



Republic of the Philippines
Department of Labor and Employment
NATIONAL LABOR RELATIONS COMMISSION
Quezon City

MEMORANDUM CIRCULAR NO. 11-02
(Series of 2004)



TO : All Concerned

SUBJECT : Guidelines for the Implementation of the Program: Further Strengthening of Conciliation and Mediation in the National Labor Relations Commission Particularly on the Applicability, Assignment and Disposition of Cases Submitted for Conciliation and Mediation in the Pilot Areas of the National Capital Region (NCR), and Regional Arbitration Branches III and IV.

DATE : November 3, 2004

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WHEREAS, Section 16, Article III of the Constitution guarantees the right of all persons to a speedy disposition of their cases before all judicial, quasi-judicial and administrative bodies;

WHEREAS, Section 3, Article XIII of the Constitution provides that the State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace;

WHEREAS, Article 211 of the Labor Code declares that it is the State's policy in labor relations to promote and emphasize the primacy of free collective bargaining and negotiations, including voluntary arbitration, mediation and conciliation as modes of settling labor or industrial disputes and to provide an adequate administrative machinery for the expeditious settlement of labor and industrial disputes;

WHEREAS, Article 218 of the Labor Code confers to the National Labor Relations Commission (NLRC) the power to promulgate rules and regulations governing the hearing and disposition of cases before it and its regional branches, governing its internal functions and as may be necessary to carry out the purposes of the Labor Code;

WHEREAS, one of the priority objectives of the Commission is to consistently expedite the disposition of cases and be current in its dockets, and for this purpose, conciliation and mediation has been found to be an effective mode of settling labor or industrial disputes;

WHEREAS, a number of workers/employers come to the NLRC seeking assistance in providing solution to their problem or dispute without any intention of filing a formal complaint;

WHEREAS, the cases filed by OFWs, security guards, project employees, family and company drivers, domestic helpers and cases where complainant's cause of action mainly refers to violation of labor standards benefits comprise about 80% of the cases filed in the NLRC and that a faster settlement of said cases will save the parties enormous time and effort expended for arbitration, greatly reduce the caseload of the NLRC and promote pro-active industrial relations;

WHEREFORE, the following guidelines on further strengthening conciliation and mediation in the National Labor Relations Commission, particularly on the applicability, assignment and disposition of cases submitted for conciliation and mediation, are hereby issued for the direction, guidance and compliance of the aforementioned officials:

1. VOLUNTARY OR PREVENTIVE CONCILIATION AND MEDIATION

- a. **Applicability.** All requests for assistance in all types of cases should be treated as request for voluntary or preventive conciliation and mediation.
- b. **Submission to Voluntary or Preventive Conciliation and Mediation.** Any party requesting for assistance shall fill up an information sheet and shall file the same with the Conciliation and Mediation Center/Unit which is under the control and supervision of the Executive Labor Arbiter. The request for assistance will be raffled to a Conciliator-Mediator who shall bring the parties together and assists them in proposing solutions to their problem or dispute and in the preparation of their compromise agreement which shall include as an integral part any computation on monetary consideration agreed upon. Any agreement reached by the parties shall be binding upon them and the said agreement shall be attested to before the Labor Arbiters of the Conciliation and Mediation Center/Unit.

If any of the parties a) contests the submission to voluntary or preventive conciliation and mediation or, b) the conciliation and mediation efforts fail, a party may file a complaint.

In case of non-compliance or breach by any of the parties to the compromise agreement, the aggrieved party may file a complaint for the purpose of enforcing the compromise agreement.

2. CONCILIATION AND MEDIATION IN THE COMPULSORY ARBITRATION SYSTEM

- a. **Applicability.** All complaints filed by OFWs, security guards, construction workers, project employees, family and company drivers, domestic helpers and cases where complainant's cause of action mainly refers to violation of labor standards benefits such as underpayment or non-payment of salaries or wages, overtime pay, holiday pay, service incentive leave, 13th month pay, separation pay and retirement benefits shall be referred to conciliation and mediation.
- b. **Submission to Conciliation and Mediation:** Upon filing of the complaint, the Executive Labor Arbiter will raffle the case to a Labor Arbiter and pairing Conciliator-Mediator. Thereafter, summons will be issued by the Labor Arbiter directing the parties to appear before the Conciliator-Mediator for mandatory conference. The Conciliator-Mediator encourages the parties to explore amicable settlement and assists in the preparation of compromise agreement including any computation on monetary considerations agreed upon.

Where the complaint filed had passed through voluntary or preventive conciliation and mediation, the Labor Arbiter shall have the option to either refer the complaint to the Conciliator-Mediator or personally conduct the mandatory conference.

If settlement is reached, the Conciliator-Mediator shall return the case to the Labor Arbiter who shall attest the compromise agreement and thereafter issue an Order approving the said agreement.

In case of full compliance of the compromise agreement, the Labor Arbiter shall issue an Order declaring the case closed and terminated.

If no settlement is reached by the parties, the Conciliator-Mediator shall return the records of the case to the Labor Arbiter, who shall set the case for conference, for the purpose of determining the real parties in interest, defining and simplifying the issues in the case, entering into admissions or stipulation of facts and threshing out all other preliminary matters.

3. CONCILIATORS-MEDIATORS

Only Conciliators-Mediators who have undergone and passed the screening, selection and the Specialized Course on Conciliation and Mediation and Labor Management Relations as determined by the NLRC Conciliation and Mediation Center, Committee on Operations shall be allowed to handle requests for assistance and complaints submitted for conciliation and mediation.

The Conciliators-Mediators shall be the authorized representatives of the Labor Arbiter while they are in actual performance of their duties at the mandatory conference of the proceedings before the Labor Arbiter.

4. CONCILIATION AND MEDIATION PROCEEDINGS

A conference shall first be held with all the parties present. The authorized Conciliator-Mediator shall explain the proceedings stressing the benefits of early settlement of the problem or dispute and shall encourage immediate settlement. If settlement is not feasible at the first conference, the Conciliator-Mediator, may then hold separate conferences with each of the parties on such dates and time as may be agreed upon by the parties and the Conciliator-Mediator to determine the parties' real interest in the dispute. Thereafter, another conference may be held to consider various options proposed by the Conciliator-Mediator to resolve the dispute. The conciliation and mediation proceedings shall have a non-extendible period of thirty (30) days from the initial conference.

5. VOLUNTARY PARTICIPATION

Conciliation and mediation will only proceed if the involved principal parties freely and voluntarily agree to submit their problem or dispute to conciliation and mediation. If the principal parties or any of the parties are not present, only representatives with full authority to negotiate and to enter into and sign compromise agreements through a duly notarized Special Powers of Attorney and/or Board Resolution can participate.

6. CONFIDENTIALITY OF RECORDS

To encourage the spontaneity that is conducive to effective communication, thereby enhancing the possibility of successful conciliation and mediation efforts, the conciliation and mediation proceedings and all incidents thereto shall be kept strictly confidential including any admissions, statements or other evidence adduced therein.

These guidelines shall be effective immediately.

FOR STRICT COMPLIANCE.

ROY V. BENERES
Chairman

cc: Presiding/Commissioners
Executive/Labor Arbiters
Conciliators-Mediators of the NLRC (Main Office, NCR, RABs I, II & IV)