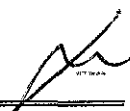


10 JUL -6 P. 33

SENATE

Senate Bill No. 434

RECEIVED



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INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

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EXPLANATORY NOTE

In the case of *St. Martin Funeral Homes vs. NLRC*, dated September 6, 1998, the Supreme Court came out with a ruling that from then on, "judicial review" over decisions of the NLRC shall first be lodged before the Court of Appeals. Consequently, the mandate of providing speedy labor justice was thereby negated particularly to the lowly workers who could ill afford a protracted, costly and frustrating litigation before another level of appellate body. This additional layer of appeal affects the whole workforce in the country, including the overseas contract workers, agricultural workers and domestic helpers.

While the obvious purpose of the Supreme Court was to declog its docket, such ruling was clearly a case of "**judicial legislation**" since the Court itself acknowledged in the same aforementioned case that:

"In fine, Congress did intend to provide for judicial review of the adjudications of the NLRC in labor cases by the Supreme Court, but there was an inaccuracy in the term used for the intended mode of review. x x x.

Thus, this bill now intends to CLEARLY put into law the accurate "**intended mode of review**" of the NLRC decisions **directly** to the Supreme Court via **Petition for Certiorari** under Rule 65 of the Rules of Court.

For enacting the Labor Code as special social legislation, it is the intent of Congress to afford speedy labor justice to the party-litigants. Thus, under Article 223 thereof, the law provides that decisions of the Labor Arbiters, who act as labor judges, are appealable to the National Labor Relations Commission and that: "**The decisions of the Commission shall be final and executory after ten (10) calendar days from receipt thereof by the parties**". Clearly, Congress has intended not to allow any further **appeal** from the decision of the Commission.

However, considering the **constitutional review power** of the Supreme Court over all decisions of the regular courts and quasi-judicial bodies, such as the NLRC, it has long been the practice by the Supreme Court to entertain petitions filed by the aggrieved parties in **labor cases** via **Petition** for Certiorari.

This practice is pursuant to paragraph three (3), Section 9 of B.P. 129, reiterated in R.A. 7902, which specifically **except** the decisions of the National

Labor Relations Commission from the **appellate jurisdiction** of the Court of Appeals.

It is therefore clear that the Legislature has intended not to provide for an appeal from the decisions of the Commission. However, an aggrieved party may still avail of the ***Petition for Certiorari*** on questions of law and/or jurisdiction by filing the same directly with the Supreme Court under Rule 65 of the Rules of Court as practiced before the St. Martin ruling. This is what this bill intends to put into law.

For these reasons, approval of this bill is urgently sought.

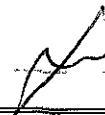
  
JINGGOY EJERCITO ESTRADA  
Senator

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SENATE

Senate Bill No. 434

RECEIVED BY



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INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

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**AN ACT**  
**PROVIDING FOR RELIEF FROM AND EXECUTION OF FINAL DECISIONS**  
**AND AWARDS OF THE NATIONAL LABOR RELATIONS COMMISSION AND**  
**THE LABOR ARBITERS THEREBY AMENDING FOR THIS PURPOSE**  
**ARTICLES 223 AND 224 OF P.D. 442, AS AMENDED OTHERWISE KNOWN**  
**AS THE LABOR CODE.**

*Be enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:*

**SECTION 1.** Article 223 of the Labor Code, as amended, is hereby further amended to read as follows:

"ARTICLE 223 Appeal. - Decisions, awards, or orders of the Labor Arbiter are final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards or orders.

**NO APPEAL OR PETITION FROM THE DECISIONS, AWARDS OR ORDERS OF THE LABOR ARBITER SHALL BE ENTERTAINED BY ANY COURT OR AGENCY, EXCEPT BY THE COMMISSION.** Such appeal OR PETITION may be entertained only on any of the following grounds:

- (a) If there is prima facie evidence of abuse of discretion on the part of the Labor Arbiter;
- (b) If the decision, order or award was secured through fraud or coercion, including graft and corruption;
- (c) If made purely on questions of law; and
- (d) If serious errors in the findings of facts are raised which would cause grave or irreparable damage or injury to the appellant.

In case of judgment involving 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.

In any event, the decision of the Labor Arbiter reinstating a dismissed or separated employee insofar as the reinstatement aspect is concerned, shall immediately be executory, even pending appeal. The employee shall either be admitted back to work under the same terms and conditions prevailing prior to his dismissal or separation or, at the option of the employer, merely reinstated in the payroll.

**IN CASE THE EMPLOYER SHALL OPT FOR PAYROLL REINSTATEMENT, THE DISMISSED EMPLOYEE SHALL BE PAID HIS SALARIES OR WAGES AND OTHER BENEFITS DURING THE PENDENCY OF THE APPEAL IN THE COMMISSION.** The posting of a bond by the employer shall not stay the execution of the reinstatement provided herein.

"To discourage frivolous or dilatory appeals, the Commission or the Labor Arbiter shall impose reasonable penalty, including fines or censures, upon the erring parties

"In all cases, the appellant shall furnish a copy of the memorandum of appeal to the other party who shall file an answer not later than ten (10) calendar days from receipt hereof.

The Commission shall decide all cases within [twenty (20)] **THIRTY (30)** calendar days from receipt of the answer of the appellee.

The decision of the Commission shall be final and executory after ten (10) calendar days from receipt thereof by the parties. **IN CASE A MOTION FOR RECONSIDERATION IS FILED, THE DECISION SHALL BE EXECUTORY AFTER TEN (10) CALENDAR DAYS FROM RECEIPT OF THE RESOLUTION OF SUCH MOTION.**

"Any law enforcement agency may be deputized by the Secretary of Labor and Employment or the Commission in the enforcement of decisions, awards, or orders."

**SEC. 2.** Article 224 of Presidential Decree No. 442, as amended. Is hereby further amended to read as follows:

"ART. 224. Execution of Decisions, Orders, or Awards. –

**"(A) DECISIONS, RESOLUTIONS OR AWARDS OF THE COMMISSION SHALL BE REVIEWABLE ONLY BY THE SUPREME COURT ON CERTIORARI UNDER RULE 65 OF THE RULES OF COURT SOLELY ON QUESTIONS OF LAW OR JURISDICTION IN THE EXERCISE OF ITS POWERS UNDER PARAGRAPH (1) SECTION 5, ARTICLE VIII OF THE CONSTITUTION.**

"[(a)] **(B)** The Secretary of Labor and Employment or any Regional Director, the Commission or any Labor Arbiter, or Med-Arbiter or Voluntary Arbitrators may, *motu proprio* or on motion of any interested party, issue a writ of execution on a judgment within five (5) years from the date it becomes final and executory, requiring a sheriff or a duly deputized officer to execute or enforce final decisions, orders or awards of the Secretary of Labor and Employment or Regional Director, the Commission, the Labor Arbiter or Med- Arbiter, or Voluntary Arbiter or panel of Voluntary Arbitrators. In any case, it shall be the duty of the responsible officer to

separately furnish immediately the counsels-of-record and the parties with copies of said decisions, orders or awards. Failure to comply with the duty prescribed herein shall subject such responsible officer to appropriate administrative sanctions.

"[(b)] (C) The Secretary of Labor and Employment, and the Chairman of the Commission may designate special sheriffs and take any measure under existing laws to ensure compliance with their decisions, orders or awards and those of Labor Arbiters and Voluntary Arbitrators or panel of Voluntary Arbitrators, including the imposition of administrative fines which shall not be less than five hundred pesos (P500.00) nor more than ten thousand pesos (P10,000.00)"

**SEC. 3.** If any provision of this Act is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions hereof.

**SEC. 4.** All laws, executive orders, presidential decrees, presidential proclamations, rules and regulations or any part thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

**SEC. 5.** This Act shall take effect fifteen (15) days after its complete Publication in the *Official Gazette* or in at least two newspapers of national circulation.

*Approved,*