even assuming that there was abandonment, which is a just cause for dismissal, there was non-compliance with the statutory requirement of notice. The law requires that the employer must furnish the worker sought to be dismissed with two written notices before termination of employment can be legally effected, to wit: 1) notice which apprises the employee of the particular acts or omissions for which his dismissal is sought; and (2) the subsequent notice which informs the employee of the employer's decision to dismiss him.[38] Thus, if there is truth to the claim that Mariñas abandoned his job, petitioners should have formally notified Mariñas that such abandonment is the cause of his termination from service. No written notice was given to private respondent that his services were being terminated and there was violation of his right to security of tenure and his right to due process.[39] Our ruling in Premier Development Bank, et al. vs. NLRC and Teodoro Labanda[40] is instructive:

> "Granting arguendo that there was abandonment in this case, it nonetheless cannot be denied that notice still has to be served upon the employee sought to be dismissed, as the second sentence of Section 2 of the pertinent implementing rules of the Labor Code explicitly requires service thereof at the employee's last known address. While it is conceded that it is the employer's prerogative to terminate the services of an employee, especially when there is a just cause therefor, the requirements of due process cannot be taken lightly. The law does not countenance the arbitrary exercise of such a power or

> prerogative when it has the effect of undermining the fundamental guarantee of security of tenure in favor of the employee."

The failure to comply with the requirement of procedural due process taints herein petitioners' dismissal with illegality. In all termination cases, strict compliance by the employer with the demands of both procedural and substantive due process is a condition sine qua non for the same to be declared valid.[41] Mariñas is thus entitled to reinstatement as well as full backwages, as decreed by public respondent for having been illegally dismissed from employment.

In connection with the foregoing, this Court notes petitioners' claim in their Reply[42] dated April 12, 1994 to Private Respondent's Comment dated December 29, 1993, that both Masagana Concrete Products and Kingstone Concrete Products have ceased operations due to losses since March 1990 and December 24, 1992, respectively. However, whether the alleged business losses sustained by petitioners affected the company's financial health so as to compel it to close shop is a factual issue that should have been raised at the earliest possible time so that it could have been properly litigated. Be that as it may, herein petitioners cannot exculpate itself from the consequences of illegally dismissing an employee.

An illegally dismissed employee is entitled to: 1) either reinstatement, if viable, or separation pay if reinstatement is no longer viable, and 2) backwages.[43] Backwages and separation pay are distinct reliefs given to alleviate the economic damage suffered by an illegally dismissed employee.[44] Hence, an award of separation pay in lieu of reinstatement does not bar an award of backwages, computed from the time of illegal dismissal, in this case on November 30, 1990, up to the date of the finality of the Supreme Court decision, without qualification or deduction.[45] Separation pay, equivalent to one month's salary for every year of service, is awarded as an alternative to reinstatement when the latter is no longer an option. Separation pay is computed from the commencement of employment up to the time of termination, including the imputed service for which the employee is entitled to backwages, with the salary rate prevailing at the end of the period of putative service being the basis for computation.[46]

WHEREFORE, premises considered, the petition is hereby **DISMISSED**. The assailed Resolutions of public respondent NLRC are hereby **AFFIRMED** with the **MODIFICATION** that:

> In case reinstatement is no longer feasible, private respondent Ruben Mariñas shall be entitled, in the alternative, to separation pay and backwages. The separation pay shall be equivalent to one month's salary for every year of service, a fraction of at least six (6) months being considered as one whole year, computed from the commencement of employment up to the time of termination, on November 30, 1990, including the imputed service for which the employee is entitled to backwages, with the salary rate prevailing at the end of the period of putative service being the basis for computation. The backwages shall be computed from the time of illegal dismissal up to the date of the finality of the Supreme Court decision, without qualification or deduction.

SO ORDERED.

Melo, Vitug, Panganiban and Purisima, *JJ.*, concur.

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[1] Rollo, pp. 32-36.
[2] Rollo, pp. 40-43.
[3] Memorandum for the Public Respondent, pp. 2-5; Rollo, pp. 187-190.
[4] Rollo, pp. 42-43.
[5] Rollo, p. 36.
[6] This has been amended and is now known as "The New Rules of Procedure of the National Labor Relations Commission" which took effect on December 5, 1996. It now provides that:

"Section 4. Service of notices and resolutions. — a) Notices or summons and copies of orders, resolutions or decisions shall be served on the parties to the case personally by the bailiff or the duly authorized public officer within three (3) days from receipt thereof or by registered mail; Provided that where a party is represented by counsel or authorized representative, service shall be made on such counsel or authorized representative; provided further that in case of decision and final awards, copies thereof shall be served on both the parties and their counsel; provided finally, that in case where parties are so numerous, service shall be made on counsel and upon such number of complainants as may be practicable, which shall be

considered substantial compliance with Article 224 (a) of the Labor Code, as amended.

x x x."

"Section 5. Proof and completeness of service. — The return is prima facie proof of the facts indicated therein. Service by registered mail is complete upon receipt by the addressee or his agent; but if the addressee fails to claim his mail from the post office within five (5) days from the date of first notice of the postmaster, service shall take effect after such time."

[7] Pison-Arceo Agricultural and Development Corporation vs. NLRC, 279 SCRA 312; Santos vs. NLRC, 254 SCRA 673 citing Eden vs. Ministry of Labor and Employment, 182 SCRA 840.

[8] Toyota Cubao, Inc. vs. CA, 281 SCRA 198.

[9] Section 3, Rule 131 of the Rules of Court.

[10] Associated Ins. & Surety Co. vs. Banzon, 26 SCRA 268.

[11] Section 5, Rule IV, Revised Rules of Procedure of the National Labor Relations Commission.

[12] NLRC Decision, pp. 2-3; Rollo, pp. 33-34.

[13] Philippine National Bank vs. CA, 266 SCRA 136.

[14] Martinez vs. NLRC, 272 SCRA 793.

[15] Rollo, p. 46.

[16] Bordador vs. Luz, 283 SCRA 374.

[17] Cebu Engineering and Development Company, Inc. vs. NLRC, 289 SCRA 425.

[18] Article 221 of the Labor Code allows the Commission and its members to use every and all reasonable means to ascertain the facts in each case speedily and objectively without regard to technicalities of law or procedure, all in the interest of due process.

[19] Iran vs. NLRC, 289 SCRA 433; Judy Philippines, Inc. vs. NLRC, 289 SCRA 755.

[20] "A copy of the decision was sent to respondent Alfredo Chua by registered mail and while the Registry Return Receipt (p. 53, Rollo) was unsigned, respondent filed their appeal on July 19, 1991" (NLRC Decision, p. 3; Rollo, p. 34).

[21] NLRC Decision, p. 3-4; Rollo, pp. 34-35.

[22] Toyota Autoparts, Philippines, Inc. vs. The Director of the Bureau of Labor Relation of the Department of Labor and Employment, et al., G.R. No. 131047, March 2, 1999, citing Flores vs. NLRC & Premier Development Bank, 253 SCRA 494.

[23] Now Section 11 (b & c) of Rule V of the New Rules of Procedure of the NLRC, it provides:

"Section 11. Non-appearance of Parties at Conference/Hearings. —

a) x x x

b) In case of two (2) successive non-appearance by the respondent, despite due notice, during the complainant's presentation of evidence, the complainant shall be allowed to present evidence ex-parte, subject to cross-examination by the respondent, where proper, at the next hearing. Upon completion of such presentation of evidence for the complainant, another

notice of hearing for the reception of the respondent's evidence shall be issued, with a warning that failure of the respondent to appear shall be construed as submission by him of the case for resolution without presenting his evidence.

c) In case of two (2) successive unjustified non-appearance by the respondent during his turn to present evidence, despite due notice, the case shall be considered submitted for decision on the basis of the evidence so far presented."

[24] 276 SCRA 315.
[25] Naguiat vs. NLRC, 269 SCRA 564.
[26] Brew Master International, Inc. vs. National Federation of Labor Unions (NAFLU), 271 SCRA 275.
[27] Tan vs. NLRC, 271 SCRA 216; Samahan ng mga Manggagawa sa Bandolino-LMLC vs. LRC, 275 SCRA 633.
[28] Isabelo vs. NLRC, 276 SCRA 141.
[29] Trendline Employees Association-Southern Philippines Federation of Labor vs. NLRC, 272 SCRA 172.
[30] Toogue vs. NLRC, 238 SCRA 241.
[31] C. Alcantara & Sons, Inc. vs. NLRC, 229 SCRA 109.
[32] Philippine Advertising Counselors, Inc. vs. NLRC, 263 SCRA 395.
[33] Ibid.
[34] RDS Trucking vs. NLRC, 294 SCRA 623.
[35] Memorandum for Petitioners, p. 2, Rollo, pp. 220-221.
[36] See Note 29; Jackson Building Condominium Corporation vs. NLRC, 246 SCRA 329.
[37] Philippine Advertising Counselors, Inc. vs. NLRC, supra.
[38] Nath vs. NLRC, 274 SCRA 379; Tingson, Jr. vs. NLRC, 185 SCRA 498.
[39] Labor Congress of the Philippines vs. NLRC, 290 SCRA 509 citing Pepsi Cola Distributors of the Philippines, Inc. vs. NLRC, 272 SCRA 267; Samar II Electric vs. NLRC, 270 SCRA 290; Reformist Union of R.B. Liner, Inc. vs. NLRC, 266 SCRA 713; Dela Cruz vs. NLRC, 268 SCRA 458.
[40] G.R. No. 114695, July 23, 1998.
[41] Philippine Airlines, Inc. vs. NLRC (4th Division), 279 SCRA 553.
[42] Rollo, p. 140.
[43] Aurora Land Projects Corporation vs. NLRC, 266 SCRA 48.
[44] Lopez, Jr. vs. NLRC, 245 SCRA 644.
[45] De Guzman vs. NLRC, G.R. No. 130617, August 11, 1999; Cañete vs. NLRC, G.R. No. 131467, April 21, 1999; Bustamante vs. NLRC, 265 SCRA 61.
[46] Reformist Union of R.B. Liner, Inc. vs. NLRC, 266 SCRA 713.