**SUPREME COURT**
**SECOND DIVISION**

**ARIEL A. TRES REYES,**
***Petitioner*,**

***-versus-***

**G.R. No. 140853**
**February 27, 2003**

**MAXIM'S TEA HOUSE and JOCELYN POON,**
***Respondents.***
**x----------x**

**D E C I S I O N**

**QUISUMBING, *J.*:**

This is a Petition for Review of the Decision[1] of the Court of Appeals, dated November 22, 1999 in CA-G.R. SP No. 54110, setting aside the Decision[2] of the Third Division, National Labor Relations Commission (NLRC) dated March 11, 1999, in NLRC CA No. 017339-98. In NLRC NCR Case No. 00-12-08773-97, the NLRC vacated the Labor Arbiter's decision and ordered herein respondent Maxim's Tea House to reinstate petitioner Ariel Tres Reyes to his former position or, should reinstatement no longer prove feasible, to pay Tres Reyes his separation pay and backwages.

The facts of this case, as found by the NLRC and affirmed by the Court of Appeals, are as follows:

Respondent Maxim's Tea House (hereinafter Maxim's for brevity) had employed Ariel Tres Reyes as a driver since October 1995. He was assigned to its M.H. del Pilar Street, Ermita, Manila branch. His working hours were from 5:00 P.M. to 3:00 A.M., and among his duties was to fetch and bring to their respective homes the employees of Maxim's after the restaurant closed for the day.

In the wee hours of the morning of September 27, 1997, petitioner was driving a Mitsubishi L300 van and was sent to fetch some employees of Savannah Moon, a ballroom dancing establishment in Libis, Quezon City. Petitioner complied and took his usual route along Julia Vargas Street in Pasig City. He was headed towards Meralco Avenue at a cruising speed of 50 to 60 kilometers per hour, when he noticed a ten-wheeler truck coming his way at full speed despite the fact that the latter's lane had a red signal light on. Petitioner maneuvered to avoid a collision, but nonetheless the van he was driving struck the truck. As a result, petitioner and seven of his passengers sustained physical injuries and both vehicles were damaged.

On October 15, 1997, the management of Maxim's required petitioner to submit, within forty-eight hours, a written explanation as to what happened that early morning of September 27, 1997. He complied but his employer found his explanation unsatisfactory and as a result he was preventively suspended for thirty (30) days, effective October 20, 1997.

On November 19, 1997, Maxim's terminated petitioner for cause.

Feeling that the vehicular accident was neither a just nor a valid cause for the severance of his employment, petitioner filed a complaint[3] for illegal dismissal docketed as NLRC NCR Case No. 00-12-08773-97.

On July 20, 1998, the Labor Arbiter decided NLRC NCR Case No. 00-12-08773-97 as follows:

> WHEREFORE, as we sustain the validity of the dismissal of complainant Ariel A. Tres Reyes, we order respondent Maxim (sic) Tea House to pay him the following amount(s):

| | |
|---|---|
| Financial assistance (210 x 26 days) | P5,460.00 |
| 13th month pay for 1997 (P210 x 28 days) x 11.6 months over 12) | P5,278.00 |
| Service incentive leave pay (P210 x 5 days) | 1,050.00 |
| TOTAL AWARD: | P11,788.00 |

SO ORDERED. [4]

In his decision, the Labor Arbiter found that petitioner was grossly negligent in failing to avoid the collision.

On October 8, 1998, instead of filing the requisite pleading for appeal, petitioner filed a "Motion for Partial Reconsideration" with the NLRC. The NLRC opted to treat petitioner's motion as an appeal docketed as NLRC CA No. 017339-98.

On March 11, 1999, the NLRC reversed the decision of the Labor Arbiter on the ground that there was no negligence on petitioner's part. The decision concluded, thus:

> WHEREFORE, foregoing premises considered, the appeal is hereby GRANTED. The assailed Decision dated July 20, 1998 is hereby ordered VACATED and SET ASIDE and new one is hereby entered ordering respondent MAXIM'S TEA HOUSE to reinstate herein complainant Ariel T. Tres Reyes to his former position without loss of seniority rights plus full backwages.
>
> In the event that reinstatement is no longer feasible, respondents are hereby ordered to pay complainant separation pay in the amount of one month for every year of service computed from October 7, 1995 to the date of this Decision, in addition to payment of backwages computed from date of termination on November 19, 1997 up to date of this decision.
>
> All other reliefs herein sought and prayed for are hereby DENIED for lack of merit.

SO ORDERED.[5]

Respondents moved for reconsideration of the foregoing decision, but said motion was denied by the Commission in its Resolution[6] dated May 12, 1999.

Respondents then filed a special civil action for certiorari with the Court of Appeals, docketed as CA-G.R. SP No. 54110. It was alleged that the NLRC committed a grave abuse of discretion amounting to want or excess of jurisdiction in: (a) giving due course to petitioner's "Motion for Partial Reconsideration" notwithstanding that it was a prohibited pleading under Sec. 17 (now Sec. 19),[7] Rule V of the NLRC Rules of Procedure and despite want of showing that it was seasonably filed; and (b) for substituting its own findings to the factual findings of the Labor Arbiter.

On November 22, 1999, the appellate court decided CA-G.R. SP No. 54110 in favor of the employer and its manager, thus:

> WHEREFORE, premises considered, the petition is given due course and the assailed decision of public respondent is hereby set aside and the complaint of private respondent DISMISSED for utter lack of merit.
>
> SO ORDERED.[8]

Hence, the instant case.

Before us, petitioner alleges that the Court of Appeals erred:

I

> IN HOLDING THAT THE NLRC COMMITTED GRAVE ABUSE OF DISCRETION IN TREATING AS APPEAL THE "PARTIAL MOTION FOR RECONSIDERATION" OF MR. TRES REYES, BECAUSE THE COURT OF APPEALS TURNED A BLIND EYE ON THE FACTS ON RECORD (A) THAT MR. TRES REYES FILED SAID MOTION ON OCTOBER 8, 1998 (THE 10TH DAY FROM HIS RECEIPT OF A COPY OF ARBITER DINOPOL'S DECISION), (B) THAT HE PROPERLY VERIFIED SAID

MOTION; AND (C) PAID THE APPEAL FEE, BOTH ON THE SAME DATE.

II

IN CONCLUDING THAT THE FREAK TRAFFIC ACCIDENT ON SEPTEMBER 27, 1997 WAS DUE TO NEGLIGENCE OF MR. TRES REYES AS FOUND BY THE LABOR ARBITER WHO HAD THE CHANCE TO OBSERVE THE DEMEANOR OF LITIGANTS AND WITNESSES, DESPITE THE FACT (A) THAT NO TRIAL WAS HAD IN THE ARBITER'S LEVEL TO PROVIDE SUCH A PRETENDED OPPORTUNITY; (B) THAT THE NLRC'S FACTUAL FINDING BEING IN ACCORD WITH REALITY AND SUPPORTED BY PREPONDERANCE OF EVIDENCE, IS CONCLUSIVE UPON THE CA, AND (C) THAT THE COURT OF APPEALS' REVERSAL OF THE NLRC RULING IS SADDLED WITH SURMISES, CONJECTURES, AND SUPPOSITIONS, WITHOUT CATEGORICAL SUPPORT OF ANY GROSS OR HABITUAL NEGLECT TO TERMINATE EMPLOYMENT.[9]

Petitioner's assigned errors may be reduced to two issues for our resolution, namely:

(1) Could the "Motion for Partial Reconsideration" be considered as an appeal to the NLRC?

(2) Is petitioner's dismissal from employment valid and legal?

On the first issue, petitioner argues that the Court of Appeals grievously erred in holding that the NLRC has gravely abused its discretion in treating his "Motion for Partial Reconsideration" as an appeal. Petitioner asserts that when a motion for reconsideration of a decision of a Labor Arbiter is filed, the Commission will properly treat it as an appeal. He stresses that under labor law, rules of procedure should be liberally construed to assist the parties in obtaining a just, expeditious, and inexpensive settlement of disputes. Hence, technicalities should not prevail over substantial merits of the labor case.

In the instant case, we note that the Office of the Solicitor General (OSG), whom we required to comment on the petition, filed instead a "Manifestation and Motion In Lieu of Comment" agreeing with petitioner. The OSG submits that the "Motion for Partial Reconsideration" was correctly treated by the NLRC as an appeal, on the principle that technical rules and procedure should be liberally applied in labor cases.

Respondents counter that granting without admitting, that the NLRC did indeed correctly treat petitioner's "Motion for Partial Reconsideration" as an appeal, nonetheless, it still behooves petitioner to comply with the other requisites for perfection of an appeal. Respondents point out that said motion contained no statement when petitioner received a copy of the Labor Arbiter's decision to determine the timeliness of the motion cum appeal, as required by Section 3,[10] Rule VI of the NLRC Rules of Procedure. Respondents also point to petitioner's failure to pay the necessary filing fees. They submit that the appellate court committed no reversible error when it ruled that petitioner's "Motion for Partial Reconsideration" failed to comply with the requisites of a valid appeal, hence fatally defective, e.g. for want of verification and absence of proof that it was filed within the reglementary period.

The first issue involves a question of substance versus form. Strictly speaking, a motion for reconsideration of a decision, order, or award of a Labor Arbiter is prohibited by Section 19, Rule V of the NLRC Rules of Procedure. But said rule likewise allows that a motion for reconsideration shall be treated as an appeal provided it meets all the requisites of an appeal. Petitioner insists that his pleading was in form a motion for reconsideration, but in substance it was an appeal which complied with all the technical requirements. Respondents counter that the formal requisites take precedence.

We have minutely scrutinized the records of this case, particularly the questioned "Motion for Partial Reconsideration," but we find no basis for the appellate court's finding that said pleading did not contain a statement as to when petitioner received a copy of the decision in NLRC NCR Case No. 00-12-08773-97. The lead paragraph of said motion reads:

> Complainant ARIEL A. TRES REYES, thru counsel, most respectfully moves to reconsider the Decision dated July 20, 1998 rendered by the Honorable Labor Arbiter Ernesto S. Dinopol in the above captioned case (copy of which was received by the Complainant on September 28, 1998), and alleges as follows:[11]
>
> > Note that all that Section 3, Rule VI of the NLRC Rules of Procedure requires with respect to material dates is "a statement of the date when the appellant received the appealed decision." We rule that petitioner's declaration in his motion that he received a copy of the Labor Arbiter's decision on September 28, 1998 is more than sufficient compliance with said requirement imposed by Section 3, Rule VI. We likewise find that the motion in question was filed with the NLRC on October 8, 1998 or on the tenth (10th) day from the date of receipt by petitioner of his copy of the Labor Arbiter's decision. Otherwise put, said pleading was filed within the reglementary ten-day period, as provided for in Section 1,[12] Rule VI of the NLRC Rules of Procedure. The law[13] on the timeliness of an appeal from the decision, award, or order of the Labor Arbiters, states clearly that the aggrieved party has ten (10) calendar days from receipt thereof to appeal to the Commission.[14] Needless to say, an appeal filed at the last minute of the last day of said period is, for all intents and purposes, still seasonably filed.

In CA-G.R. SP No. 54110, the Court of Appeals accepted respondents' averment that petitioner's "Motion for Partial Reconsideration" was not verified. The records, however, contradict their averments. We find that petitioner verified his motion to reconsider the Labor Arbiter's decision on October 8, 1998, or on the same day that it was filed.[15] We must, perforce, rule that petitioner has substantially complied with the verification requirement as provided for in Section 3, Rule VI of the Commission's Rules of Procedure.

Anent respondents' claim that petitioner failed to pay the requisite appeal fee in NLRC CA No. 017339-98, the NLRC stated in its decision that:

> A review of the record shows that October 8, 1998, complainant-appellant paid the amount of P110.00 in cash as appeal fee. For this he was issued, O.R. # 0073761.[16]

This finding refutes respondents' claim. The records clearly show the basis for the finding of the Commission that the appeal fees were paid.[17] Thus, on this point respondents' averment, without any supporting evidence and contradicted by the records, deserves scant consideration.

How the Court of Appeals could have been misled by respondents' allegations of technical deficiencies with respect to the questioned "Motion for Partial Reconsideration" in NLRC CA No. 017339-98, is surprising. Had the court a quo, to use its own words, "carefully perused the case records," it would have readily seen that said pleading had complied with the technical requirements of an appeal. Hence, we are constrained to conclude that the appellate court had no basis for concluding that the NLRC had gravely abused its discretion when the NLRC gave due course to the motion and treated it as an appeal.

In labor cases, rules of procedure should not be applied in a very rigid and technical sense.[18] They are merely tools designed to facilitate the attainment of justice, and where their strict application would result in the frustration rather than promotion of substantial justice, technicalities must be avoided. Technicalities should not be permitted to stand in the way of equitably and completely resolving the rights and obligations of the parties.[19] Where the ends of substantial justice shall be better served, the application of technical rules of procedure may be relaxed.[20]

On the second issue, petitioner contends that the Court of Appeals erred in holding that the factual findings made by the Labor Arbiter regarding negligence should be sustained because at the trial, the Labor Arbiter had the opportunity to observe the demeanor of the litigants. Petitioner points out that no such trial or hearing was made.

In NLRC NCR Case No. 00-12-08773-97, the Labor Arbiter decided the case based on the position papers submitted by the parties. Moreover, says the petitioner, the Court of Appeals ignored substantial evidence, showing that there was no gross negligence on his part because the vehicular accident was entirely due to the fault of the truck driver who was speeding on the wrong lane.

The OSG joins petitioner in his stance, pointing out that the police report relied upon by the parties before the Labor Arbiter clearly showed that the ten-wheeler truck lost its brakes, intruded into the lane of the vehicle driven by petitioner, and collided with petitioner's van. These factual findings could not be rebutted by the Labor Arbiter by observing the demeanor of the parties at the hearings, more so since the Labor Arbiter did not conduct any trial-type hearing. Thus, concluded the OSG, the Court of Appeals erred when it relied upon such ground in sustaining the Labor Arbiter's finding that petitioner was grossly negligent.

Respondents counter that the factual findings of the Labor Arbiter showing gross negligence on petitioner's part were correctly upheld by the Court of Appeals as these were based on the Labor Arbiter's independent evaluation of the evidence before him. Thus, they add, said findings are final and conclusive.

The issue of whether a party is negligent is a question of fact.[21] As a rule, the Supreme Court is not a trier of facts and this applies with greater force in labor cases.[22] Hence, factual findings of quasi-judicial bodies like the NLRC, particularly when they coincide with those of the Labor Arbiter and if supported by substantial evidence, are accorded respect and even finality by this Court.[23] But where the findings of the NLRC and the Labor Arbiter are contradictory, as in this case, the reviewing court may delve into the records and examine for itself the questioned findings.[24]

Our perusal of the records shows that the proceedings before the Labor Arbiter primarily involved the submission of position papers by the parties.[25] No trial-type hearing was conducted at all by the Labor Arbiter. Thus, the finding of the Court of Appeals that the latter was in a better position to evaluate the evidence as he had the better opportunity to observe the demeanor of the parties at the hearing has

no leg to stand on. Moreover, based on the police traffic accident investigation report, we are convinced that the accident was the fault of the ten-wheeler truck's driver. On seeing the signal light change to red, this driver stepped on his brake, not just once but three times, but his truck could not stop. Since the truck was on the wrong lane, petitioner's van, which was in its proper lane with the green light, smashed into the out-of-control truck.[26] This episode led to petitioner's dismissal which, in our view, is unjustified.

Under the Labor Code,[27] gross negligence is a valid ground for an employer to terminate an employee. Gross negligence is negligence characterized by want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally with a conscious indifference to consequences insofar as other persons may be affected.[28] In this case, however, there is no substantial basis to support a finding that petitioner committed gross negligence.

In sustaining the Labor Arbiter's finding that petitioner was grossly negligent, the appellate court stressed that the cited episode was the second vehicular accident involving petitioner, and as such it "may clearly reflect against [his] attitudinal character as a driver."[29] We note, however, that the Commission found that in the first vehicular accident involving petitioner "he was the victim of the reckless and negligent act of a fellow driver."[30] We agree with the NLRC that an imputation of habitual negligence cannot be drawn against petitioner, since the earlier accident was not of his own making.

The CA decision further faulted petitioner despite his explanation that he had the "right in traversing the point of collision" because the traffic lights along his right of way was green. According to the CA, "a good driver of a motor vehicle has to know defensive attitude even on a clear way."[31] However, such observation does not support the conclusion that petitioner was negligent. The test to determine the existence of negligence is as follows: Did petitioner in doing the alleged negligent act use that reasonable care and caution which an ordinarily prudent person would use in the same situation?[32] It is not disputed that petitioner tried to turn left to avoid a collision. To put it otherwise, petitioner did not insist on his right of way, notwithstanding the green light in his lane. Still, the collision took

place as the ten-wheeler careened on the wrong lane. Clearly, petitioner exerted reasonable effort under the circumstances to avoid injury not only to himself but also to his passengers and the van he was driving. To hold that petitioner was grossly negligent under the circumstances goes against the factual circumstances shown. It appears to us he was more a victim of a vehicular accident rather than its cause.

There being no clear showing that petitioner was culpable for gross negligence, petitioner's dismissal is illegal. It was error for the Court of Appeals to reverse and set aside the decision of the Third Division of the NLRC.

**WHEREFORE**, the petition is **GRANTED**. The assailed decision of the Court of Appeals dated November 22, 1999 in CA-G.R. SP No. 54110 is **SET ASIDE**. The decision of the National Labor Relations Commission dated March 11, 1999 in NLRC CA No. 017339-98 is **REINSTATED** in full. No pronouncement as to costs.

**SO ORDERED.**

**Bellosillo, Mendoza, Austria-Martinez and Callejo, Sr., *JJ.*, concur.**

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[1] Rollo, pp. 20-29. Penned by Amin, J., with Hofileña and Sabio, Jr., JJ., concurring.
[2] Records, pp. 86-96.
[3] Id. at 2.
[4] Id. at 56.
[5] Id. at 95-96.
[6] Id. at 109.
[7] SEC. 19. Motions for reconsideration. — No motions for reconsideration of any order or decision of a Labor Arbiter shall be allowed. Nevertheless, when one such motion is filed, it shall be treated as an appeal provided that it complies with the requirements for perfecting an appeal.
[8] Rollo, p. 28.
[9] Id. at 7.
[10] Sec. 3. Requisites for Perfection of Appeal.
(a) The appeal shall be filed within the reglementary period as provided in Section 1 of this Rule; shall be under oath with proof of payment of the required appeal fee and the positing of a cash or surety bond as

provided in Section 5 of this Rule; shall be accompanied by a memorandum of appeal which shall state the grounds relied upon and the arguments in support thereof; the relief prayed for; and a statement of the date when the appellant received the appealed decision, order or award and proof of service on the other party of such appeal.

A mere notice of appeal without complying with the other requisites aforestated shall not stop the running of the period for perfecting an appeal.

b) The appellee may file with the Regional Arbitration Branch, Regional Office or in the POEA where the appeal was filed, his answer or reply to appellant's memorandum of appeal, not later than ten (10) calendar days from receipt thereof. Failure on the part of the appellee who was properly furnished with a copy of the appeal to file his answer or reply within the said period may be construed as a waiver on his part to file the same.

c) Subject to the provisions of Article 218, once the appeal is perfected in accordance with these rules, the Commission may limit itself to reviewing and deciding specific issues that were elevated on appeal.

[11] Records, p. 58. Italics supplied.

[12] SEC. 1. Periods of Appeal. — Decisions, awards or orders of the Labor Arbiter and the POEA Administrator shall be final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards, or orders of the Labor Arbiter or of the Administrator, and in case of a decision of the Regional Director or his duly authorized Hearing Officer within five (5) calendar days from receipt of such decisions, awards, or orders. If the 10th or 5th day, as the case may be, falls on a Saturday, Sunday, or a holiday, the last day to perfect the appeal shall be the next working day.

[13] LABOR CODE, Art. 223. Appeal. — Decisions, awards, or orders of the Labor Arbiter are final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards, or orders.

[14] Kathy-O Enterprises vs. National Labor Relations Commission, 286 SCRA 729, 737 (1998).

[15] Records, p. 61.

[16] Id. at 87.

[17] See Id. at 85.

[18] Kunting vs. National Labor Relations Commission, 227 SCRA 571, 581 (1993).

[19] Lopez, Jr. vs. National Labor Relations Commission, 245 SCRA 644, 649 (1995).

[20] Samahan ng Manggagawa sa Moldex Products, Inc. vs. National Labor Relations Commission, 324 SCRA 242, 252 (2000).

[21] Thermochem, Inc. vs. Naval, 344 SCRA 76, 82 (2000).

[22] Ropali Trading Corporation vs. National Labor Relations Commission, 296 SCRA 309, 314 (1998).

[23] Prangan vs. National Labor Relations Commission, 289 SCRA 142, 146 (1998).
[24] Industrial Timber Corporation vs. National Labor Relations Commission, 273 SCRA 200, 209 (1997).
[25] See, for instance, Records, pp. 6, 47, 51.
[26] Id. at 46.
[27] ART. 282. Termination by employer. — An employer may terminate an employment for any of the following causes:

x x x

(b) Gross and habitual neglect by the employee of his duties.

x x x

[28] BALLENTINE's LAW DICTIONARY (3rd Ed.) 537.
[29] Rollo, p. 27.
[30] Records, pp. 93-94.
[31] Supra, note 29 at 28.
[32] Picart vs. Smith, 37 Phil. 809, 813 (1918).