THE NATIONAL LABOR RELATIONS COMMISSION AND THE LABOR CODE*

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INTRODUCTION

One of the most significant and forward-looking measures enacted by President Ferdinand E. Marcos to implement the spirit of reform in the New Society, and the constitutional mandate that the State shall regulate the relations between workers and employers and that the right of the workers to self-organization, collective bargaining, security of tenure and just and humane conditions of work shall be safeguarded, is the Labor Code[1] of the Philippines adopted last May 1st, 1974. Among its salient features is the amalgamation of mandatory voluntary arbitration and compulsory arbitration as systems of settlement of disputes arising between workers and employers. These were earlier embodied in Presidential Decree No. 21[2] as temporary measures to govern and regulate the relations between workers and employers following the declaration of Martial Law last September 21, 1972 and the consequent promulgation of General Order No. 5.[3] These procedures are in addition to two (2) other established modes of resolving labor disputes namely, mandatory grievance procedure as embodied in collective bargaining agreements and conciliation and mediation provided for in Book V of the Code.

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**_Commissioner_, National Labor Relations Commission.

[1]Pres. Decree No. 442 (1974), 70 O.G. 5021 (June, 1974), hereinafter referred to as the LABOR CODE.

[2]Promulgated on October 14, 1972, 68 O.G. 8294-F (Oct., 1972), it created the *Ad Hoc* National Labor Relations Commission composed of Three (3) Members with the Undersecretary of Labor as Chairman and the Director of Labor Standards and the Director of Labor Relations as members.

[3]Took effect on September 22, 1972, 68 O.G. 7781 (Oct., 1972). It prohibited the staging of rallies, demonstrations and other forms of group actions by persons within the geographical limits of the Philippines including strikes and picketing in vital industries such as companies engaged in the manufacturing or processing as well as in the distribution of fuel gas, gasoline and fuel or lubricating oil, in companies engaged in the production or processing of essential commodities or products for exports, and in companies engaged in banking of any kind, as well as hospitals and in schools and colleges.

Article 212 of the Labor Code establishes the National Labor Relations Commission to administer and enforce these systems of disputes settlement. This body took the place of the defunct Court of Industrial Relations and the *Ad Hoc* National Labor Relations Commission established under Presidential Decree No. 21.

Arbitration, whether voluntary or compulsory, as well as the grievance procedure provided for in collective bargaining agreements and conciliation and mediation are not new systems or institutions for the resolution of labor and industrial relations problems in the Philippines. Said modes of dispute settlements between workers and employers existed long before the New Society was launched by President Marcos in September 21, 1972.

From 1936 to 1952, the dominant labor relations policy of the Philippine Government was the system of compulsory arbitration. In 1953, the defunct Congress of the Philippines enacted the Industrial Peace Act[4] which instituted free collective bargaining as a system to govern the relations between workers and employers, save labor disputes in industries indispensable to the national interest. In other words, the power to set and fix terms and conditions of employment and to resolve labor disputes was removed from the government and placed in the hands of the workers and employers themselves through the process of collective bargaining accompanied by their respective rights to resort to economic sanctions, strike on the part of labor and lockout, on the other hand, for the employers.

Scholars and other keen observers of the compulsory arbitration years (1936-1952) as well as the era of free collective bargaining (1953-1972) have pointed out and rightly so, that both systems suffered from basic weaknesses. One such distinguished scholar is Dr. Cicero Calderon, who, in a paper entitled "ARBITRATION UNDER REPUBLIC ACT NO. 875 AND UNDER PRESIDENTIAL DECREE NO. 21" which was presented to the participants of the University of the Philippines Law Center Institute on the Aspects of the Philippine Labor Relations Law in May, 1973, advanced the following observations with regards to compulsory arbitration: "1) There was excessive dependence upon the Court of Industrial Relations for the settlement of all kinds of labor disputes; 2) This excessive dependence led to the clogging of the dockets of the said Court; 3) Labor disputes before the Court of Industrial Relations, with appeals to the Supreme Court, led to protracted, expensive, and exhausting litigations; 4) The policy did not lead to the development of a strong labor movement; we had unions, it has been said, but not a labor movement; 5) The system did not lead to sound industrial peace, since peace

[4]Rep. Act No. 875 (1953).

was achieved through compulsion of law and not on the basis of mutual consent."

With respect to the era of free collective bargaining, Dr. Calderon noted the following: "1) The lack of effective implementation or enforcement of collective bargaining agreements; 2) The quasi-judicial machinery for the resolution of representation and unfair labor practice was too cumbersome and seriously impaired the collective bargaining process; 3) The structure of the labor movement which evolved during the period from 1953 to 1972 was not conducive or did not lead to effective collective bargaining and to the speedy settlement of labor disputes."

THE AD-HOC NLRC

The *ad hoc* National Labor Relations Commission was created following the declaration of Martial Law and the consequent promulgation of General Order No. 5 as an emergency forum where disputes arising from employee-employer relations could be ventilated as a result of the suspension of the right of the workers to strike and picket in vital industries. Said Commission was conferred original and exclusive jurisdiction over all matters involving employer-employee relations including all disputes and grievances which may otherwise lead to strikes and lockout under Republic Act No. 875; all strikes overtaken by Proclamation No. 1081; and all pending cases in the Bureau of Labor Relations as of September 21, 1974.

Under the Implementing Rules and Regulations promulgated by the *Ad Hoc* National Labor Relations Commission, the scope of its jurisdiction was expanded to include matters arising out of the provisions of Presidential Decree No. 21 itself, namely: (a) all dismissals, terminations, and shutdowns after Proclamation No. 1081 but prior to Presidential Decree No. 21; (b) all applications for clearance to shutdown, dismiss or layoff under Presidential Decree No. 21; and (c) all money claims cases.

Jurisdiction in the latter cases was interpreted to extend to money claims which accrued before the declaration of Martial law but which were not filed or pending before the courts at the time of the issuance of the proclamation. This interpretation was contained in a letter of the Chairman of the *Ad Hoc* Commission dated January 30, 1973, addressed to Mr. Ruben F. Santos, former Director of the Bureau of Labor Standards and Chairman of the Wage Commission. The letter reads as follows:

> "Please be informed that, before the advent of Martial Law, all money claims cases, including those for separation pay, were cognizable by the regular courts. However, with the issuance of Presidential Decree No. 21, dated

14 October 1972 vesting on this Commission original and exclusive jurisdiction over, among other cases, 'all matters involving employer-employee relations including all disputes and grievances which may otherwise lead to strikes and lockouts under Republic Act No. 875', such provision is to be interpreted to mean to include even separation pay and other money claims cases. Consequently, the jurisdiction of the regular courts over such cases before Presidential Decree No. 21 is now deemed to have been impliedly transferred to this Commission. The only possible exception would be a case of this nature already issued, such cases to remain for resolution with said court. This is so in the cases pending before the Court of Industrial Relations at the time of the Decree."

"The rationale behind the Presidential Decree No. 21 which was prepared by the Department of Labor, is to relieve the dockets of the regular court from labor cases and to expedite their disposition by consolidating the authority in one specialized forum, now the National Labor Relations Commission. This is also intended to avoid the splitting of the jurisdiction between this Commission and the regular courts. Please be guided accordingly."

Under the original Rules and Regulations of the *ad hoc* National Labor Relations Commission, the operative date was September 21, 1972, which meant that the *ad hoc* Commission could entertain labor disputes and other causes of action that arose only after, not before, that date. However, on February 6, 1973, Section 5(1) of its Rules and Regulations, was amended to read as follows:

"All matters involving employer-employee relations, including all disputes and grievances which would otherwise lead to strikes and lockouts under Republic Act No. 875, and irrespective of the date of accrual of action thereof, not pending in any court on September 21, 1972."

The *ad hoc* Commission, therefore, entertained cases of any nature involving employees or former employees and their employers no matter when the cause of action accrued as long as said action proceeded from or arose out of employer-employee relations and the case was not pending before any court. It should be noted that while the *ad hoc* National Labor Relations Commission took over the functions of the Court of Industrial Relations upon the promulgation of Presidential Decree No. 21 and proceeded to exercise and assume broader powers and jurisdiction, the CIR nevertheless continued to function and resolve disputes that were pending before it until October 31, 1974.

Complaints Arising From Employer-Employee Relations, Representation Election As Inter-Union And Intra-Union Conflicts

Any complaint, except those arising from the implementation or interpretation of collective bargaining agreements which shall be the subject

of mandatory grievance procedure[5] and/or voluntary arbitration,[6] should be filed with the appropriate Regional Office of the Department of Labor where the employer is located. The complaint may fall under any of the following categories: (a) unfair labor practice charge(s); (b) unresolved issue(s) in collective bargaining, including wages, hours of work and other terms and conditions of employment which are usually settled through collective bargaining; (c) money claims of workers, involving non-payment or underpayment of wages, overtime compensation, separation pay, maternity leave and other money claims arising from employee-employer relations, except claims for workmen's compensation, social security, medicare benefits and those involving Filipino seamen employed overseas; (d) violations of labor standard laws; (e) cases involving household services; (f) all other cases or matters arising from employee-employer relations, unless expressly excluded by the Labor Code; (g) petition for the holding of representation or certification election cases; and (h) any violation of the constitution and by-laws and the rights and conditions of membership in a labor organization.

The Regional Director upon receipt of the complaint, shall assign the case to a conciliator or med-arbiter of the Labor Relations Divisions of the Regional Office, who shall, within five (5) days, call the parties to a conciliation meeting. The conciliator or med-arbiter shall have fifteen (15) working days to determine the issues and effect amicable settlement. The deadline does not apply to deadlocks in collective bargaining where it is mandated by the Labor Code that all possible avenue of voluntary settlement must be exhausted by the parties.

If an amicable settlement is reached, the conciliator or med-arbiter shall submit his report to the Regional Director and the case is considered terminated. If the conciliation fails, the Regional Director of the Department of Labor shall certify the case for compulsory arbitration to the Executive Labor Arbiter of the appropriate Regional Branch of the National Labor Relations Commission,[7] where the employer is located, except representation or certification election cases,[8] and those involving violations of the constitution and by-laws and the rights and conditions of membership in a labor organization which are under the original and exclusive authority of the Labor Relations Divisions of the Regional Office of the Department of Labor and the Bureau of Labor Relations.[9]

The certification of the case must contain the names, identification

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[5]LABOR CODE, art. 261.
[6]LABOR CODE, art. 262.
[7]LABOR CODE, art. 227; NLRC RULES, Rule VI, sec. 1.
[8]LABOR CODE, art. 256.
[9]LABOR CODE, last paragraph of art. 241.

and addresses of the parties, as well as a summary of the issues involved, raised and disclosed, the issues settled, if any, and the remaining issues still to be resolved.[10]

Only after certification of the case will the National Labor Relations Commission, specifically its appropriate Regional Branch, assume jurisdiction over the dispute.[11]

VOLUNTARY ARBITRATION, CONCILIATION AND MEDIATION

Inasmuch as voluntary arbitration, conciliation and mediation are the order of the day, a few words about them are called for.

What is voluntary arbitration?

It is a process by which a dispute between individuals or organizations or between workers and employers is resolved by a third party without recourse to a court of law and the award, order or decision promulgated by the third party called the arbitrator has the force and effect of law. It is resorted to by agreement of the parties themselves when a conflict cannot be settled through direct negotiations. Labor arbitration, it has been said, is a continuation of the collective bargaining process with one key difference: The parties instead of trying to convince each other, present their respective positions and arguments to the arbitrator and expect him to render judgment that will provide a solution to their problem in a manner that will, in general, be in keeping with their variant needs and desires.

Is arbitration similar to or different from conciliation and mediation?

Arbitration is a formal method of settling conflicts between workers and employers. Its purpose is to secure an award, order or decision in the most expeditious manner and the decision of the arbitrator is be final and binding on the parties.

On the other hand, conciliation and mediation are less formal methods of resolving labor relations disputes. They consist in efforts also of a third party called the conciliator or mediator, who is not a party to the controversy, to promote amicable negotiations between the parties. The conciliator or mediator arranges meetings with each of the disputants in private, elicits in confidence the proposals or terms on which they could possibly settle as against the posture they publicly manifest and in the process resort to the masterful blending of persuasion and logic. Most cases of successful conciliation or mediation end with an amicable

[10]NLRC RULES, Rule VI, sec. 2.
[11]NLRC RULES, Rule VII, sec. 10.

settlement in which both parties yield what is considered lesser in value in exchange for what is more valuable under the prevailing circumstances. Other negotiations may lead to an agreement to submit the dispute to arbitration.

The conciliator is merely a bearer of messages from one party to another after the disputants have stopped communicating with one another. A mediator is also a bearer of messages but in addition he submits his own proposals for acceptance by the parties. In practice, however, there is no difference between a conciliator and a mediator. An arbitrator, on the other hand, is not a bearer of messages. Neither does he inject his own proposals nor is he involved in the bargaining process. He cannot meet privately with the parties. His principal task is not to effect a settlement between the disputants — but to make an award, order or decision based on the issues and the evidence presented to support the contention of both parties and which, hopefully, is in accord with the agreement that they should have arrived at had the dispute not reached arbitration. The authority of the arbitrator emanates from law and the agreement of the parties to submit their dispute to arbitration.

THE LABOR ARBITERS AND THE NLRC REGIONAL BRANCHES

The labor arbiters who actually serve as the NLRC trial judges, and who man the Regional Branches of the Commission, comprise the lower echelon of the dispute settlement machinery of the National Labor Relations Commission. It is to the Regional Branches that disputes arising between workers and employers in agricultural and non-agricultural establishments, except as expressly provided in the Labor Code, are certified for compulsory arbitration by the Regional Directors of the Department of Labor. However, in certain instances, as when injunction is recommended by the Regional Directors or the Bureau of Labor Relations, the case may be directly certified to the Commission, in accordance with its Rules.[12]

POWERS AND FUNCTIONS OF THE EXECUTIVE LABOR ARBITERS

The different Regional Branches of the Commission are headed by Executive Labor Arbiters. In addition to their regular duties as labor arbiters, they exercise supervision over all labor arbiters and employees, including compulsory arbitrators, in their respective regional jurisdiction;[13] distribute, preferably by raffle, or assign cases to the different labor ar-

[12]NLRC RULES, Rule XI, sec. 8.
[13]NLRC RULES, Rule VIII, sec. 1.

biters under their supervision;[14] require all labor arbiters to submit monthly reports of accomplishments and the status or progress of cases assigned to them;[15] keep and maintain in the Regional Branch a General Docket; a Book containing copies of Orders, Resolutions and Decisions issued by the labor arbiters and compulsory arbitrators;[16] prepare and issue, upon request of any person, certified of any paper, record, order, resolution, decision or entry on file in the Regional Branch;[17] determine and approve appeal bonds posted by parties appealing;[18] order the execution of the final judgment in cases resolved by the compulsory or voluntary arbitrators;[19] and approve the referral of cases to compulsory arbitrators.[20]

THE JURISDICTION OF LABOR ARBITERS

In general, labor arbiters have jurisdiction over all disputes involving workers and employers certified to them for compulsory arbitration by the Bureau of Labor Relations or by the Regional Directors of the Department of Labor.

Specifically, labor arbiters have exclusive jurisdiction to hear and decide:

(a) Unfair labor practice cases;

(b) Unresolved issues in collective bargaining, including wages, hours of work and other terms and conditions of employment which are usually settled through collective bargaining;

(c) All money claims of workers involving nonpayment or underpayment of wages, overtime compensation, separation pay, maternity leave and other money claims arising from employee-employer relations, except claims for workmen's compensation, social security and medicare benefits, as well as cases involving Filipino seamen employed in overseas shipping which are under the exclusive jurisdiction of the National Seamen Board;[21]

(d) Violations of labor standards laws;

(e) Cases involving household services;

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[14]NLRC RULES, Rule VIII, sec. 2.
[15]NLRC RULES, Rule VIII, sec. 5.
[16]NLRC RULES, Rule VIII, sec. 6.
[17]NLRC RULES, Rule VIII, sec. 7.
[18]NLRC RULES, Rule IX, sec. 2.
[19]NLRC RULES, Rule XIII, sec. 1.
[20]NLRC RULES, Rule XV, sec. 1.
[21]LABOR CODE, art. 38, par. (b).

(f) All other cases or matters arising from employee-employer relations unless expressly excluded by the Code;[22]

(g) Violations or non-compliance of any compromise settlement in a labor or industrial dispute, as well as of labor standards legislation effected with the assistance of the Bureau of Labor Relations or the Regional Office of the Department of Labor;[23] and

(h) Termination of employment by an employer in an establishment where there is no existing collective bargaining agreement and the same is opposed by the rank-and-file employee/worker concerned.[24]

Comparatively speaking, as can be gleaned from the foregoing, the jurisdiction of the national Labor Relations Commission is broader in scope and more clearly defined than the defunct Court of Industrial Relations. Thus, in the case of the Court of Industrial Relations there were conflicting and contradicting pronouncements by our Supreme Court regarding the scope of its authority and jurisdiction.[25] However, cases concerning representation and/or certification elections as well as inter-union disputes involving violations of constitution and by-laws and rights and conditions of membership in a labor organization which used to be under the jurisdiction of the Court of Industrial Relations and the *ad hoc* National Labor Relations Commission, are now within the competence of the Bureau of Labor Relations.

PROCEEDINGS BEFORE THE LABOR ARBITERS

Immediately upon receipt of the certification of any of the aforementioned types of labor or industrial dispute, the Executive Labor Arbiter shall furnish copies of the same to the parties and assign the case to a labor arbiter by raffle or otherwise. The labor arbiter shall, within two (2) working days notify or summon the parties specifying the date of hearing.[26] Upon receipt of such notice or summons by the parties any and all pleadings respecting the certified case shall be filed with the regional or sub-regional branch of the National Labor Relations Commission where such summons or notices emanated after serving the op-

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[22]LABOR CODE, art. 216; NLRC RULES, Rule VI, sec. 1.
[23]LABOR CODE, art. 226.
[24]LABOR CODE, art. 267, par. (b).
[25]Philippine Wood Products v. C.I.R., G.R. No. L-15279, June 30, 1961, 2 SCRA 744 (1961); Young Men Labor Union Stevedore v. C.I.R., G.R. No. L-20307, February 26, 1965, 13 SCRA 285 (1965); Centro Escolar University v. Wandaga, G.R. No. L-25826, April 3, 1968, 23 SCRA 11 (1968) and Luzon Stevedoring Company, Inc. v. Celorio, G.R. No. L-22542, July 31, 1968, 24 SCRA 521 (1968).
[26]NLRC RULES, Rule VII, sec. 1.

posing party or parties with a copy or copies thereof.[27] The parties shall be required to submit their respective position papers under oath, together with supporting proofs and/or the nature of the testimony of the witnesses to be presented.[28] It should be noted that failure to observe the periods prescribed in the Labor Code and the NLRC Rules in connection with the filing of pleadings shall be sufficient cause for the dismissal of the complaint or striking out of the pertinent pleading.[29]

The labor arbiter immediately after the disclosure of the positions of the parties and the nature of their supporting proof, shall determine if there is still a need for a formal hearing or investigation or whether the issue(s) or portions thereof should be referred to a compulsory arbitrator. At this stage, the labor arbiter, may at his discretion, elicit pertinent facts or information by questions or otherwise, directed to any party or witness. Such facts or information so elicited may serve as basis for his clarification, simplification and limitation of the issue(s) of the case certified, encouraging the submission by the parties of admissions and stipulations of facts in order to abbreviate proceedings.

If the labor arbiter finds no necessity for holding an investigation or formal hearing, he shall state the reason(s) for such course of action, and decide the case within fifteen (15) working days, unless this period is extended by the parties.[30]

Proceedings before the labor arbiters are non-litigious and summary in nature, without regard to the technicalities of law and procedure obtaining in courts of law.[31] Labor arbiters shall limit the presentation of evidence and testimonies to matters relevant to the cases pending before them. They may cross-examine the witnesses or ask questions on the issue(s), and may require the parties to submit affidavits and counter-affidavits to abbreviate proceedings.[32] A party need not be represented by counsel or representative but it shall be the duty of the labor arbiters to examine and cross-examine the witness presented in behalf of the parties and assist in the orderly presentation of evidence.[33]

Information and statements made at mediation and conciliation proceedings before the certification of the case to the labor arbiters shall be treated as privileged communication and shall not be used as evidence

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[27]NLRC RULES, Rule IV, sec. 2.
[28]NLRC RULES, Rule VII, sec. 2.
[29]NLRC RULES, Rule VII, sec. 6.
[30]NLRC RULES, Rule VII, sec. 3.
[31]NLRC RULES, Rule VII, sec. 4 and LABOR CODE, art. 220.
[32]NLRC RULES, Rule VII, sec. 6.
[33]NLRC RULES, Rule VII, sec. 7 and LABOR CODE, art. 221.

at any stage of the proceedings. Conciliators and similar officials shall not testify in any court or body regarding any matter taken at such mediation and conciliation proceedings.[34]

Motion to dismiss or incidental motions filed by any of the parties at any stage of the proceedings may be considered or disposed of by the labor arbiters *only* in the final determination of the case certified for compulsory arbitration and should not be allowed to interrupt or delay the proceedings. No motion for reconsideration of any award, order or decision of the labor arbiters shall be entertained unless in the nature of an appeal to the Commission.[35]

If a case is heard formally, the labor arbiter is required to render his decision within forty-five (45) working days from the date the case was first set for hearing unless the period is extended upon the agreement of the parties.

Labor arbiters shall, in every case certified and assigned to them, entertain only issues unresolved or unsettled by the Regional Office of the Department of Labor. They shall likewise not entertain any issue or issues not raised or disclosed before the appropriate officer in the Regional Office concerned.[36]

It is interesting to note in this connection, Section 11, Rule VII of the Rules of the National Labor Relations Commission, which requires labor arbiters, as a matter of duty and upon the request of the parties at any stage of the proceedings, to continue conciliation and mediation efforts in any case or dispute already subject to compulsory arbitration, with the aim in view of settling and disposing of the case with the least possible delay. Likewise, Section 9 of Rule XI of the Rules of the National Labor Relations Commission, imposes on the Commission as a duty at any time before a decision or resolution is rendered, upon request of the parties, to continue exhausting all efforts towards conciliation and mediation for the purpose of settling the dispute on appeal to the satisfaction of the parties.

The decision, order or award of labor arbiters shall contain a statement of facts of the case, the issues involved, his conclusions of law, the specific remedy granted including the computation of monetary liabilities, if any, and the reasons therefor.[37]

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[34]NLRC RULES, Rule VII, sec. 8 and LABOR CODE, art. 232.
[35]NLRC RULES, Rule VII, sec. 9.
[36]NLRC RULES, Rule VII, sec. 10.
[37]NLRC RULES, Rule VII, sec. 12.

REFERRAL OF CASES TO COMPULSORY ARBITRATORS

In the earlier discussion of the powers and authority of the Commission, it was pointed out that under Article 219 of the Labor Code, the National Labor Relations Commission or any labor arbiter is empowered to seek the assistance of other government officials and qualified private citizens to act as compulsory arbitrators.

In this connection, Section 5 of Rule VII of the National Labor Relations Commission Rules defines the purpose of such referrals. It states that, where, in the judgment of the labor arbiter, there is need for outside assistance for the just and speedy settlement of any dispute before him, he may, with the approval of the Executive Labor Arbiter, take any of the following measures regarding a particular case:

(a) Refer the entire case to a qualified compulsory arbitrator whenever a factual issue requires expert knowledge, opinion or assistance, or when dictated by geographical or similar considerations, but as far as practicable, the same procedure and periods governing Labor Arbiters shall be followed;

(b) Refer specific technical issues, matters or accounts to an expert and require him to submit a report to him thereon, which he shall accept as evidence after hearing the parties upon due notice; or

(c) Summon an expert or experts to give expert testimony on the technical matter at issue.

THE LAW, RULES AND PRACTICES GOVERNING VOLUNTARY ARBITRATION

In line with the policy of the State to encourage voluntary arbitration in all labor and industrial disputes,[38] any case certified or referred to labor arbiters and compulsory arbitrators may upon motion of the parties, be referred for voluntary arbitration at any time before submission of the case for decision.

Disputes, grievances, or other matters arising from the interpretation or implementation of a collective bargaining agreement[39] filed with or certified to the Commission or the labor arbiter shall be dismissed immediately and referred to the voluntary arbitrator named in the collective bargaining agreement or selected by the parties, for resolution.

The voluntary arbitrator named in the collective bargaining agreement or selected by the parties shall have exclusive and original juris-

[38]LABOR CODE, art. 210, par. (a).
[39]LABOR CODE, art. 261.

diction to settle or decide all disputes, grievances or matters submitted to them for decision or settlement after going through the grievance procedure.[40]

Voluntary arbitration awards, orders or decisions shall be final, unappealable and immediately executory except as provided for under Article 262 of the Labor Code and Section 5, Rule XVI of the National Labor Relations Commission Rules. Such orders, awards or decisions may be executed upon application of any interested party, filed with the Executive Labor Arbiter of the Regional Branch under whose jurisdiction the arbitration proceedings were held or conducted. The latter shall issue the corresponding writ of execution, requiring the sheriff, Philippine Constabulary or proper officer to execute said voluntary arbitration order, award, or decision.

It shall be the duty of the voluntary arbitrator to furnish a copy of his decision, order or award to the Executive Labor Arbiter of the appropriate Regional Branch of the Commission within forty-eight (48) hours from its promulgation.[41]

Save for the basic provisions of Articles 210, 261 and 262 of the Labor Code, Rule XVI of the National Labor Relations Commission Rules and the Rules Governing Voluntary Arbitration[42] of the Bureau of Labor Relations which define the basic policies and guidelines governing voluntary arbitration cases, the conduct and procedure to be observed by voluntary arbitrators in resolving the issue or issues involved will entirely depend on the submission agreement to be executed by the disputants.

APPEAL FROM DECISIONS, ORDERS, OR AWARDS OF LABOR ARBITERS, COMPULSORY ARBITRATORS AS WELL AS VOLUNTARY ARBITRATORS IN CERTAIN CASES

A party aggrieved by the decision, order or award of a labor arbiter or compulsory arbitrator may appeal to the Commission within ten (10) days fom receipt of the decision, order or award on the following grounds:

(a) If there is a *prima facie* evidence of abuse of discretion on the Labor Arbiter or Compulsory Arbitrator;
(b) If the decision, order or award was secured through fraud or coercion, including graft and corruption;

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[40]LABOR CODE, art. 262.

[41]NLRC RULES, Rule XVI, sec. 4. Rules Governing Voluntary Arbitration, sec. 6, which provides: "Three (3) copies of all formal pleadings and the awards in voluntary arbitration proceedings shall be filed by the parties thereto with the regional offices, one copy of which shall forthwith be sent to the Labor Counseling Division of the Bureau of Labor Relations."

[42]Promulgated September 24, 1975.

(c) If made purely on questions of law; and

(d) If serious errors in the findings of facts are raised which if not corrected would cause grave or irreparable damage or injury to the appellant.[43]

Voluntary arbitration awards, orders or decisions on money claims involving an amount exceeding one hundred thousand pesos (₱100,000.00) or forty per cent (40%) of the paid-up capital of the respondent employer, whichever is lower, may likewise be appealed to the Commission, but only on grounds of grave abuse of discretion or gross incompetence on the part of the voluntary arbitrator.[44]

The appeal shall be filed with labor arbiter of origin, or with the Executive Labor Arbiter of the appropriate Regional Branch in appeals from the decisions, orders or awards of compulsory or voluntary arbitrators within his Region, and must be in ten (10) legibly typewritten copies.[45]

In all cases appealed to the Commission, the party bringing the case shall be called the "Appellant" and the adverse party the "Appellee" but the title of the case shall remain as it was below.[46]

The party instituting an appeal from any decision, order or award of a Labor Arbiter to the National Labor Relations Commission shall pay a filing fee of twenty-five pesos (₱25.00) with the labor arbiter of origin, or with the Executive Labor Arbiter of the appropriate Regional Branch in appeals from decisions, orders or awards of compulsory or voluntary arbitrators within his Region, except in cases arising from monetary claims or deadlocks in collective bargaining negotiations involving amounts or expected economic benefits exceeding one hundred thousand pesos (₱100,000.00) where the minimum appeal fee shall be fifty pesos (₱50.00) plus a graduated rate of one peso (₱1.00) for each additional five thousand pesos (₱5,000.00) or fraction thereof in excess of one hundred thousand pesos (₱100,000.00). The total fee, however, shall not exceed two hundred pesos (₱200.00).

To stay the execution of any decision, order or award, the party appealing shall post an appeal bond to be determined and approved by the Executive Labor Arbiter of the Regional Branch of origin, unless countermanded or changed by the Chairman of the National Labor Re-

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[43]LABOR CODE, art. 222 and NLRC RULES, Rule IX, sec. 1.
[44]LABOR CODE, art. 262 and NLRC RULES, Rule IX, sec. 1 and Rule XVI, sec. 5.
[45]NLRC RULES, Rule IX, sec. 1, 2nd to the last par.
[46]NLRC RULES, Rule IX, sec. 1, last par.

lations Commission within one (1) week from such approval upon petition of any of the parties.[47]

The appeal shall be under oath and shall contain the memorandum on appeal of the appellant, stating therein specifically the grounds relied upon and the arguments in support thereof.

The appellant shall serve a copy of his appeal on the appellee, and the latter may file with the same labor arbiter of origin or with the Executive Labor Arbiter of the appropriate Regional Branch in appeals from decisions, orders or awards of compulsory or voluntary arbitators within his Region, his reply or answer thereto within ten (10) days from receipt thereof. Failure on the part of the appellee(s), who was/were properly furnished such copies of the appeal, to file his/their reply or answer within the reglementary period shall be construed as a waiver on his/their part to file the same.

The appeal shall be considered perfected upon its filing after payment of the required appeal fee.[48]

To discourage frivolous or dilatory appeals, the National Labor Relations Commission or Labor Arbiters may impose reasonable penalties, including *fines or censures* upon erring parties.[49]

THE NATIONAL LABOR RELATIONS COMMISSION

Institutionalized under Book V of the Labor Code, the National Labor Relations Commission which took over the functions of the defunct Court of Industrial Relations and the *ad hoc* National Labor Relations Commission organized under Presidential Decree No. 21, is the nerve center of the over-all government machinery for the speedy dispensation and enforcement of labor justice.

The National Labor Relations Commission, is under the administrative supervision of the Secretary of Labor,[50] unlike the defunct Court of Industrial Relations (CIR) which was under the executive supervision of the Department of Justice.[51] It functions as an intermediate, collegiate, appellate tripartite administrative tribunal, sitting either *en banc* in the per-

[47]NLRC RULES, Rule IX, sec. 2.
[48]NLRC RULES, Rule XI, sec. 3.
[49]LABOR CODE, art. 222, 2nd par. and NLRC RULES, Rule IX, sec. 5.
[50]LABOR CODE, art. 212.
[51]In the case of Ang Tibay v. C.I.R., 69 Phil. 635 (1940), the Supreme Court stated that the C.I.R. "is more an administrative board than a part of the integrated judicial system," but in the case of Metropolitan Transportation Service v. Paredes, 79 Phil. 819 (1948), the Supreme Court held that the C.I.R. "is a court of justice within the purview of Rule 2, Section 1, Rules of Court and again, in the case of Valerios v. Ardios, G.R. No. L-147-R, March 23, 1948, the C.I.R. on its part, held that "it is a court of equity."

formance of its deliberative policy-framing or rulemaking power and in the rendition of its regulatory, arbitral or adjudicatory duties on labor relations or in two (2) divisions if in the exercise only of the latter function.[52] It is composed of the Chairman, two (2) Commissioners representing the public sector, two (2) Commissioners representing the employees/workers sector, and two (2) Commissioners representing the employers/management sector. It resolves disputes arising between workers and employers in agricultural and non-agricultural establishments which can not be settled amicably through conciliation and mediation by the Labor Relations Division of the Regional Offices of the Department of Labor, and its decisions and resolutions are appealable to a higher appellate level, the Secretary of Labor. From the ruling of the Secretary of Labor, an aggrieved party may appeal further to the President of the Philippines, who is the ultimate administrative authority on labor and industrial disputes.

Being a relatively new office, the National Labor Relations Commission, together with its policy goals and functions, needs to be explained for better public understanding, acceptance and support. On these or the lack of the same may depend its success or failure as a dispenser of expeditious and effective labor justice and at the same time administrator of social justice.

Organized only last November 1, 1974, it has been beset by a host of administrative problems, including staffing difficulties and the setting-up of its eleven (11) Regional Branches. It also inherited a heavy backlog of about 7,000 cases from its predecessors, the now defunct Court of Industrial Relations and the *ad hoc* National Labor Relations Commission established under Presidential Decree No. 21.[53] The Commission has nevertheless succeeded in disposing of a fair number of cases in a few months.

At the apex, is the seven man Commission which functions either *en banc* or in two Divisions, each composed of one Commissioner representing the public who acts as the Presiding Commissioner and Division Chairman, one Commissioner representing the employees/workers sector, and one (1) Commissioner representing the employer/management sector.[54] The Commission resolves appeals pursued by one or both parties from the decisions, awards or orders of labor arbiters and compulsory arbitrators who are designated by the Commission or the labor arbiters from time to time as the circumstances may warrant.[55]

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[52]NLRC RULES, Rule XI, sec. 1.
[53]Took effect on October 14, 1972, 68 O.G. 8294-F (Oct., 1972).
[54]NLRC RULES, Rule XI, sec. 1.
[55]LABOR CODE, art. 216.

The Commission *en banc* is presided over by its Chairman in all its sessions. In his absence, sickness or incapacity, the Presiding Commissioner of the First Division, or in the absence, sickness or incapacity of the latter, the Presiding Commissioner of the Second Division shall temporarily act as Chairman of the Commission *en banc*.

The presence of a majority of all the Commissioners shall be necessary to constitute a quorum to deliberate on and decide any matter before it.

The vote or concurrence of a majority of the Commissioners constituting a quorum shall constitute the decision or resolution of the Commission *en banc*.

In the event of a tie, and no decision or resolution has been reached upon the expiration of the 20-working days deadline given the Commission to decide or resolve the merits of an appeal, after the absent Commissioner(s) shall have been given the chance to participate and vote, *the side in favor of which the Chairman of the Commission has cast his vote shall prevail and be deemed to be the decision or resolution of the Commission en banc.*[56]

With respect to the quorum and the voting in the two (2) divisions of the Commission, the presence of at least two (2) Commissioners of any division shall constitute a quorum in order to deliberate on and decide any case or matter before it. The vote or concurrence of at least two (2) Commissioners thereof shall have the same force and effect as a resolution or decision of the entire Commission itself.

In the event a division cannot muster such required majority, the Chairman of the Commission shall sit in that division to participate and vote, or he may designate any other Commissioner for said purpose.[57]

Should any Commissioner casting a dissenting vote indicate his intention to write an opinion, he may do so, provided that the same is filed within the 20-day period for deciding or resolving the appeal; otherwise, such written dissenting opinion shall not be considered as part of the records of the case.[58]

JURISDICTION OF THE COMMISSION

The National Labor Relations Commission under the Labor Code is invested with both original and exclusive jurisdiction and exclusive appellate jurisdiction.

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[56]NLRC RULES, Rule VI, sec. 3.
[57]NLRC RULES, Rule XI, sec. 2.
[58]NLRC RULES, Rule XI, sec. 4.

(a) *Original and Exclusive jurisdiction*

(1) Under Article 217(d), the Commission exercises original and exclusive jurisdiction over cases of direct contempt committed against the National Labor Relations Commission itself, its Chairman or any of its Commissioners.

(2) Under the last paragraph of the same article in relation to Rule 11, Section 8 of the NLRC, the National Labor Relations Commission is also vested with original and exclusive jurisdiction over all injunction proceedings, to enjoin any or all acts involving or arising from any case pending before it or a case directly certified by a Regional Director of the Department of Labor or the Bureau of Labor Relations to the Commission where injunction, preliminary or otherwise, is recommended, which if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social or economic stability.

In the latter case, upon receipt of such petition or certification, the Commission, sitting *en banc,* shall immediately determine whether there is an urgent necessity for the issuance of a preliminary writ of injunction pending hearing of the case on its merits and shall act accordingly. The determination or resolution to be made by the National Labor Relations Commission on this matter shall not be limited to the injunctive aspect but may likewise extend to the merits of the case certified by the Regional Office of the Department of Labor or by the Bureau of Labor Relations.[59]

The hearing or reception of evidence in cases or proceedings where the National Labor Relations Commission exercises original and exclusive jurisdiction may be delegated by the Chairman to any of the Commissioners or any of the Labor Arbiters. The latter shall terminate the said hearing or reception of evidence within five (5) working days from referral to him, after which he shall submit his Report on the same within three (3) days after such termination to the Commission for its action, decision or resolution in accordance with the Rules of the National Labor Relations Commission on appealed cases.[60]

(b) *Exclusive Appellate Jurisdiction*

(1) Article 216 of the Labor Code confers on the National Labor Relations Commission exclusive appellate jurisdiction over all cases decided by labor arbiters and compulsory arbitrators.

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[59]NLRC RULES, Rule XI, sec. 8.
[60]NLRC RULES, Rule XI, sec. 7.

(2) Under Article 262 and Section 5, Rule XVI of the Commission Rules, it shall likewise take cognizance of appeals from the decisions, orders or awards of voluntary arbitrators involving more than ₱100,000.00 or 40% of the paid-up capital of the respondent employer, whichever is lower, on the ground of grave abuse of discretion and gross incompetence of the voluntary arbitrator. In such cases, the procedure and requirements prescribed under Rule XI of the National Labor Relations Commission Rules shall be followed. The foregoing should not however, be confused with all other voluntary arbitration awards or decisions which are considered final, unappealable, and executory.

POWERS OF THE COMMISSION

The following articles of the Labor Code clearly define and enumerate power and authority of the Commission:

(1) Article 217 empowers the National Labor Relations Commission:

(a) To promulgate, subject to the approval of the Secretary of Labor, rules and regulations governing the hearing and disposition of cases before it and its regional branches, as well as those pertaining to its internal functions and such rules and regulations as may be necessary to carry out the purposes of the Labor Code;

(b) To administer oaths, summon the parties to a controversy, issue *subpoenas* requiring the attendance and testimony of witnesses or the production of such books, paper, contracts, records, statements of accounts, agreements and others as may be material to a just determination of the matter under investigation, and to testify in any investigation or hearing conducted in pursuance of the Labor Code;

(c) To conduct investigation for the determination of a question, matter or controversy within its jurisdiction, proceed to hear and determine the dispute in the absence of any party thereto who has been summoned or served with notice to appear, conduct its proceedings or any part thereof in public or in private, adjourn its hearings to any time and place, refer technical matters or accounts to an expert and to accept his report as evidence after hearing of the parties upon due notice, direct parties to be joined in or excluded from the proceedings, correct, or waive any error, defect or irregu-

larity, whether in substance or in form, give all such directions as it may deem necessary or expedient in the determination of the dispute before it, and dismiss any matter or refrain from hearing further or from determining the dispute or part thereof, where it is trivial or where further proceedings by the Commission are not necessary or desirable;

(d) To hold any person in contempt, directly or indirectly and impose appropriate penalties therefor.

A person guilty of misbehavior in the presence of or so near the Chairman or any member of the Commission or any labor arbiter as to obstruct or interrupt the proceedings before the same, including disrespect toward said officials, offensive personalities toward others, or refusal to be sworn or to answer as a witness or to subscribe an affidavit or deposition when lawfuly required to do so, may be summarily adjudged in direct contempt by said officials and punished by fine not exceeding two hundred pesos (₱200.00) or imprisonment not exceeding five (5) days, or both, if it be the Commission, or a member thereof, or by fine not exceeding ten pesos (₱10.00) or imprisonment not exceeding one (1) day, or both, if it be a labor arbiter.

The person adjudged in direct contempt by a labor arbiter may appeal to the Commission and the execution of the judgment shall be suspended pending the resolution of the appeal upon the filing of such person of a bond on condition that he will abide by and perform the judgment of the Commission should the appeal be decided against him. Judgment of the Commission on direct contempt is immediately executory and unappealable. Indirect contempt shall be dealt with by the Commission or Labor Arbiter in the manner prescribed under Rule 71 of the Revised Rules of Court;

(e) To enjoin any or all acts involving or arising from any case pending before it which, if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social or economic stability.

(2) Under Article 218, the Chairman, any Commissioner, labor arbiter or their duly authorized representatives may at any time during working hours conduct an ocular inspection on any establishment, building, ship or vessel, place or premises, including any work, material, implement, machinery, appliance or object therein, and ask any employee, laborer or any person as the case may be for any information or data concerning any matter or question relative to the object to the investigation.

(3) Under Article 219, the Commission or any labor arbiter shall have the power to seek the assistance of other government officials and qualified private citizens to act as compulsory arbitrators on cases referred to them and to fix and assess the fees for such compulsory arbitrators taking into account the nature of the case, the time consumed in hearing the case, the professional standing of the arbitrators, the financial capacity of the parties and the fees provided in the Rules of Court.

CASES COGNIZABLE BY THE NLRC EN BANC AND BY DIVISION

In the adjudication of cases appealed to it or directly certified to it by the Bureau of Labor Relations or the Regional Directors of the Department of Labor, with a recommendation for injunction, the National Labor Relations Commission has devised a system in its Rules to determine what cases are cognizable by the Commission *en banc* and what cases are cognizable by the two (2) divisions.

Cases cognizable by the Commission *en banc* in the exercise of its exclusive appellate jurisdiction as provided under Section 6, Rule XI of the National Labor Relations Commission Rules are the following:

1) All disputes where the national security or social and economic stability is threatened;

2) Appeals from decisions, orders, awards of the labor arbiters, compulsory arbitrators or voluntary arbitrators concerning unresolved issues in collective bargaining and involving demanded or expected economic benefits of at least ₱5 million or 40% of the paid-up capital of the employer, whichever is lower;

3) Contempt cases on appeal;

4) Intricate questions of law on appeal coupled with a money claim or claims arising from employer-employee relations amounting to not less than ₱1 million or 40% of the paid-up capital of the employer, whichever is lower, or where the amount claimed by the petitioner or awarded by the labor arbiter or compulsory arbitrator is not at once susceptible of peculiary estimation; and

5) Appealed cases assigned to any of the divisions of such complicated nature which, upon the vote of a majority of the same, are referred to the Commission *en banc* for appropriate action or resolution.

The two (2) divisions have jurisdiction over all appealed cases not embraced or included in any of the above enumeration and which are dis-

tributed or assigned to them by the Chairman of the Commission for determination, decision or resolution.

At any time before a decision or resolution by the Commission of any appeal, it shall be its duty, upon request of the parties to continue exhausting all efforts towards conciliation or mediation for the purpose of settling the dispute on appeal to the satisfaction of the parties.[61]

In all proceedings before the Commission, motions for dismissal or any other incidental motion may not be given due course, but shall remain as part of the records for whatever they may be worth when the case is decided or resolved on the merits.[62]

APPEAL FROM DECISIONS OR RESOLUTIONS OF THE COMMISSION

The decisions or resolutions of the Commission are appealable to the Secretary of Labor within ten (10) *working days*[63] from receipt thereof, on any of the following grounds:

(a) If there is *prima facie* evidence of abuse of discretion;
(b) If made purely on questions of law; and
(c) If there is a showing that the national security or social and economic stability is threatened.[64]

The appeal must be filed with the Commission, with the appellant furnishing a copy to the appellee, who shall in turn file his answer within ten (10) working days from receipt of the appeal. The Commission shall then immediately elevate the entire records of the case to the Secretary of Labor.[65]

APPEAL FROM DECISIONS OF THE SECRETARY OF LABOR

Decisions of the Secretary of Labor may again be appealed further to the President of the Philippines on any of the following grounds:

(a) If there is a *prima facie* evidence of abuse of discretion;
(b) If made purely on questions of law; and
(c) If there is a showing that the national security or social and economic stability is threatened.

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[61]NLRC RULES, Rule XI, sec. 9.
[62]NLRC RULES, Rule XI, sec. 10.
[63]RULES & REGULATIONS IMPLEMENTING THE LABOR CODE, Book V, Rule VII, sec. 11.
[64]RULES & REGULATIONS IMPLEMENTING THE LABOR CODE, Book V, Rule XIII, sec. 11.
[65]RULES & REGULATIONS IMPLEMENTING THE LABOR CODE, Book V, Rule XIII, sec. 12.

The appeal must be filed with the Secretary of Labor within ten (10) working days from receipt of the decision, copy furnished the appellee and who shall in turn file his answer within ten (10) days from receipt of the appeal. The Secretary of Labor shall immediately elevate the entire records of the case to the President of the Philippines.[66]

JUDICIAL REVIEW

Are decisions, orders and resolutions of the National Labor Relations Commission, the Secretary of Labor and the President of the Philippines appealable to the courts of justice?

It is very significant to note that the Labor Code does not provide for appeals to the Courts of Justice.

Does this mean then that the Courts are without authority to entertain labor cases brought before it?

This, the Supreme Court had occasion to answer in the case of *San Miguel Corporation v. Secretary of Labor*.[67] It was argued in said case that the Supreme Court had no jurisdiction to review the decisions of the National Labor Relations Commission and the Secretary of Labor "under the principle of separation of powers" and that judicial review is not provided for in Presidential Decree No. 21.[68] The court held that "such contention is a flagrant error." It said: "It is generally understood that as to administrative agencies exercising quasi-judicial or legislative power there is an underlying power in the courts to scrutinize the acts of such agencies on questions of law and jurisdiction even though no right to review is given by statute."[69] This pronouncement of the Supreme Court merely reiterates its earlier rulings on the matter. It thus said in earlier cases:

> "The purpose of judicial review is to keep the administrative agency within its jurisdiction and protect substantial rights of parties affected by its decisions (73 C. J. S. 507, Sec. 165). It is part of the system of checks and balances which restricts the separation of powers and forestalls arbitrary and unjust adjudications. Judicial review is proper in case of lack of jurisdiction, grave abuse of discretion, error of law, fraud or collusion (Timbaya v. Vicente, 62 O.G. 9424; Macatangay v. Secretary of Public Works and Communications, 63 O.G. 11236; Otura v. Singson Encarnacion, 59 Phil. 440)."
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> "The courts may declare an action or resolution of an administrative authority to be illegal (1) because it violates or fails to comply with some mandatory provisions of the law or (2) because it is corrupt, arbitrary or

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[66]RULES & REGULATIONS IMPLEMENTING THE LABOR CODE, Book V, Rule XIII, sec. 13.
[67]G.R. No. L-39195, May 16, 1975, 64 SCRA 56 (1975).
[68]Took effect on Oct. 14, 1972, 68 O.G. 8294-F (Oct., 1972).
[69]73 C.J.S. *Public Administrative Bodies & Procedure*, sec. 164 (1951).

capricious (Borromeo v. City of Manila and Rodriguez Lanuza, 62 Phil. 512; Villegas v. Auditor General, L-21352, November 29, 1966, 18 SCRA 877, 891)."

It is therefore unwise to maintain as others are wont to do, that because it is not so provided in the Labor Code, the courts have been deprived of the power to entertain labor disputes brought before them on appeal.

Note therefore, that even if there is no procedure for appeal provided for from the decisions of the National Labor Relations Commission or the Secretary of Labor, nor, for that matter, from the President of the Philippines to the courts, still the Supreme Court has time and again entertained labor disputes brought to it *not through the ordinary course of appeal but on a special civil action for certiorari; in short, appeal is not the proper remedy but review through the medium of a special civil action.* The exercise by the Supreme Court of its broad power of review is based on constitutional grounds particularly Section 5 of Article X of the Constitution, which provides:

"The Supreme Court shall have the following powers:

(1) Exercise original jurisdiction over cases affecting ambassadors, other public ministers, and consuls, and over petitions for *certiorari*, prohibition, mandamus, quo warranto, and habeas corpus.

(2) Review and revise, reverse, modify, or affirm on appeal or *certiorari*, as the law or the Rules of Court may provide, final judgments and decrees of inferior courts in—

(a) All cases in which the constitutionality or validity of any treaty, executive agreement, law, ordinance, or executive order or regulation is in question.

* * * * *

(e) All cases in which only an error or question of law is involved.

The provision of the Constitution is complemented by Rule 65 of the Rules of Court dealing on *certiorari,* prohibition and mandamus.

Certiorari is an extraordinary writ offering a limited form of review, its principal function being to keep inferior tribunals within their jurisdiction.[70] This remedy, to be employed in the absence of other remedies, is designed to correct instances in which the judge against whom the remedy is sought has acted without jurisdiction, in excess of jurisdiction or clearly in grave abuse of discretion. It is available only for these purposes and not to correct errors of procedure or mistakes in the judges' findings or conclusions.[71]

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[70]14 C.J.S. *Certiorari*, sec. 2 (1939).

[71]Regala v. CFI of Bataan, G.R. No. L-781, November 29, 1946, 44 O.G. 45 (Jan., 1948), 77 Phil. 684 (1946); Matute v. Macadaeg, G.R. No. L-9325, May 30, 1956, 99 Phil. 340 (1956).

The writ of *certiorari* lies if the following requisites are present:

1. That the writ is directed against a tribunal, board or officer exercising judicial function;

2. That such tribunal, board or officer has acted without or in excess of jurisdiction or with grave abuse of discretion;

3. That there is no appeal, nor any plain, speedy and adquate remedy in the ordinary course of law.[72]

EXECUTION OF DECISIONS, ORDERS, AWARDS OR RESOLUTIONS

The Commission or any Labor Arbiter of origin shall, *motu proprio*, or upon motion of any interested party, after a decision, order or award has become final and executory, issue a writ of execution directing the City/Provincial Sheriff, the Philippine Constabulary and other law enforcement agencies duly deputized, to execute said decision, order or award of the Commission or Labor Arbiter. With respect however, to cases decided or resolved by compulsory and voluntary arbitrators, the Executive Labor Arbiter of the Regional Branch where the arbitration proceedings were held or conducted shall order the execution of the final judgment, order or award.[73]

It should be noted that the Commission's decision or resolution is immediately executory, even pending appeal, unless stayed by an order of the Secretary of Labor for special reasons. Similarly, the Labor Secretary's decision is immediately executory even pending appeal, unless stayed by an order of the President of the Philippines.[74]

The Commission or any of its Divisions, to ensure further compliance with its resolutions, decisions, orders and awards and those of labor arbiters, compulsory and voluntary arbitrators, may take such measures under existing laws, decrees and general orders as may be necessary, including the imposition of administrative fines which shall not be less than five hundred pesos (₱500.00) nor more than ten thousand pesos (₱10,000.00) against any erring party or parties.[75]

DISPOSITION OF CASES PENDING BEFORE THE DEFUNCT CIR AND THE AD HOC NATIONAL LABOR RELATIONS COMMISSION

All cases pending hearing, decision or determination before any of the

[72]Ruperto v. Torres, G.R. No. L-8785, February 1957.
[73]LABOR CODE, art. 223 and NLRC RULES, Rule XIII, sec. 1.
[74]LABOR CODE, NLRC RULES, Rule XIII, sec. 2.
[75]LABOR CODE, NLRC RULES, Rule XIII, sec. 2, 2nd par.

five branches of the defunct Court of Industrial Relations as of October 31, 1974, except those over which the Commission has no jurisdiction under the Code, shall be assigned by the Chairman of the Commission to any labor arbiter for hearing, decision or determination in accordance with the procedure prescribed under the National Labor Relations Commission Rules, but the substantive laws to be applied shall be those then existing and applicable when the cause or causes of action accrued.

With respect to cases pending determination or resolution before the defunct Court of Industrial Relations *en banc* as of October 31, 1974, the same shall be decided or resolved by any division of the Commission to which said cases have been assigned or by the Commission *en banc*.

As regards cases pending arbitration before the *Ad Hoc* National Labor Relations Commission created by Presidential Decree No. 21,[76] the same shall be disposed of as follows: (a) all appeals perfected after October 31, 1974 shall be endorsed to and determined by the institutional ized National Labor Relations Commission under the Labor Code; (b) all cases pending before any designated compulsory arbitrator of the *ad hoc* National Labor Relations Commission as of October 31, 1974, excluding those subject to voluntary arbitration shall be transmitted to the Executive Labor Arbiter of the appropriate or corresponding Regional Branch of the Commission for proper distribution, assignment and arbitration; and (c) all cases pending before any Conciliator or Mediator-Fact-finder as of October 31, 1974 shall immediately be endorsed to the Labor Relations Divisions of the proper Regional Office of the Department of Labor for appropriate action.[77]

COMMENTS AND CONCLUSION

From a scrutiny of the appeals system, the conclusion one is likely to draw is that the system may work to the prejudice of the worker who is usually the complainant. For the worker's resources cannot possibly sustain a long drawn-out litigation spanning three or four stages of appeal. The dictum that justice delayed is justice denied particularly holds true in the case of the worker whose endurance in fighting for his cause may give way to a sense of futility and hopelessness as the days grow into weeks, weeks into months, and months into years — without his complaint being resolved with finality, whether for or against him.

When a complaining worker becomes embittered by the long delay in the final disposition of his case, the administration of labor justice

[76]Took effect on October 14, 1972, 68 O.G. 8294-F (Oct., 1972).
[77]LABOR CODE, art. 289 and NLRC RULES, Rule XVIII.

suffers a black-eye. If such case of inaction and unjustified delay is multiplied, public confidence in the whole system is bound to be slowly eroded until it is eventually completely lost. This, as effectively as subversion or rebellion, will undermine the very foundation of government. No less than Labor Secretary Blas F. Ople had on several occasions expressed the same apprehension.

However, this apprehension is somewhat lessened by the provision that the Commission or Labor Arbiter, may, to discourage frivolous or dilatory appeals, impose reasonable penalty, including fines or censures upon erring parties.

The intention of the Labor Code as explained by President Marcos himself is to terminate cases at the lowest level possible, in consonance with the policy of granting expeditious labor justice. This will mean, among other things that only the most complex cases should reach the Commission from the Labor Arbiters, the Office of the Secretary of Labor from the National Labor Relations Commission, and the Office of the President of the Philippines from the Office of the Secretary of Labor. This, in effect requires the Commission, the labor arbiters and the conciliators in the Bureau of Labor Relations as well as in the Labor Relations Divisions of the Regional Offices of the Department of Labor to exert utmost their efforts in settling the cases amicably through mediation and conciliation at their respective levels.