



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 3, 2021** which reads as follows:*

**“G.R. No. 253498 – (A & B Liner, Inc., represented by Maria Victoria Mandigma, Petitioner, v. Benito Dote Antig, Respondent).** – The petitioner’s motion for an extension of thirty (30) days within which to file a petition for review on certiorari is **GRANTED**, counted from the expiration of the reglementary period.

After a review of the records, the Court resolves to **DENY** the petition for failure to sufficiently show that the Court of Appeals (CA) committed any reversible error in its Decision dated 30 August 2019 and Resolution dated 29 June 2020, as to warrant the exercise of the Court’s appellate jurisdiction.

All three (3) tribunals found that respondent was validly temporarily laid off from work for a period of six (6) months, *i.e.*, from 07 September 2015 to 07 March 2016, as the bus he was assigned was undergoing repairs. However, six (6) months had lapsed and respondent was still not allowed to resume his work; thus, he is deemed constructively dismissed.<sup>1</sup> To be sure, respondent could not have abandoned his employment with petitioner bus company, for abandonment is incompatible with constructive dismissal.<sup>2</sup>

Respondent was correctly adjudged to be entitled to reinstatement, without loss of seniority rights and other privileges, in addition to full backwages, inclusive of allowances and benefits computed from the time compensation was withheld up to the date of

- over – three (3) pages ...

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<sup>1</sup> Rollo, pp. 76, 132, and 178.

<sup>2</sup> *Seventh Fleet Security Services, Inc. v. Loque*, G.R. No. 230005, 22 January 2020 [Per J. Caguioa].


actual reinstatement, pursuant to Article 294 of the Labor Code.<sup>3</sup> In the event, however, that reinstatement is not possible, the award of separation pay at the rate of one (1) month for every year of service is proper.<sup>4</sup> The award of moral damages, exemplary damages, and attorney's fees is fully justified. Pursuant, however, to prevailing jurisprudence, a legal interest at the rate of six percent (6%) *per annum* should be imposed upon the monetary awards granted in favor of respondent from finality of the NLRC's Decision dated 27 October 2016 until full payment.<sup>5</sup>

**WHEREFORE**, the Decision dated 30 August 2019 and Resolution dated 29 June 2020 of the Court of Appeals in CA-G.R. SP No. 149844 are **AFFIRMED** with **MODIFICATION** that all amounts awarded shall be subject to interest of six percent (6%) *per annum* from the date of finality of the NLRC's Decision dated 27 October 2016 until fully paid.

The motion to admit the thereto attached petition for review on certiorari, filed by Atty. Claudette C. Tolentino of A.C. Tolentino-Ocampo Law Office, counsel for petitioner, is **NOTED**; and the National Labor and Relations Commission is hereby **DROPPED** as party respondent in this case pursuant to Sec. 4, Rule 45, 1997 Rules of Civil Procedure, as amended.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *mclm*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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<sup>3</sup> *Alaska Milk Corp. v. Paez*, G.R. Nos. 237277 & 237317, 27 November 2019 [Per J. A.B. Reyes, Jr.]; *Divine Word College of Laoag v. Mina*, G.R. No. 195155, 13 April 2016, 784 Phil. 546 (2016) [Per J. Reyes].

<sup>4</sup> *Marina's Creation Enterprises v. Ancheta*, G.R. No. 218333, 07 December 2016, 802 Phil. 790 (2016) [Per J. Carpio]; *Malcaba v. ProHealth Pharma Philippines, Inc.*, G.R. No. 209085, 06 June 2018 [Per J. Leonen].

<sup>5</sup> *Skyway O & M Corp. v. Reinante*, G.R. No. 222233, 28 August 2019 [Per J. Inting].



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(CA-G.R. SP No. 149844)

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(NLRC NCR Case No. 06-07448-16)

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