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Court of Roxas City finding accused-appellant Lito Hatsero **GUILTY** beyond reasonable doubt of the crime of Murder, is hereby **AFFIRMED with MODIFICATION** that accused-appellant Lito Hatsero is further **ORDERED** to pay the heirs of Mamerto Gravo the amounts of ₱75,000.00 as civil indemnity, ₱30,000.00 as exemplary damages, ₱50,000.00 as moral damages, and ₱25,000.00 as temperate damages, plus interest at the legal rate of six percent (6%) per annum on all the amounts of damages awarded, commencing from the date of finality of this Decision until fully paid.

Costs on accused-appellant Lito Hatsero.

SO ORDERED.

Sereno, C.J. (Chairperson), Bersamin, Villarama, Jr., and *Reyes, JJ.,* concur.

FIRST DIVISION

[G.R. No. 192394. July 3, 2013]

ROY D. PASOS, *petitioner, vs.* **PHILIPPINE NATIONAL CONSTRUCTION CORPORATION,** *respondent.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; APPEAL BOND REQUIREMENT; APPEAL BOND OF AT LEAST 90% OF THE ADJUDGED AMOUNT CONSTITUTES SUBSTANTIAL COMPLIANCE.— The perfection of an appeal within the reglementary period and in the manner prescribed by law is jurisdictional, and noncompliance with such legal requirement is fatal and effectively renders the judgment final and executory. As provided in Article 223 of the Labor Code, as amended, in case of a judgment involving a monetary award, an appeal by

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the employer may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Commission in the amount equivalent to the monetary award in the judgment appealed from. However, not only in one case has this Court relaxed this requirement in order to bring about the immediate and appropriate resolution of cases on the merits. In *Quiambao v. National Labor Relations Commission*, this Court allowed the relaxation of the requirement when there is substantial compliance with the rule. x x x In the instant case, the Labor Arbiter in his decision ordered PNCC to pay petitioner back wages amounting to ₱422,630.41 and separation pay of ₱37,662 or a total of ₱460,292.41. When PNCC filed an appeal bond amounting to ₱422,630.41 or **at least 90% of the adjudged amount,** there is no question that this is substantial compliance with the requirement that allows relaxation of the rules.

2. REMEDIAL LAW; CIVIL PROCEDURE; REQUIREMENT OF VERIFICATION AND CERTIFICATION AGAINST FORUM SHOPPING; AUTHORITY OF THE HEAD OF THE PERSONNEL SERVICES DEPARTMENT OF A CORPORATION TO SIGN THE VERIFICATION UPHELD DESPITE THE ABSENCE OF A BOARD RESOLUTION TO THAT EFFECT.— While we agree with petitioner that in *Cagayan Valley*, the requisite board resolution was submitted though belatedly unlike in the instant case, this Court still recognizes the authority of Mr. Erece, Jr. to sign the verification and certification on behalf of PNCC sans a board resolution or secretary's certificate as we have allowed in *Pfizer, Inc. v. Galan*, one of the cases cited in *Cagayan Valley*. In *Pfizer*, the Court ruled as valid the verification signed by an employment specialist as she was in a position to verify the truthfulness and correctness of the allegations in the petition despite the fact that no board resolution authorizing her was ever submitted by Pfizer, Inc. even belatedly. We believe that like the employment specialist in Pfizer, Mr. Erece, Jr. too, as head of the Personnel Services Department of PNCC, was in a position to assure that the allegations in the pleading have been prepared in good faith and are true and correct.

3. LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; PROJECT EMPLOYMENT; PROJECT EMPLOYEE, DEFINED AND EXPLAINED.— Under Article 280 of the

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Labor Code, as amended, a project employee is one whose "employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employee or where the work or services to be performed is seasonal in nature and the employment is for the duration of the season." Thus, the principal test used to determine whether employees are project employees is whether or not the employees were assigned to carry out a specific project or undertaking, the duration or scope of which was specified at the time the employees were engaged for that project.

4. ID.; ID.; ID.; FAILURE OF THE EMPLOYER TO FILE TERMINATION REPORTS AFTER EVERY PROJECT COMPLETION PROVES THAT AN EMPLOYEE IS NOT A PROJECT EMPLOYEE.— [R]ecords clearly show that PNCC did not report the termination of petitioner's supposed project employment for the NAIA II Project to the DOLE. Department Order No. 19, or the "Guidelines Governing the Employment of Workers in the Construction Industry," requires employers to submit a report of an employee's termination to the nearest public employment office every time an employee's employment is terminated due to a completion of a project. PNCC submitted as evidence of its compliance with the requirement supposed photocopies of its termination reports, each listing petitioner as among the employees affected. Unfortunately, none of the reports submitted pertain to the NAIA II Project. Moreover, DOLE NCR verified that petitioner is not included in the list of affected workers based on the termination reports filed by PNCC on August 11, 17, 20 and 24, 1998 for petitioner's supposed dismissal from the NAIA II Project effective August 4, 1998. This certification from DOLE was not refuted by PNCC. In *Tomas Lao Construction v. NLRC*, we emphasized the indispensability of the reportorial requirement: x x x We have consistently held that failure of the employer to file termination reports after every project completion proves that the employees are not project employees. Nowhere in the New Labor Code is it provided that the reportorial requirement is dispensed with. The fact is that Department Order No. 19 superseding Policy Instruction No. 20 expressly provides that the report of termination is one of the indicators of project employment.

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5. ID.; ID.; TERMINATION OF EMPLOYMENT; CONTRACT EXPIRATION OR PROJECT COMPLETION IS NOT A VALID CAUSE FOR DISMISSAL OF A REGULAR EMPLOYEE.— Petitioner's regular employment was terminated by PNCC due to contract expiration or project completion, which are both not among the just or authorized causes provided in the Labor Code, as amended, for dismissing a regular employee. Thus, petitioner was illegally dismissed.

6. ID.; ID.; ID.; ILLEGALLY DISMISSED EMPLOYEE IS ENTITLED TO REINSTATEMENT IF STRAINED RELATION WAS NEITHER ALLEGED NOR PROVED.— Article 279 of the Labor Code, as amended, provides that an illegally dismissed employee is entitled to reinstatement, full back wages, inclusive of allowances, and to his other benefits or their monetary equivalent from the time his compensation was withheld from him up to the time of his actual reinstatement. We agree with petitioner that there was no basis for the Labor Arbiter's finding of strained relations and order of separation pay in lieu of reinstatement. This was neither alleged nor proved.

7. ID.; ID.; ID.; BACK WAGES AND ATTORNEY'S FEES AWARDED TO AN ILLEGALLY DISMISSED EMPLOYEE.— As to the back wages due petitioner, there is likewise no basis in deducting therefrom back wages equivalent to six months "representing the maximum period of confinement [PNCC] can require him to undergo medical treatment." Besides, petitioner was not dismissed on the ground of disease but expiration of term of project employment. x x x Petitioner is also entitled to attorney's fees in the amount of ten percent (10%) of his total monetary award, having been forced to litigate in order to seek redress of his grievances, as provided in Article 111 of the Labor Code, as amended, and following this Court's pronouncement in *Exodus International Construction Corporation v. Biscocho*. In line with current jurisprudence, the award of back wages shall earn legal interest at the rate of six percent (6%) per annum from the date of petitioner's dismissal until the finality of this decision. Thereafter, it shall earn 12% legal interest until fully paid in accordance with the guidelines in *Eastern Shipping Lines, Inc. v. Court of Appeals*.

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APPEARANCES OF COUNSEL

Flores & Hayudini Law Offices for petitioner.
Henry B. Salazar and Glenna Jean R. Ogan for respondent.

D E C I S I O N

VILLARAMA, JR., *J.*:

Before us is a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the March 26, 2010 Decision[1] and May 26, 2010 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 107805. The appellate court had affirmed the Decision[3] of the National Labor Relations Commission (NLRC) dismissing the illegal dismissal complaint filed by petitioner Roy D. Pasos against respondent Philippine National Construction Corporation (PNCC).

The antecedent facts follow:

Petitioner Roy D. Pasos started working for respondent PNCC on April 26, 1996. Based on the PNCC's "Personnel Action Form Appointment for Project Employment" dated April 30, 1996,[4] petitioner was designated as "Clerk II (Accounting)" and was assigned to the "NAIA – II Project." It was likewise stated therein:

PARTICULARS: Project employment starting on **April 26, 1996 to July 25, 1996.** This contract maybe terminated at anytime for cause as provided for by law and/or existing Company Policy. This maybe terminated if services are unsatisfactory, or when it shall no longer needed, as determined by the Company. If services are still needed beyond the validity of this contract, the Company shall extend

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[1] *Rollo*, pp. 51-67. Penned by Associate Justice Fernanda Lampas Peralta with Associate Justices Marlene Gonzales-Sison and Florito S. Macalino concurring.

[2] *Id.* at 100.

[3] Records, pp. 182-194.

[4] *Id.* at 42.

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your services. After services are terminated, the employee shall be under no obligation to re-employ with the Company nor shall the Company be obliged to re-employ the employee.[5] (Emphasis supplied.)

Petitioner's employment, however, did not end on July 25, 1996 but was extended until August 4, 1998, or more than two years later, based on the "Personnel Action Form – Project Employment" dated July 7, 1998.[6]

Based on PNCC's "Appointment for Project Employment" dated November 11, 1998,[7] petitioner was rehired on even date as "Accounting Clerk (Reliever)" and assigned to the "PCSO – Q.I. Project." It was stated therein that his employment shall end on February 11, 1999 and may be terminated for cause or in accordance with the provisions of Article 282 of the Labor Code, as amended. However, said employment did not actually end on February 11, 1999 but was extended until February 19, 1999 based on the "Personnel Action Form-Project Employment" dated February 17, 1999.[8]

On February 23, 1999, petitioner was again hired by PNCC as "Accounting Clerk" and was assigned to the "SM-Project" based on the "Appointment for Project Employment" dated February 18, 1999.[9] It did not specify the date when his employment will end but it was stated therein that it will be "co-terminus with the completion of the project." Said employment supposedly ended on August 19, 1999 per "Personnel Action Form – Project Employment" dated August 18, 1999,[10] where it was stated, "[t]ermination of [petitioner's] project employment due to completion of assigned phase/stage of work or project effective at the close of office hour[s] on 19 August 1999."

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[5] *Id.*

[6] *Id.* at 43.

[7] *Id.* at 44.

[8] *Id.* at 45.

[9] *Id.* at 46.

[10] *Id.* at 47.

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However, it appears that said employment was extended per "Appointment for Project employment" dated August 20, 1999[11] as petitioner was again appointed as "Accounting Clerk" for "SM Project (Package II)." It did not state a specific date up to when his extended employment will be, but it provided that it will be "co-terminus with the x x x project." In "Personnel Action Form – Project Employment" dated October 17, 2000,[12] it appears that such extension would eventually end on October 19, 2000.

Despite the termination of his employment on October 19, 2000, petitioner claims that his superior instructed him to report for work the following day, intimating to him that he will again be employed for the succeeding SM projects. For purposes of reemployment, he then underwent a medical examination which allegedly revealed that he had pneumonitis. Petitioner was advised by PNCC's physician, Dr. Arthur C. Obena, to take a 14-day sick leave.

On November 27, 2000, after serving his sick leave, petitioner claims that he was again referred for medical examination where it was revealed that he contracted Koch's disease. He was then required to take a 60-day leave of absence.[13] The following day, he submitted his application for sick leave but PNCC's Project Personnel Officer, Mr. R.S. Sanchez, told him that he was not entitled to sick leave because he was not a regular employee.

Petitioner still served a 60-day sick leave and underwent another medical examination on February 16, 2001. He was then given a clean bill of health and was given a medical clearance by Dr. Obena that he was fit to work.

Petitioner claims that after he presented his medical clearance to the Project Personnel Officer on even date, he was informed that his services were already terminated on October 19, 2000

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[11] *Id.* at 48.

[12] *Id.* at 49.

[13] *Id.* at 50.

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and he was already replaced due to expiration of his contract. This prompted petitioner on February 18, 2003 to file a complaint[14] for illegal dismissal against PNCC with a prayer for reinstatement and back wages. He argued that he is deemed a regular employee of PNCC due to his prolonged employment as a project employee as well as the failure on the part of PNCC to report his termination every time a project is completed. He further contended that his termination without the benefit of an administrative investigation was tantamount to an illegal dismissal.

PNCC countered that petitioner was hired as a project employee in several projects with specific dates of engagement and termination and had full knowledge and consent that his appointment was only for the duration of each project. It further contended that it had sufficiently complied with the reportorial requirements to the Department of Labor and Employment (DOLE). It submitted photocopies of three Establishment Termination Reports it purportedly filed with the DOLE. They were for: (1) the "PCSO-Q.I. Project" for February 1999;[15] (2) "SM Project" for August 1999;[16] and (3) "SM Project" for October 2000,[17] all of which included petitioner as among the affected employees. The submission of termination reports by PNCC was however disputed by petitioner based on the verifications[18] issued by the DOLE NCR office that he was not among the affected employees listed in the reports filed by PNCC in August 1998, February 1999, August 1999 and October 2000.

On March 28, 2006, the Labor Arbiter rendered a Decision[19] in favor of petitioner. The *fallo* reads:

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[14] *Id.* at 2.

[15] *Id.* at 25.

[16] *Id.* at 28.

[17] *Id.* at 31.

[18] *Id.* at 51-54.

[19] *Id.* at 89-93.

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WHEREFORE, premises considered, the complainant had attained regular employment thereby making his termination from employment illegal since it was not for any valid or authorized causes. Consequently, Respondent is ordered to pay complainant his full backwages less six (6) months computed as follows:

Backwages:

Feb. 18, 2000 – March 28, 2006 = 73.33 mos.
₱6,277.00 x 73.33 = ₱460,292.41

Less:
₱6,277.00 X 6 mos. = 37,662.00
₱422,630.41

The reinstatement could not as well be ordered due to the strained relations between the parties, that in lieu thereof, separation pay is ordered paid to complainant in the amount of ₱37,662.00 [₱6,277.00 x 6].

SO ORDERED.[20]

The Labor Arbiter ruled that petitioner attained regular employment status with the repeated hiring and rehiring of his services more so when the services he was made to render were usual and necessary to PNCC's business. The Labor Arbiter likewise found that from the time petitioner was hired in 1996 until he was terminated, he was hired and rehired by PNCC and made to work not only in the project he had signed to work on but on other projects as well, indicating that he is in fact a regular employee. He also noted petitioner's subsequent contracts did not anymore indicate the date of completion of the contract and the fact that his first contract was extended way beyond the supposed completion date. According to the Labor Arbiter, these circumstances indicate that the employment is no longer a project employment but has graduated into a regular one. Having attained regular status, the Labor Arbiter ruled that petitioner should have been accorded his right to security of tenure.

Both PNCC and petitioner appealed the Labor Arbiter's decision. PNCC insisted that petitioner was just a project employee

[20] *Id.* at 92-93.

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and his termination was brought about by the completion of the contract and therefore he was not illegally dismissed. Petitioner, on the other hand, argued that his reinstatement should have been ordered by the Labor Arbiter since there was no proof that there were strained relations between the parties. He also questioned the deduction of six months pay from the back wages awarded to him and the failure of the Labor Arbiter to award him damages and attorney's fees. Petitioner likewise moved to dismiss PNCC's appeal contending that the supersedeas bond in the amount of ₱422,630.41 filed by the latter was insufficient considering that the Labor Arbiter's monetary award is ₱460,292.41. He also argued that the person who verified the appeal, Felix M. Erece, Jr., Personnel Services Department Head of PNCC, has no authority to file the same for and in behalf of PNCC.

On October 31, 2008, the NLRC rendered its Decision granting PNCC's appeal but dismissing that of petitioner. The dispositive portion reads:

> WHEREFORE, premises considered, the appeal of respondent is GRANTED and the Decision dated 28 March 2006 is REVERSED and SET ASIDE.
>
> A new Decision is hereby issued ordering respondent Philippine National Construction Corporation to pay completion bonus to complainant Roy Domingo Pasos in the amount of ₱25,000.
>
> Complainant's appeal is DISMISSED for lack of merit.
>
> SO ORDERED.[21]

As to the procedural issues raised by petitioner, the NLRC ruled that there was substantial compliance with the requirement of an appeal bond and that Mr. Erece, Jr., as head of the Personnel Services Department, is the proper person to represent PNCC. As to the substantive issues, the NLRC found that petitioner was employed in connection with certain construction projects and his employment was co-terminus with each project as evidenced by the Personnel Action Forms and the Termination

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[21] *Id.* at 193.

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Report submitted to the DOLE. It likewise noted the presence of the following project employment indicators in the instant case, namely, the duration of the project for which petitioner was engaged was determinable and expected completion was known to petitioner; the specific service that petitioner rendered in the projects was that of an accounting clerk and that was made clear to him and the service was connected with the projects; and PNCC submitted termination reports to the DOLE and petitioner's name was included in the list of affected employees.

Petitioner elevated the case to the CA via a petition for *certiorari* but the appellate court dismissed the same for lack of merit.

Hence this petition. Petitioner argues that the CA erred when it:

I.

SUSTAINED THAT THE AMOUNT OF THE BOND POSTED BY THE RESPONDENTS FOR PURPOSES OF APPEAL WAS SUFFICIENT NOTWITHSTANDING THAT THE SAME IS LESS THAN THE ADJUDGED AMOUNT.

II.

SUSTAINED THAT FELIX M. ERECE, JR., HEAD OF RESPONDENT PNCC'S PERSONNEL SERVICE DEPARTMENT, IS DULY AUTHORIZED TO REPRESENT RESPONDENT IN THIS CASE NOTWITHSTANDING THE ABSENCE OF ANY BOARD RESOLUTION OR SECRETARY'S CERTIFICATE OF THE RESPONDENT STATING THAT INDEED HE WAS DULY AUTHORIZED TO INSTITUTE [THESE] PROCEEDINGS.

III.

SUSTAINED THAT PETITIONER WAS A PROJECT EMPLOYEE DESPITE THE FACT THAT RESPONDENT PNCC HAD NOT SUBMITTED THE REQUISITE TERMINATION REPORTS IN ALL OF THE ALLEGED PROJECTS WHERE THE PETITIONER WAS ASSIGNED.

IV.

SUSTAINED THAT THE PETITIONER IS A PROJECT EMPLOYEE DESPITE THE CIRCUMSTANCE THAT THE ACTUAL WORK

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UNDERTAKEN BY THE PETITIONER WAS NOT LIMITED TO THE WORK DESCRIBED IN HIS ALLEGED APPOINTMENT AS A PROJECT EMPLOYEE.

V.

FAILED TO FIND THAT AT SOME TIME, THE EMPLOYMENT OF THE PETITIONER WAS UNREASONABLY EXTENDED BEYOND THE DATE OF ITS COMPLETION AND AT OTHER TIMES THE SAME DID NOT BEAR A DATE OF COMPLETION OR THAT THE SAME WAS READILY DETERMINABLE AT THE TIME OF PETITIONER'S ENGAGEMENT THEREBY INDICATING THAT HE WAS NOT HIRED AS A PROJECT EMPLOYEE.

VI.

FAILED TO ORDER THE REINSTATEMENT OF THE PETITIONER BY FINDING THAT THERE WAS STRAINED RELATIONS BETWEEN THE PARTIES NOTWITHSTANDING THAT THE RESPONDENT NEVER EVEN ALLEGED NOR PROVED IN ITS PLEADINGS THE CIRCUMSTANCE OF STRAINED RELATIONS.

VII.

SUSTAINED THE FAILURE OF THE NATIONAL LABOR RELATIONS COMMISSION TO RECTIFY THE ERROR COMMITTED BY LABOR ARBITER LIBO-ON IN DEDUCTING THE EQUIVALENT OF SIX MONTHS PAY OF BACKWAGES DESPITE THE MANDATE OF THE LABOR CODE THAT WHEN THERE IS A FINDING OF ILLEGAL DISMISSAL, THE PAYMENT OF FULL BACKWAGES FROM DATE OF DIMISSAL [UP TO] ACTUAL REINSTATEMENT SHOULD BE AWARDED.

VIII.

SUSTAINED THE FAILURE OF THE NATIONAL LABOR RELATIONS COMMISSION TO RECTIFY THE ERROR COMMITTED BY LABOR ARBITER LIBO-ON IN FAILING TO AWARD DAMAGES AND ATTORNEY'S FEES TO THE PETITIONER.[22]

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[22] *Rollo*, pp. 16-17.

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Petitioner contends that PNCC's appeal from the Labor Arbiter's decision should not have been allowed since the appeal bond filed was insufficient. He likewise argues that the appellate court erred in heavily relying in the case of *Cagayan Valley Drug Corporation v. Commissioner of Internal Revenue*[23] which enumerated the officials and employees who can sign the verification and certification without need of a board resolution. He contends that in said case, there was substantial compliance with the requirement since a board resolution was submitted albeit belatedly unlike in the instant case where no board resolution was ever submitted even belatedly.

As to the substantive issue, petitioner submits that the CA erroneously concluded that he was a project employee when there are indicators which point otherwise. He contends that even if he was just hired for the NAIA 2 Project from April 26, 1996 to July 25, 1996, he was made to work until August 4, 1998. He also avers the DOLE had certified that he was not among the employees listed in the termination reports submitted by PNCC which belies the photocopies of termination reports attached by PNCC to its pleadings listing petitioner as one of the affected employees. Petitioner points out that said termination reports attached to PNCC's pleadings are mere photocopies and were not even certified by the DOLE-NCR as true copies of the originals on file with said office. Further, he argues that in violation of the requirement of Department Order No. 19 that the duration of the project employment is reasonably determinable, his contracts for the SM projects did not specify the date of completion of the project nor was the completion determinable at the time that petitioner was hired.

PNCC counters that documentary evidence would show that petitioner was clearly a project employee and remained as such until his last engagement. It argues that the repeated rehiring of petitioner as accounting clerk in different projects did not make him a regular employee. It also insists that it complied with the reportorial requirements and that it filed and reported

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[23] G.R. No. 151413, February 13, 2008, 545 SCRA 10.

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the termination of petitioner upon every completion of project to which he was employed.

In sum, three main issues are presented before this Court for resolution: (1) Should an appeal be dismissed outright if the appeal bond filed is less than the adjudged amount? (2) Can the head of the personnel department sign the verification and certification on behalf of the corporation sans any board resolution or secretary's certificate authorizing such officer to do the same? and (3) Is petitioner a regular employee and not a mere project employee and thus can only be dismissed for cause?

Substantial compliance with appeal bond requirement

The perfection of an appeal within the reglementary period and in the manner prescribed by law is jurisdictional, and noncompliance with such legal requirement is fatal and effectively renders the judgment final and executory. As provided in Article 223 of the Labor Code, as amended, in case of a judgment involving a monetary award, an appeal by the employer may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Commission in the amount equivalent to the monetary award in the judgment appealed from.

However, not only in one case has this Court relaxed this requirement in order to bring about the immediate and appropriate resolution of cases on the merits.[24] In *Quiambao v. National Labor Relations Commission*,[25] this Court allowed the relaxation of the requirement when there is substantial compliance with the rule. Likewise, in *Ong v. Court of Appeals*,[26] the Court held that the bond requirement on appeals may be relaxed when there is substantial compliance with the Rules of Procedure of the NLRC or when the appellant shows willingness to post a

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[24] See *Rosewood Processing, Inc. v. NLRC*, 352 Phil. 1013, 1029 (1998).

[25] G.R. No. 91935, March 4, 1996, 254 SCRA 211, 216.

[26] G.R. No. 152494, September 22, 2004, 438 SCRA 668, 678.

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partial bond. The Court held that "[w]hile the bond requirement on appeals involving monetary awards has been relaxed in certain cases, this can only be done where there was substantial compliance of the Rules or where the appellants, at the very least, exhibited willingness to pay by posting a partial bond."

In the instant case, the Labor Arbiter in his decision ordered PNCC to pay petitioner back wages amounting to ₱422,630.41 and separation pay of ₱37,662 or a total of ₱460,292.41. When PNCC filed an appeal bond amounting to ₱422,630.41 or **at least 90% of the adjudged amount,** there is no question that this is substantial compliance with the requirement that allows relaxation of the rules.

Validity of the verification and certification signed by a corporate officer on behalf of the corporation without the requisite board resolution or secretary's certificate

It has been the constant holding of this Court in cases instituted by corporations that an individual corporate officer cannot exercise any corporate power pertaining to the corporation without authority from the board of directors pursuant to Section 23, in relation to Section 25 of the Corporation Code which clearly enunciates that all corporate powers are exercised, all business conducted, and all properties controlled by the board of directors. However, we have in many cases recognized the authority of some corporate officers to sign the verification and certification against forum-shopping. Some of these cases were enumerated in *Cagayan Valley Drug Corporation v. Commissioner of Internal Revenue*[27] which was cited by the appellate court:

> In *Mactan-Cebu International Airport Authority v. CA*, we recognized the authority of a general manager or acting general manager to sign the verification and certificate against forum shopping; in *Pfizer v. Galan*, we upheld the validity of a verification signed by an "employment specialist" who had not even presented any proof of

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[27] *Supra* note 23.

her authority to represent the company; in *Novelty Philippines, Inc. v. CA*, we ruled that a personnel officer who signed the petition but did not attach the authority from the company is authorized to sign the verification and non-forum shopping certificate; and in *Lepanto Consolidated Mining Company v. WMC Resources International Pty. Ltd.* (*Lepanto*), we ruled that the Chairperson of the Board and President of the Company can sign the verification and certificate against non-forum shopping even without the submission of the board's authorization.

In sum, we have held that the following officials or employees of the company can sign the verification and certification without need of a board resolution: (1) the Chairperson of the Board of Directors, (2) the President of a corporation, (3) the General Manager or Acting General Manager, (4) Personnel Officer, and (5) an Employment Specialist in a labor case.

While the above cases do not provide a complete listing of authorized signatories to the verification and certification required by the rules, the determination of the sufficiency of the authority was done on a case to case basis. The rationale applied in the foregoing cases is to justify the authority of corporate officers or representatives of the corporation to sign the verification or certificate against forum shopping, being "in a position to verify the truthfulness and correctness of the allegations in the petition."[28] (Citations omitted.)

While we agree with petitioner that in *Cagayan Valley*, the requisite board resolution was submitted though belatedly unlike in the instant case, this Court still recognizes the authority of Mr. Erece, Jr. to sign the verification and certification on behalf of PNCC sans a board resolution or secretary's certificate as we have allowed in *Pfizer, Inc. v. Galan*,[29] one of the cases cited in *Cagayan Valley*. In *Pfizer*, the Court ruled as valid the verification signed by an employment specialist as she was in a position to verify the truthfulness and correctness of the allegations in the petition[30] despite the fact that no board resolution authorizing her was ever submitted by Pfizer, Inc. even belatedly. We believe that like the employment specialist in Pfizer, Mr.

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[28] *Id.* at 18-19.

[29] G.R. No. 143389, May 25, 2001, 358 SCRA 240.

[30] *Id.* at 247.

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Erece, Jr. too, as head of the Personnel Services Department of PNCC, was in a position to assure that the allegations in the pleading have been prepared in good faith and are true and correct.

Even assuming that the verification in the appeal filed by PNCC is defective, it is well settled that rules of procedure in labor cases maybe relaxed. As provided in Article 221 of the Labor Code, as amended, "rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process." Moreover, the requirement of verification is merely formal and not jurisdictional. As held in *Pacquing v. Coca-Cola Philippines, Inc.*:[31]

> As to the defective verification in the appeal memorandum before the NLRC, the same liberality applies. After all, the requirement regarding verification of a pleading is formal, not jurisdictional. Such requirement is simply a condition affecting the form of pleading, the non-compliance of which does not necessarily render the pleading fatally defective. Verification is simply intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith. The court or tribunal may order the correction of the pleading if verification is lacking or act on the pleading although it is not verified, if the attending circumstances are such that strict compliance with the rules may be dispensed with in order that the ends of justice may thereby be served.[32]

Duration of project employment should be determined at the time of hiring

In the instant case, the appointments issued to petitioner indicated that he was hired for specific projects. This Court is

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[31] G.R. No. 157966, January 31, 2008, 543 SCRA 344.

[32] *Id.* at 356-357.

convinced however that although he started as a project employee, he eventually became a regular employee of PNCC.

Under Article 280 of the Labor Code, as amended, a project employee is one whose "employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employee or where the work or services to be performed is seasonal in nature and the employment is for the duration of the season." Thus, the principal test used to determine whether employees are project employees is whether or not the employees were assigned to carry out a specific project or undertaking, the duration or scope of which was specified at the time the employees were engaged for that project.[33]

In the case at bar, petitioner worked continuously for more than two years after the supposed three-month duration of his project employment for the NAIA II Project. While his appointment for said project allowed such extension since it specifically provided that in case his "services are still needed beyond the validity of [the] contract, the Company shall extend [his] services," there was no subsequent contract or appointment that specified a particular duration for the extension. His services were just extended indefinitely until "Personnel Action Form – Project Employment" dated July 7, 1998 was issued to him which provided that his employment will end a few weeks later or on August 4, 1998. While for first three months, petitioner can be considered a project employee of PNCC, his employment thereafter, when his services were extended without any specification of as to the duration, made him a regular employee of PNCC. And his status as a regular employee was not affected by the fact that he was assigned to several other projects and there were intervals in between said projects since he enjoys security of tenure.

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[33] *Goma v. Pamplona Plantation, Incorporated*, G.R. No. 160905, July 4, 2008, 557 SCRA 124, 135; *Hanjin Heavy Industries and Construction Co., Ltd. v. Ibañez,* G.R. No. 170181, June 26, 2008, 555 SCRA 537, 550.

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Failure of an employer to file termination reports after every project completion proves that an employee is not a project employee

As a rule, the findings of fact of the CA are final and conclusive and this Court will not review them on appeal.[34] The rule, however, is subject to the following exceptions:

> The jurisdiction of the Court in cases brought before it from the appellate court is limited to reviewing errors of law, and findings of fact of the Court of Appeals are conclusive upon the Court since it is not the Court's function to analyze and weigh the evidence all over again. Nevertheless, in several cases, the Court enumerated the exceptions to the rule that factual findings of the Court of Appeals are binding on the Court: (1) when the findings are grounded entirely on speculations, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to that of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; or (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.[35]

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[34] *Co v. Vargas*, G.R. No. 195167, November 16, 2011, 660 SCRA 451, 459, citing *Andrada v. Pilhino Sales Corporation*, G.R. No. 156448, February 23, 2011, 644 SCRA 1; *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 159490, February 18, 2008, 546 SCRA 150; *Microsoft Corporation v. Maxicorp, Inc.*, 481 Phil. 550 (2004).

[35] *Development Bank of the Philippines v. Traders Royal Bank*, G.R. No. 171982, August 18, 2010, 628 SCRA 404, 413-414, cited in *Co v. Vargas*, *id.* at 459-460.

In this case, records clearly show that PNCC did not report the termination of petitioner's supposed project employment for the NAIA II Project to the DOLE. Department Order No. 19, or the "Guidelines Governing the Employment of Workers in the Construction Industry," requires employers to submit a report of an employee's termination to the nearest public employment office every time an employee's employment is terminated due to a completion of a project. PNCC submitted as evidence of its compliance with the requirement supposed photocopies of its termination reports, each listing petitioner as among the employees affected. Unfortunately, none of the reports submitted pertain to the NAIA II Project. Moreover, DOLE NCR verified that petitioner is not included in the list of affected workers based on the termination reports filed by PNCC on August 11, 17, 20 and 24, 1998 for petitioner's supposed dismissal from the NAIA II Project effective August 4, 1998. This certification from DOLE was not refuted by PNCC. In *Tomas Lao Construction v. NLRC*,[36] we emphasized the indispensability of the reportorial requirement:

> Moreover, if private respondents were indeed employed as "project employees," petitioners should have submitted a report of termination to the nearest public employment office every time their employment was terminated due to completion of each construction project. The records show that they did not. Policy Instruction No. 20 is explicit that employers of project employees are exempted from the clearance requirement but not from the submission of termination report. We have consistently held that failure of the employer to file termination reports after every project completion proves that the employees are not project employees. Nowhere in the New Labor Code is it provided that the reportorial requirement is dispensed with. The fact is that Department Order No. 19 superseding Policy Instruction No. 20 expressly provides that the report of termination is one of the indicators of project employment.[37]

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[36] G.R. No. 116781, September 5, 1997, 278 SCRA 716.

[37] *Id.* at 729-730.

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A regular employee dismissed for a cause other than the just or authorized causes provided by law is illegally dismissed

Petitioner's regular employment was terminated by PNCC due to contract expiration or project completion, which are both not among the just or authorized causes provided in the Labor Code, as amended, for dismissing a regular employee. Thus, petitioner was illegally dismissed.

Article 279 of the Labor Code, as amended, provides that an illegally dismissed employee is entitled to reinstatement, full back wages, inclusive of allowances, and to his other benefits or their monetary equivalent from the time his compensation was withheld from him up to the time of his actual reinstatement.

We agree with petitioner that there was no basis for the Labor Arbiter's finding of strained relations and order of separation pay in lieu of reinstatement. This was neither alleged nor proved. Moreover, it has long been settled that the doctrine of strained relations should be strictly applied so as not to deprive an illegally dismissed employee of his right to reinstatement. As held in *Globe-Mackay Cable and Radio Corporation v. NLRC*:[38]

> Obviously, the principle of "strained relations" cannot be applied indiscriminately. Otherwise, reinstatement can never be possible simply because some hostility is invariably engendered between the parties as a result of litigation. That is human nature.
>
> Besides, no strained relations should arise from a valid and legal act of asserting one's right; otherwise an employee who shall assert his right could be easily separated from the service, by merely paying his separation pay on the pretext that his relationship with his employer had already become strained.[39]

As to the back wages due petitioner, there is likewise no basis in deducting therefrom back wages equivalent to six months

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[38] G.R. No. 82511, March 3, 1992, 206 SCRA 701.

[39] *Id.* at 712.

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"representing the maximum period of confinement [PNCC] can require him to undergo medical treatment." Besides, petitioner was not dismissed on the ground of disease but expiration of term of project employment.

Regarding moral and exemplary damages, this Court rules that petitioner is not entitled to them. Worth reiterating is the rule that moral damages are recoverable where the dismissal of the employee was attended by bad faith or fraud or constituted an act oppressive to labor, or was done in a manner contrary to morals, good customs, or public policy. Likewise, exemplary damages may be awarded if the dismissal was effected in a wanton, oppressive or malevolent manner.[40] Apart from his allegations, petitioner did not present any evidence to prove that his dismissal was attended with bad faith or was done oppressively.

Petitioner is also entitled to attorney's fees in the amount of ten percent (10%) of his total monetary award, having been forced to litigate in order to seek redress of his grievances, as provided in Article 111 of the Labor Code, as amended, and following this Court's pronouncement in *Exodus International Construction Corporation v. Biscocho*.[41]

In line with current jurisprudence, the award of back wages shall earn legal interest at the rate of six percent (6%) per annum from the date of petitioner's dismissal until the finality of this decision.[42] Thereafter, it shall earn 12% legal interest until fully paid[43] in accordance with the guidelines in *Eastern Shipping Lines, Inc. v. Court of Appeals*.[44]

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[40] *Triple Eight Integrated Services, Inc. v. NLRC,* 359 Phil. 955, 970-971 (1998).

[41] G.R. No. 166109, February 23, 2011, 644 SCRA 76, 91.

[42] *Torres v. Rural Bank of San Juan, Inc.*, G.R. No. 184520, March 13, 2013, p. 14, citing *Aliling v. Feliciano,* G.R. No. 185829, April 25, 2012, 671 SCRA 186, 221.

[43] *Id.*, citing *Session Delights Ice Cream and Fast Foods v. Court of Appeals (Sixth Division)*, G.R. No. 172149, February 8, 2010, 612 SCRA 10, 26-27.

[44] G.R. No. 97412, July 12, 1994, 234 SCRA 78, 95-97.

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WHEREFORE, the petition is **GRANTED.** The assailed March 26, 2010 Decision and May 26, 2010 Resolution of the Court of Appeals in CA-G.R. SP No. 107805 are hereby **REVERSED.** The decision of the Labor Arbiter is hereby **REINSTATED** with the following **MODIFICATIONS:**

1) respondent PNCC is **DIRECTED** to pay petitioner Roy D. Pasos **full back wages** from the time of his illegal dismissal on October 19, 2000 up to the finality of this Decision, with interest at 6% per annum, and 12% legal interest thereafter until fully paid;

2) respondent PNCC is **ORDERED** to reinstate petitioner Pasos to his former position or to a substantially equivalent one, without loss of seniority rights and other benefits attendant to the position; and

3) respondent PNCC is **DIRECTED** to pay petitioner Pasos attorney's fees equivalent to 10% of his total monetary award.

No pronouncement as to costs.

SO ORDERED.

Sereno, C.J. (Chairperson), Leonardo-de Castro, Bersamin, and *Reyes, JJ.*, concur.

SECOND DIVISION

[G.R. No. 197360. July 3, 2013]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **RONALD CREDO A.K.A. "ONTOG," RANDY CREDO and ROLANDO CREDO *Y* SAN BUENAVENTURA,** *accused-appellants.*