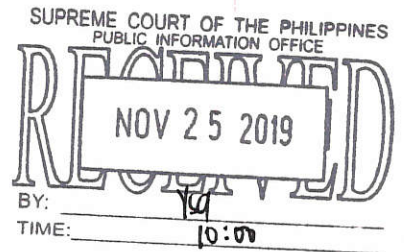




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **07 October 2019** which reads as follows:*

"G.R. No. 244710 – PHILIPPINE NATIONAL CONSTRUCTION CORPORATION (PNCC) v. ELIZABETH LOPEZ DE LEON, ET AL.

X-----X

Antecedents

One of the benefits which petitioner Philippine National Construction Corporation (PNCC), a Government Owned and Controlled Corporation¹ (GOCC) used to give its employees was a shuttle service to and from the office. PNCC later discontinued this benefit as part of its cost-cutting measures to reduce expenses. On the employees' appeal, PNCC authorized the grant of a monetized transportation allowance to the employees.

The Commission on Audit (COA), however, issued Audit Observation Memorandum 14-010. It opined that the transportation allowance was irregular considering that the same had no legal basis. Thus, the COA disallowed disbursement and recommended the grant to be discontinued and for the employees concerned to return the amounts they respectively received. In compliance, PNCC promptly stopped the grant.

Aggrieved, respondents Elizabeth Lopez De Leon, Sabino Bassig, Crisanto Calimag, Jaime Dela Cruz, Rosalyn Delivios, Demosthenes Faminiano, Loida Hernandez, Alma Hugo, Mark Lago, Virginia Madrona, Antonio Manlawe, Renato Monsanto, Venjie Namocatcat, Dolly G. Nepomuceno, Moses Pangilinan, Arne Norbert Silvestre and Elmer Simbulan, filed a complaint before the Labor Arbiter for non-payment of transportation allowance, damages, and attorney's fees.

¹ By virtue *Strategic Alliance Development Corporation v. Radstock Securities Limited and PNCC*, 622 Phil. 431 (2009).

7/11/19/2019

By Decision dated January 29, 2016,² Labor Arbiter Clarissa G. Beltran-Lerios granted the complaint and ordered PNCC to pay respondents their transportation allowance in the total amount of P637,500.00 and attorney's fees equivalent to ten percent (10%) of the monetary award.

On PNCC's appeal, the National Labor Relations Commission (NLRC) affirmed through its Decision dated September 23, 2016 and Resolution dated November 28, 2016.³ PNCC, then, elevated the case to the Court of Appeals through a petition for certiorari docketed as CA-G.R. SP No. 149392.⁴

The Court of Appeals did not issue any restraining order against the decision of the NLRC. Thus, the NLRC issued an Entry of Judgment dated December 22, 2016.⁵ Respondents, therefore, moved for the issuance of a writ of execution. PNCC opposed. It argued that the claim should first be filed with the COA for determination of the amount and approval of the grant. Labor Arbiter Beltran-Lerios issued a Writ of Execution.

Imputing grave abuse of discretion on Labor Arbiter Beltran-Lerios for issuing the writ, PNCC filed before the NLRC a petition for extraordinary remedies under Rule XII of the 2011 NLRC Rules of Procedure.

Ruling of the NLRC

In its Resolutions dated May 31, 2017⁶ and August 18, 2017,⁷ the NLRC denied PNCC's petition. It held that it was ministerial for the Labor Arbiter to issue a writ of execution upon finality of labor judgments. It acknowledged that the COA has the primary jurisdiction to examine, audit, and settle all debts of GOCCs like PNCC. But, jurisprudence did not prohibit the issuance of writs of execution before a claim was filed with the COA. The rules only prohibit enforcement of the writ pending approval of the COA.

Ruling of the Court of Appeals

By Decision dated July 23, 2018⁸ and Resolution dated February 6, 2019,⁹ the Court of Appeals affirmed.

² *Rollo*, pp. 110-120.

³ *Id.* at 30-31.

⁴ *Id.* at 121-143.

⁵ *Id.* at 148.

⁶ Penned by Commissioner Bernardino B. Julve and concurred in by Presiding Commissioner Grace M. Venus and Commissioner Leonard Vinz O. Ignacio, *rollo*, pp. 70-86.

⁷ *Rollo*, pp. 87-93.

⁸ Penned by now retired Presiding Justice Romeo F. Barza and concurred in by Associate Justice Stephen C. Cruz and Associate Justice Carmelita Salandanan Manahan, *rollo*, pp. 28-38.

⁹ *Rollo*, pp. 39-41.

m/age 1117

The Present Petition

Petitioner now seeks affirmative relief from the Court and prays that the resolutions of the Court of Appeals be reversed and the writ of execution expunged.

Petitioner argues that in execution against the government cannot proceed without the required COA approval. While the courts and labor tribunals can make a finding as to liability, it is still within COA prerogative to ascertain the exact amount of liability in accordance with audit rules and procedures. This can only be ascertained by filing a petition before the COA. Thus, Labor Arbiter Beltran-Lerios gravely erred when she issued a writ of execution without waiting for the COA approval of the respondents' money claim.

In their Comment dated July 17, 2019,¹⁰ respondents aver that on August 7, 2018, the Court of Appeals, in CA-G.R. SP No. 149392 already dismissed their money claims. The Court of Appeals ruled that the jurisdiction over the employee's money claims should have been lodged with the COA instead of the labor arbiter. At any rate, there was no diminution of benefits to speak of because the COA itself found the grant of the transportation allowance to PNCC's employees to be irregular. The Court of Appeals also denied their motion for reconsideration. They no longer questioned these decision and resolution, hence, they had become final and executory.

Issue

May the petition be dismissed on ground of mootness?

Ruling

Respondents call the Court's attention to the Court of Appeals' Decision dated December 7, 2018¹¹ and Resolution dated December 17, 2018 in CA-G.R. SP No. 149392. The Court of Appeals held that PNCC, being a GOCC, is subject to the jurisdiction of the COA. Thus, respondents' money claims should have been filed before the COA and not before the labor arbiter. In any case, there was "diminution of benefits" to speak of when the transportation allowance was disallowed and ordered to be discontinued on COA's post audit. This decision had become final and executory.

¹⁰ *Id.* at 191-196.

¹¹ Penned by Associate Justice Ronaldo Roberto B. Martin and concurred in by Associate Justice Ricardo R. Rosario and Associate Justice Eduardo B. Peralta, Jr.

1/17

In view of this development and the exclusive jurisdiction of the COA to post on audit the grant of transportation allowance to respondent employees, the petition has thereby become moot and academic.

WHEREFORE, the petition is **DISMISSED** on ground of mootness.

SO ORDERED."

Very truly yours,


MARIA LOURDES C. PERFECTO
Division Clerk of Court *by n/h*
08 NOV 2019

By:

TERESITA AQUINO TUAZON
Deputy Division Clerk of Court

OFFICE OF THE GOVERNMENT
CORPORATE COUNSEL (reg)
Counsel for Petitioner
3rd Floor, MWSS Bldg., 489 Katipunan Road
Balara, Quezon City

RODRIGUEZ CASILA GALON &
ASSOCIATES (reg)
Counsel for Respondents
Suite 308, Herritage Center
1851 A. Vasquez St., Malate
1004 Manila

NATIONAL LABOR RELATIONS
COMMISSION (reg)
PPSTA Building, Banawe Street
corner Quezon Boulevard
1100 Quezon City
(NLRC LER Case No. 05-119-17)

JUDGMENT DIVISION (x)
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
LIBRARY SERVICES (x)
[For uploading pursuant to A.M. No. 12-7-1-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. SP No. 153188

Please notify the Court of any change in your address.
GR244710. 10/07/19(44)URES