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WHEREFORE, the JUDGMENT appealed from is AFFIRMED with the modification that the indemnity to be paid is increased to P20,000.00.

SO ORDERED.

Feria (Chairman), Fernan, Alampay, and *Paras, JJ.*, concur.

SECOND DIVISION

[G.R. No. 55312. December 15, 1986]

MANUEL L. FERNANDEZ, *petitioner, vs.* **GROLIER INTERNATIONAL, INC., THE MINISTER OF LABOR, and THE NATIONAL LABOR RELATIONS COMMISSION,** *respondents.*

SYLLABUS

LABOR AND SOCIAL LEGISLATIONS; LABOR LAW; MONEY CLAIMS; PERIOD TO FILE; WHEN CAUSE OF ACTION ACCRUED PRIOR TO EFFECTIVITY OF THE NEW LABOR CODE.— Petitioner had permanently severed his connections on June 30, 1974, his last working day with the firm. The Labor Code took effect on November 1, 1974. Undoubtedly, the money claims of the petitioner accrued before November 1, 1974. Since Article 292 explicitly provides that "all money claims accruing prior to the effectivity of this Code shall be filed with the appropriate entities established under this Code within one year from the date of such effectivity" the petitioner's money claims should have been filed not later than October 31, 1975.

APPEARANCES OF COUNSEL

Virgilio L. Planco for petitioner.

Poblador Nazareno Azada Tomacruz and *Paredez* for private respondent.

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DECISION

GUTIERREZ, JR., *J.*:

This is a petition for *certiorari* of an order of the Minister of Labor which dismissed the petitioner's appeal and affirmed the resolution of the National Labor Relations Commission which resolution, in turn, affirmed the decision of the Labor Arbiter dismissing the petitioner's complaint on the grounds of prescription and lack of jurisdiction.

Petitioner Fernandez became an employee of Grolier International, Inc., Philippines on July 1, 1964. He was later appointed Comptroller and Executive Administrator in 1973 with a basic salary of P4,000.00. On June 27, 1974, he went to Sydney, Australia. Fernandez worked with Grolier Society, Ltd. of Sydney, Australia, from July 1, 1974 to February 3, 1975, with an annual salary of 8,000 Australian dollars. In January, 1975, the Australian Immigration Office advised him to return to the Philippines so that his application for immigration to Australia could be properly processed. On February 3, 1975, he returned to the Philippines and followed-up his immigration application with the Australian Embassy in Makati, Metro Manila. On February 19, 1975, the Australian Immigration Office denied his application for immigration to Australia.

On June 8, 1976, the petitioner filed a complaint for illegal dismissal with the Department of Labor against the private respondent praying that he be reinstated with full backwages from February 3, 1975 up to actual reinstatement or separation pay under the law and reimbursement of plane fare in the amount of P6,646.65.

The petitioner and the private respondent have different versions on why Fernandez went to Australia. In his position paper submitted to the Labor Arbiter, the petitioner alleged:

"Petitioner was the Comptroller and the Executive Administrator of Respondent from July 1, 1964 up to June 30, 1974. The amount of P4,000.00 a month was his last basic salary from respondent with annual Christmas bonus of P7,000.00 and fringe benefits.

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"Respondent is the Philippine branch of Grolier International based in New York with Ronald Besaw as its Vice President and Managing Director of the Philippine branch and the Sydney branch in Sydney, Australia.

"Upon instructions of Ronald Besaw petitioner was transferred to the Sydney, Australia effective July 1, 1974 as part of the reorganization of the Grolier firm and in order to take the place of Janette Williams, the Australian accountant at the Sydney office in Australia, who by reason of her pregnancy resigned from the Sydney office effective July 1, 1974.

"Considering that the restrictions by the Philippine government on travels abroad by Filipinos, and in order that the Philippine Government may allow petitioner to leave the Philippines for Sydney, Australia, respondent thru the said Ronald Besaw, manipulated and devised a scheme by making it appear that petitioner will attend a series of conferences of finance executives of Grolier branches and that petitioner had accepted the said invitation, when in truth and in fact there was no such conferences in Sydney, Australia. This was resorted to by Ronald Besaw in order that the Department of Foreign Affairs of the Philippine Government may issue the passport and exit permit to petitioner.

"Under the direct administration and supervision of the same Ronald Besaw, petitioner worked at the Sydney office of the Grolier firm from July 1, 1974 up to February 3, 1975 where he held the position of accountant of Sydney Office of Grolier firm with an annual salary of EIGHT THOUSAND (8,000) AUSTRALIAN DOLLARS.

"When petitioner left Sydney, Australia, he could no longer gain re-entry thereto for the same reason that the Immigration Department of Australia denied his application despite all assurances made by Ronald F. Besaw that he will work for the approval of petitioner's application for migration to Australia.

"When petitioner left the Philippines for Australia, respondent deducted from his salary the amount of P6,646.65.

"The transfer of petitioner to the Sydney Office of Grolier firm was part of the reorganization plan of the respondent due to the expiration of Laurel-Langley Act and the enforcement of the Nationalization of Retail Trade Law.

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"ISSUES

I Whether or Not Petitioner was illegally Dismissed by Respondent.

II Whether or Not Petitioner should be Reimbursed by Respondent of the Plane Fare which was Illegally Deducted from Petitioner's Last Pay in the Philippines.

III Whether or Not Petitioner Should Be Paid His Salary Corresponding To The Period From February 3, 1975 Up to Actual Reimbursement.

"STAND OF PETITIONER

"Petitioner claims that he was illegally dismissed by respondent, hence, he is entitled to reinstatement with full backwages from February 3, 1975 up to actual reinstatement or petitioner is entitled a separation pay under the law.

"Petitioner also claims that he is entitled to a reimbursement of the plane fare which was illegally deducted from his last pay check in the amount of P6,646.65. In support of his stand petitioner is submitting to this Honorable Office his affidavit together with all the annexes attached thereto."

On the other hand, the private respondent, in its position paper, maintained that:

"1. Complainant voluntarily resigned from his position at Grolier International Inc. in the Philippines to migrate to Australia. He was never transferred from the Philippines to work in Grolier Society, Inc. of Sydney, Australia. Complainant is not therefore entitled to reinstatement or payment of separation pay.

"2. Complainant has been duly paid all his salaries and other compensation.

"3. Complainant is not entitled to reimbursement of his plane fares. He incurred these expenses for his own account and not for the account of the company. He was not induced by the company to migrate to Australia.

"4. Attached hereto as Annex A is the affidavit of Mr. Ronald Besaw to support this position paper."

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During the trial of the case before the Labor Arbiter the private respondent moved for the dismissal of the case on the ground of lack of jurisdiction because the petitioner worked in Australia and received his pay from the Grolier Society of Australia.

After hearing the case, the Labor Arbiter issued a decision, the dispositive portion of which reads:

"IN VIEW OF THE FOREGOING PREMISES, judgment is rendered as follows: (1) the complaint against Grolier International (Phil.), Inc. is hereby dismissed on the ground of prescription; (2) insofar as Grolier Society International (Sydney, Australia), Inc. is concerned, the complaint is also dismissed for lack of jurisdiction.

The Labor Arbiter's decision was appealed to the National Labor Relations Commission which dismissed the appeal. This order of dismissal of the National Labor Relations Commission was in turn appealed by the petitioner to the Minister of Labor but the latter sustained the decisions of both the Arbiter and the Commission and affirmed the dismissal of the appeal.

The petitioner appealed the Minister's order to the Office of the President but the appeal was dismissed in a resolution dated September 14, 1980 on the ground that the case does not involve national interest. Hence, the present petition.

The issues in this case are:

1. Whether or not the petitioner was illegally dismissed from his employment by the private respondent; and
2. Whether or not the petitioner's causes of action had already prescribed when he filed his complaint against the private respondent with the Department of Labor.

The petitioner contends that he was transferred to the Sydney office of the Grolier firm where he was made to work temporarily as an accountant up to February 3, 1975, when the Australian Immigration Office advised him to return to the Philippines as a condition precedent for the processing of his immigration application papers. He argues that the refusal of the private respondent to yield back to him his post in the Philippine branch of the Grolier firm is tantamount to illegal dismissal.

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On the other hand, the private respondent denies that the petitioner was transferred to Australia and maintains that the petitioner voluntarily resigned from his position at Grolier International Inc. in the Philippines to migrate to Australia. Therefore, he is not entitled to reinstatement or payment of separation pay.

We find the stand of the private respondent to be supported by the following circumstances: (1) the petitioner was already the subject of an immigration request lodged by his son, who is an Australian citizen, when he went to Australia; (2) he received from the private respondent all his salaries and remunerations for the last time on June 30, 1974; (3) he shouldered his own fare expenses in going to Sydney; (4) upon his return to the Philippines on February 3, 1975, he did not report for work with the private respondent nor demand his return to his former position, instead, he followed up his application for an immigrant visa at the Australian Embassy; and (5) he filed his complaint for illegal dismissal against the private respondent only when his application for immigration was denied by the Australian Immigration Office. As a matter of fact, the petitioner would not have filed his complaint for illegal dismissal if his application for an immigrant visa had been approved.

With respect to the issue of prescription, it is the stand of the petitioner that it was sometime in May, 1976, when he demanded that he be returned to his original position of comptroller and executive administrator of the Philippine branch and the private respondent refused. Hence, he states that prescription should be reckoned from that date.

The private respondent countered that the petitioner had permanently severed his connections on June 30, 1974, his last working day with the firm. Therefore, June 30, 1974 is the starting date in determining the prescriptive period of the petitioner's causes of action and in applying the provisions of Articles 291 and 292 of the Labor Code, as amended. The complaint for illegal dismissal with prayer for reinstatement or separation pay and reimbursement of plane fare, being predicated on causes of action accruing before November 1, 1974, should have been filed not later than October 31, 1975.

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The pertinent portions of Articles 291 and 292 provide:

"ART. 291. *Offenses.* — Offenses penalized under this Code and the rules and regulations issued pursuant thereto shall prescribe in three (3) years.

"All unfair labor practices arising from Book V shall be filed with the appropriate agency within one (1) year from actual of such unfair labor practice; otherwise, they shall be forever barred.

"ART. 292. *Money claims.* — All money claims arising from employer-employee relations accruing during the effectivity of this Code shall be filed within three (3) years from the time the cause of action accrued; otherwise they shall be forever barred.

"All money claims accruing prior to the effectivity of this Code shall be filed with the appropriate entities established under this Code within one (1) year from the date of effectivity, and shall be processed or determined in accordance with implementing rules and regulations of the Code; otherwise, they shall be forever barred."

x x x x x x x x x

The Labor Code took effect on November 1, 1974. Undoubtedly, the money claims of the petitioner accrued before November 1, 1974. Since Article 292 explicitly provides that "all money claims accruing prior to the effectivity of this Code shall be filed with the appropriate entities established under this Code within one year from the date of such effectivity" the petitioner's money claims should have been filed not later than October 31, 1975.

WHEREFORE, the petition for *certiorari* is hereby DISMISSED for lack of merit.

SO ORDERED.

Feria (Chairman), Fernan, Alampay, and *Paras, JJ.*, concur.