

NATIONAL SHIPYARDS AND STEEL CORPORATION, PETITIONER, VS. NATIONAL SHIPYARDS EMPLOYEES & #038; WORKERS ASSOCIATION, AND COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G.R. No. L-23458. May 04, 1968

Ponente: REYES, J. B. L., J.

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REYES, J. B. L., J.:

Petition for review on certiorari the order of 23 May 19 64 and the resolution en banc of 29 June 1964 of the respondent Court of Industrial Relations in its Case, No. 12-IPA.

The said case No. 12-IPA was an off-shoot of a strike staged by the respondent National Shipyards employees' and Workers' Association on 5 November 1956 for failure of the petitioner National Shipyards and Steel Corporation (NASSCO for short) to accede to their demands concerning terms and conditions of employment. After the President of the Philippines had certified the labor dispute as one involving an industry indispensable to the national interest, the NASSCO filed a petition with the Industrial Court, docketed as Case No. 12-IPA, praying for a return-to-work order or for authority to replace the striking workers.

Labor and management later reached an amicable settlement on certain demands and conditions, among which was the re-instatement of the union president, Melanio S. Capellan, and the payment of his backwages. The partial settlement was reduced to writing and submitted to the court and, on the basis thereof, the court rendered a partial decision on 29 July 1957 enjoining the parties to comply with the said agreement.

The herein respondent union on 17 December 1957 Moved for reinstatement of Capellan with backwages, and for contempt of court because of petitioner's refusal to do so, followed on 27 January 1958 by another motion for execution of the partial decision and for contempt of court (Rollo, p. 178). The petitioner company opposed both motions. In an order on 13 November 1958 the court a quo directed the reinstatement of union president Capellan and the computation and payment of his backwages. But the writ Issued pursuant thereto was returned unsatisfied. On 30 May 1959, the court denied the motion for contempt because the company's refusal to reinstate Capellan was found by the court to be justified by the latter's conviction for slight physical injuries, with a penalty of 20 days imprisonment, by the Court of First Instance of Bataan in its Criminal Case No. 4802. Capellan had appealed the judgment to the Court of Appeals, but was unsuccessful; the Judgment became final in June 1959.

On 6 July 1959, the court, on motion of took the position that even if Capellan had lost his right to reinstate merit by reason of his conviction, such loss did not include his backwages, and so, ordered the payment of said backwages up to May 1959, when the Court below found the NASSCO justified in its refusal to reinstate Capellan. NASSCO duly complied and paid as ordered.

On 1 March 1963 the President of the Philippines granted "an absolute and unconditional pardon" to Melanio Capellan for the crime committed by him and "restored" him to "full civil and political rights." (Rollo, p. 210 being Annex 'A' to respondent, Answer).

On 7 May 1963, Capellan again moved for his reinstatement with backwages. This was denied by the court on 12 September 1963 (Rollo, pp. 94-98, being Annex "K" to Petition) on the ground that the motion seeks to set aside, alter modify the order of 30 May 1959 which the court, in its opinion could no longer do under Section 17 of Commonwealth with Act 103 since more than three years was elapsed from the date of the order.

On 29 December 1963, the union filed again an urgent motion for execution of the order of 13 November 1958. The company again opposed the motion. This time, on 23 May 1964, the labor court granted the motion, and provided for Capellan's reinstatement with backwages from 1 March 1963 until actually reinstated. The order was affirmed en banc on 29 June 1964.

The aforesaid order of 23 May 1964 and the subsequent confirmatory resolution en banc are the subjects of the present petition for review, wherein the petitioner NASSCO assigned the following errors:

1. The lower court erred in issuing an alias writ of execution for the portion of the order dated November 13, 1958 which was subsequently modified or altered by the orders of May 30, 1959 and July 6, 1959, and which orders modifying the order of November 13, 1958, were appealed and are already final and executory.
2. The respondent CIR erred in holding that absolute pardon restored to Melanio Capellan the office forfeited by reason of his conviction.

The order dated 13 November 1959 was not modified or altered by the orders of 30 May 1959 and 6 July 1959. This is so because the matter considered by the industrial court in its order of 10 May 1959 was not the reinstatement and backwages of Capellan (which reinstatement and backwages were the matters adjudicated in the order of 13 November 1958), but the motion for contempt. The order of 30 May 1959 plainly states in its dispositive portion the following:

"The Court, finding the refusal of the Company to reinstate Melanio S. Capellan to be well-taken, denies the motion for contempt of Court." (Rollo, p. 69 being the last page of Annex "F" to Petition.)

The same thing may be said of the order of 6 July 1959 because what was considered is as stated in the order as follows:

"The question now to be resolved is whether- Melanio S. Capellan's loss of right to reinstatement as per Court order quoted above carries with it the loss of his right to backwages." (Rollo, p. 72, being on p. 3 of Annex "G" to Petition) ---

which the court resolved in the negative and accordingly directed:

"IN VIEW OF THE FOREGOING, the Court hereby orders the petitioner to pay union president Melanio S. Capellan his backwages corresponding from the date of his dismissal to May 30, 1959.

"Xxx xx xxx." (Rollo, p. 74).

It is, therefore, clear that the orders of 10 May 1959 and 6 July 1959 did not modify the order of 13 November 1958; hence, the first assignment of error makes an assumption that is neither true nor correct.

Petitioner NASSCO admits that the absolute and unconditional pardon extended by the President to Maximo Capellan blotted out of existence his guilt, but argues, quoting *In Re Lontok*, 43 Phil. 203 and 37 Am. Jur. 554, that the pardon did not restore to him the office that was forfeited as a consequence of his conviction; that the pardon did not expressly provide for his restoration to his former job in the company.

There is this flaw in the foregoing arguments of the petitioner: it is assumed that by Capellan's conviction, his office was forfeited. It was not. Capellan was convicted of the crime of slight physical injuries, with the penalty of

20 days imprisonment. The penalty, which is *arresto menor*, carries the accessory penalty of "suspension of the right to hold office and the right of suffrage during the term of the sentence." (Rev. Penal Code, Art. 44). Capellan, by reason of his 20-day sentence was therefore, merely suspended for the said period of time from the right to hold office. Upon serving the sentence, his suspension was lifted, even with out the grant of executive clemency.

The limitation upon the effects of a pardon, as mentioned in the *Lontok* case, *supra* (decided before the adoption of the Constitution) and the American cases cited by the petitioner (*Illinois C.R. v. Bosworth*, 133 U.S. 92, 33 L. ed. 550, 10 S; Ct. 231; *Ex. Parte Garland*, 4 Wall. [US] 333, 18 L. ed. 366; *Page v. Watson*, 140 Fla. 536, 192 So. 205, 126 A.L.R. 249; *State ex rel. Webb v. Parks*, 122 Tenn. 230, 122 S. W. 977, 19 Ann. Cas. 291; and *State of Washington v. Linda Burfield Pazzard*, 46 A.L.R. 538-544) that the power does not restore offices forfeited does not apply, since the present case does not involve a forfeited office, but a suspended right to hold office.

We may, however, consider the presidential pardon as a reiteration of the termination of the suspension of the union president's right to hold office. As such, it has erased all doubts as to Capellan's reinstatement, for had expressly provided for the restoration of his political rights, and this includes his right to hold office. (Cf. *Flora vs. Oximana*, L-19745, 31 Jan. 1964).

FOR THE REASONS GIVEN, the order and resolution under review are hereby affirmed, with costs against the petitioner.

Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

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