

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
THIRD DIVISION**

**TEKNIKA SKILLS AND TRADE  
SERVICES, INC.,**

*Petitioner,*

*-versus-*

**G.R. No. 100399  
August 4, 1992**

**NATIONAL LABOR RELATIONS  
COMMISSION, HONORABLE  
ADMINISTRATOR OF THE  
PHILIPPINE OVERSEAS  
EMPLOYMENT ADMINISTRATION  
(POEA) and ROSANNA DE LEON,**

*Respondents.*

X-----X

**DECISION**

**DAVIDE, JR., J.:**

This is a Special Civil Action for *Certiorari* under Rule 65 of the Rules of Court to set aside, for having been rendered with grave abuse of discretion, the Decision<sup>[1]</sup> dated 8 April 1991 and the Resolution, dated 5 June 1991, denying a motion to reconsider the same, of

respondent National Labor Relations Commission (NLRC), Second Division, in NLRC-NCR-CA-No. 000273.<sup>[2]</sup> The decision affirmed, with modification, the 28 March 1990 ruling of the respondent Philippine Overseas Employment Administration (POEA) in POEA Case No. (L) 88-04-309<sup>[3]</sup> in favor of complainant (now private respondent), the dispositive portion of which reads:

“PREMISES CONSIDERED, decision is hereby rendered ordering respondents, jointly and severally, to pay complainant through this Office, in Philippine currency at the rate prevailing at the time of payment:

US\$600 less SR581 — representing earned salary for two months at US\$300;

US\$6,600.00 — representing salary for unexpired portion of the contract per TEP.

SO ORDERED.”

The modification consists of the change of the time for reckoning the rate of exchange from “time of payment” to “time the complainant’s cause of action accrued or at the time she was allegedly dismissed on April 5, 1988.”

The factual and procedural antecedents in this case are summarized in the challenged decision of the NLRC, to wit:

“Complainant Rosanna de Leon applied as a nursing aide with herein respondent Teknika Skills and Trade Services. On 10 February 1988, she was deployed to Saudi Arabia by respondent as a janitress with a salary rate of US\$300.00 a month. Upon reaching Riyadh in Saudi Arabia she was met by an Indian National. She was later conducted to her final destination in Jeddah, Saudi Arabia where she worked as a baby sitter at a “social nursery” or a kind of orphanage. After working for one (1) month complainant was paid only Five Hundred Eighty-One (SR 581.00) Rials. After barely two (2) months of service, complainant’s employment was terminated by respondent’s

foreign principal. She left Jeddah and arrived in the Philippines on 5 April 1988.

Aggrieved, she filed the instant complaint on 15 April 1988.

Complainant claims that after working for one (1) month she was paid only SR581.00 far below her contracted salary rate of US\$300.00 which compelled her to demand from the Arab Officer of the orphanage that her salary be raised to Three Hundred dollars (US\$300.00) pursuant to her contract of employment. Shortly, thereafter, complainant alleges that a certain Mr. Ali told her to pack-up her things and sign a resignation paper otherwise she will be sent to jail. Fearing just that, she was forced to do so and was thereby dismissed from the service without any just and valid cause in violation of law and the provisions of her contract of employment.

In defense, respondent counters that the dismissal was for cause; that complainant, albeit single, as represented by her was found positive of Morning Urine Pregnancy Test conducted in Riyadh (p. 30, Records), a violation of Saudi Arabia's strict code on chastity, considered a valid ground for the termination of her contract; and that the SR 581.00 approximately US \$155 was not given to her as a salary, but merely served as her allowance to cover her personal needs during her stay in Saudi Arabia. Respondent contends that complainant has no cause of action against it and therefore prays for the dismissal of the instant case for lack of merit.

The Administrator below found for complainant expounding that respondent's contentions were not duly substantiated and stating:

“The best evidence could have easily been a copy of the subject medical certificate and the memorandum to complainant of the company's decision on her health condition. The position paper or answer is empty of documents worth considering for evidentiary purposes.”

The POEA further concluded that:

“Besides, if it is true that complainant was found positive for pregnancy in Riyadh, she would not have been directed to proceed to Jeddah. She could have been sent back right from Riyadh. Her stay in Jeddah for nearly two months belies respondent’s allegation that she was told to stop working. She ought not to have started any work if it was really true that she was found pregnant in Riyadh.”

In ruling that complainant was illegally dismissed, the POEA held:

“The 1-month notice requirement is true to (sic) all workers, regular or probationary, as the law does not distinguish. Respondent failed to prove it notified complainant of her would be (sic) termination.”

From the POEA’s decision, the dispositive portion of which was quoted earlier, petitioner appealed to the NLRC.

It was only during the pendency of this appeal that petitioner submitted to the NLRC a document purporting to be a copy of the alleged pregnancy test result, a xerox copy of which is attached to the instant petition as Annex “E”.<sup>[4]</sup>

In its decision promulgated on 8 April 1991, respondent NLRC dismissed the appeal but modified the decision of the POEA; it held that:

“Nevertheless, We find that not only was the pregnancy test result submitted for the first time on appeal, which We can not consider without transgressing upon complainant’s right to due process of law, but that a cursory perusal thereof indicates that the same was conducted in Jeddah, Saudi Arabia contrary to respondent’s previous allegation that the same was conducted in Riyadh leading us to safely presume that the same was secured as an afterthought to support an otherwise illegal dismissal. It must be pointed out that respondent knew of the existence of the case at bar, since the initial conference hereon on 10 May 1988 and the document in question was submitted in evidence only on 30 April 1990 or only after the lapse of more

or less two (2) years. Considering the active business of respondent in Saudi Arabia and considering further the communication facilities obtaining at present, it would not have been difficult for respondent to secure the said document, had the same been actually existing prior to complainant's dismissal from the service on 5 April 1988.

Respondent's assertion that complainant admitted below of having been pregnant and of having subjected herself to abortion (sic) is not supported by the minutes of the proceedings below.

Furthermore, suffice it for us to stress, that respondent must have by requirements of existing rules subjected complainant to medical examination before deploying her abroad. Were it true that complainant was actually pregnant before her departure for Saudi Arabia, then it follows that respondent did not in full conformity with existing rules subject complainant to the required medical examination. If respondent had deployed her abroad under such condition (sic) then it has only itself to blame."

Hence, the instant petition which was given due course by this Court after the public respondents, through the Office of the Solicitor General, and the private respondent separately filed their Comments thereto and the petitioner filed a Reply to each.

The parties thereafter submitted their respective Memoranda.

The issue raised in this petition is whether or not grave abuse of discretion amounting to lack or excess of jurisdiction was committed by: (a) the respondent NLRC in issuing the challenged decision and resolution, and (b) the respondent POEA in issuing its decision of 28 March 1990. The petitioner holds the affirmative view and contends that the finding that private respondent was illegally terminated is contrary to the documentary evidence — the pregnancy test report — improperly rejected by the NLRC, and the private respondent's own admission. It is likewise averred that the monetary award is unconscionable and unwarranted because it is not prayed for; and, even granting for the sake of argument that private respondent was

illegally dismissed, she would only be entitled to separation pay equivalent to one (1) month's salary.

We decide against the petitioner.

The so-called photocopy of the pregnancy test result was properly rejected by the NLRC. It was presented for the first time during the pendency of the appeal before the NLRC. While the complaint was filed by private respondent on 15 April 1988, petitioner submitted the said photocopy only on 30 April 1990, more than two (2) years later. On the assumption that indeed such a test was conducted, nothing, save for inexcusable negligence, could justify such unreasonable delay in obtaining the said photocopy. For, as observed by the respondent NLRC, considering the petitioner's active business in Saudi Arabia and the communication facilities at its disposal, it would not have been difficult to secure the document had the same actually existed prior to the private respondent's dismissal on 5 April 1988. The more compelling reason, however, for the exclusion of the photocopy is the fact that contrary to petitioner's representation in the petition that it is in possession of the medical report, a copy of which is appended to the petition as Annex "E",<sup>[5]</sup> what it really has is an alleged "true copy of the original" certified by someone purporting to represent the Arabian Gulf Co. (the foreign employer); this person is neither identified by name nor identifiable by the illegible signature. An examination of Annex "E" of the petition further reveals that the same is merely a true copy of an alleged "Morning Urine For Pregnancy Test" of the Laboratory Department of the Dr. Hassan A. Ghazzawi Polyclinic of Jeddah, Saudi Arabia purportedly signed by one Dr. Mohanty, M.D. and dated 8 March 1988. Clearly therefore, the petitioner is guilty of misrepresentation by making it appear that it obtained the actual medical report and annexed a copy of the same to the petition. Assuming, arguendo, that Annex "E" is an accurate true copy, such is nevertheless inadmissible in evidence because it is hearsay; the private respondent had no chance to cross-examine the persons who procured it, certified that the document is a true copy, prepared the true copy itself, and, more importantly, the person who purportedly examined the morning urine. It is a mere scrap of paper.

Besides, it has not been shown by petitioner that a negative result in a pregnancy test was a prerequisite for employment or that if the

private respondent would get pregnant, her employment would be terminated. Neither was it proven that the latter misrepresented that she was not pregnant at the time and that such misrepresentation, if it existed, amounted to fraud which induced the petitioner or its foreign principal to hire her, thereby giving them the right to have the employment contract annulled pursuant to Article 1330, in relation to Article 1338, of the Civil Code. No fraud could have been committed by private respondent because firstly, she was not warned that pregnancy is a ground for the rejection of her application or annulment of her contract of employment; she was not even asked if she was pregnant. Secondly, under the Rules of the POEA existing at the time private respondent applied for employment and departed for Saudi Arabia, a thorough medical examination, which could easily belie any disclaimer of pregnancy, was required; it devolved upon the petitioner to have the private respondent examined only by accredited medical clinics or hospitals.<sup>[6]</sup> The pregnancy then could not have been a valid basis for unilaterally revoking the contract before its expiry date.

Neither is there any reversible error in the monetary awards. The principal cause of action in private respondent's complaint is breach of contract of employment for a definite period. Having established her case, which public respondents correctly sustained, she is entitled to the salary corresponding to the unexpired portion of her contract.<sup>[7]</sup> This is not a simple case of illegal dismissal of an employee whose employment is without a definite period. Hence, there is no merit in petitioner's claim that only separation pay equivalent to one (1) month's salary for every year of service should be awarded. Petitioner, as the recruiter and agent of the foreign employer, is solidarily liable with the latter for such breach and for the corresponding award. Section 1, Rule II, Book II of the POEA Rules and Regulations then in force provided:

“SECTION 1. Requirements for Issuance of License and Authority. — Every applicant for license or authority to operate a private employment agency, recruitment entity or manning agency shall submit a written application together with the following requirements:

d. A verified undertaking stating that the applicant:

X X X

3) shall assume joint and solidary liability with the employer for all claims and liabilities which may arise in connection with the implementation of the contract of employment;

X X X

This Court takes this opportunity to stress the need for strict enforcement of the law and the rules and regulations governing Filipino contract workers abroad. Many hapless citizens of this country who have sought foreign employment to earn a few dollars to ensure for their families a life worthy of human dignity and provide proper education and a decent future for their children have found themselves enslaved by foreign masters, harassed or abused and deprived of their employment for the slightest cause. No one should be made to unjustly profit from their suffering. Hence, recruiting agencies must not only faithfully comply with Government-prescribed responsibilities; they must impose upon themselves the duty, borne out of a social conscience, to help citizens of this country sent abroad to work for foreign principals. They must keep in mind that this country is not exporting slaves but human beings, and, above all, fellow Filipinos seeking merely to improve their lives.

**WHEREFORE**, for lack of merit, the instant Petition is **DISMISSED** with costs against petitioner.

**SO ORDERED.**

**Gutierrez, Jr., Feleciano, Bidin and Romero, JJ., concur.**

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[1] Annex "A" of Petition; Rollo, 20-28.

[2] 2. Entitled Rosanna L. de Leon, Complainant-Appellee, vs. Teknika Skills and Trade Services, Inc., Respondent-Appellant.

[3] Annex "C", Petition, op. cit.; Rollo, op. cit., 30-35.

[4] Rollo, 37.

[5] Rollo, 37.

[6] Sections 1, 3 and 10, Rule IV, Book VII, POEA Rules and Regulations.

[7] Wallem Phil. Shipping, Inc. vs. Minister of Labor, 102 SCRA 835 [1981]. See also Logan vs. Philippine Acetylene Co., 33 Phil. 177 [1916]; Knust vs. Morse, 41 Phil. 184 [1920].

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