

RAYCOR AIRCONTROL SYSTEM, INC., PETITIONER, V. NATIONAL LABOR RELATIONS COMMISSION, ROBERTO FULGENCIO, ROLANDO A. LAYA, SR., SUSANO A. ATIENZA, CARLITO S. DE GUZMAN, HERMAN DELI...

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

Before Us is a Petition for Certiorari[1] filed under Rule 65 of the Rules of Court assailing the Order[2] dated October 30, 2007 of public respondent National Labor Relations Commission ("public respondent NLRC" for brevity) in NLRC NCR CA No. 004449-93. The Petition also questions public respondent NLRC's Resolution[3] dated February 29, 2008, which denied petitioner's eventual Motion for Reconsideration.[4]

The salient facts are as follows:

On September 9, 1996, the Supreme Court rendered a Decision in Raycor Aircontrol System, Inc. v. NLRC and Rolando Laya, G. R. No. 114290[5] ("SC G.R. No. 114290" for brevity) which declared private respondents to have been illegally dismissed by petitioner Raycor Aircontrol System, Inc. ("petitioner" for brevity).

The SC G.R. No. 114290 became final and executory on November 18, 1996.[6] The case was then remanded to public respondent NLRC for its execution.

The Research and Information Unit ("RIU" for brevity) of public respondent NLRC computed private respondents' benefits, which computation was eventually submitted to the Labor Arbiter. The Labor Arbiter in an Order[7] dated August 15, 1997 approved the RIU's computation of private respondents' benefits.

Upon motion by private respondents, a writ of execution was issued by the Labor Arbiter in its Order[8] dated January 28, 1998. In the Order, the Labor Arbiter directed public respondent NLRC's Sheriff to accompany private respondents to petitioner's premises in order to reinstate private respondents to their former positions, and to collect from petitioner the amount of Php3,960,668.45 representing private respondents' backwages and Attorney's lien.[9] Public respondent NLRC's Sheriff was likewise directed to satisfy the award from petitioner's movable and immovable properties should he fail to collect sufficient amount in cash from petitioner.[10]

Because of this, public respondent NLRC's Sheriff garnished petitioner's fund in the amount of Php3,960,668.45, which was in possession of Intel Technology Philippines, Inc. ("Intel" for brevity). Such amount was subsequently remitted by Intel to public respondent NLRC.[11]

On February 13, 1998, petitioner appealed from the Labor Arbiter's Order[12] dated January 28, 1998 to public respondent NLRC. On June 16, 1998, public respondent NLRC rendered its judgment[13] in favor of petitioner stating that, among others:

"b) The computation of backwages stopped on July 13, 1992, when the return-to-work [order] was made by the respondent but was refused by the complainants.

c) The backwages should be based on the complainants' wage rate in 1992."[14]

Private respondents filed a Motion for Reconsideration[15] of public respondent NLRC's Decision. Private respondents argued that by computing their backwages up to only July 13, 1992, public respondent NLRC modified the already final and executory Decision of the Supreme Court dated September 9, 1996.

Public respondent NLRC denied public respondent's Motion for Reconsideration in its Order dated May 11, 1999.[16]

On August 31, 1999, private respondents filed with the Court of Appeals a Petition for Certiorari. The Petition was dismissed by the Court of Appeals in a Resolution[17] dated September 10, 1999.

Subsequently, private respondents filed before the Supreme Court, a Petition for Review of the Resolution of the Court of Appeals. Such Petition was docketed as G.R. No. 141600. On September 12, 2003, the Supreme Court rendered a Decision[18] granting private respondents' Petition for Review and reinstating the Labor Arbiter's Order[19] dated August 15, 1997.

For the satisfaction of the award in the Supreme Court's Decision dated September 12, 2003, the amount of Php3,960,668.45, which was previously garnished by public respondent NLRC from petitioner, was turned over by public respondent NLRC to private respondents.[20]

On July 7, 2004, private respondents filed before public respondent NLRC, their "Motion to Recompute and Update Judgment Awards"[21]. In their Motion, private respondents argued that they were not actually reinstated to their former positions, and that the garnished amount covered only their backwages from the time they were dismissed up to April 15, 1997,[22] such that therefore, in accordance with justice and fair play, private respondents should be awarded additional backwages and other benefits and privileges.[23]

Petitioner filed its Comment[24] dated July 29, 2004 to private respondents' Motion. Petitioner contended that private respondents could no longer be reinstated, and that private respondents should instead be awarded separation pay. The reason forwarded by petitioner was that vacant positions were no longer available for private respondents, and that petitioner was not in a financial position to re-employ them.

On January 8, 2007, the Labor Arbiter eventually issued an Order[25] granting private respondents' "Motion to Recompute and Update Judgment Awards." [26] The dispositive portion of the Order stated:

"WHEREFORE, premises considered, the Motion to Recompute and Update Judgment Awards file[d] by complainants, is hereby GRANTED.

The Computation [and] Examination Unit of this Arbitration Branch, is hereby directed to update further the 'UPDATED COMPUTATION OF AWARDS AS PER NLRC DECISION DATED NOV. 29, 1993,' as of April 15, 1997, in order to reflect actual judgment award due complainants by virtue of the aforesaid decisions of the Supreme Court and which cut off date would be March 18, 2004[.]

SO ORDERED." [27]

After the grant of backwages in favor of private respondents, they filed a "Motion to Compute Separation Pays"[28] dated February 6, 2007, conceding that their reinstatement to their former positions was no longer feasible. This Motion[29] was, however, not resolved by the Labor Arbiter.

Petitioner then filed an Appeal[30] to public respondent NLRC from the Labor Arbiter's Order[31] dated January 8, 2007. The Appeal, however, was dismissed by public respondent NLRC in its assailed Order[32] dated October 30, 2007.

After petitioner's Motion for Reconsideration[33] was denied by public respondent NLRC in its assailed Resolution[34] dated February 29, 2008, petitioner filed the Petition at bench, praying that:

"WHEREFORE, it is respectfully prayed that:

a) this petition be given due course; and

b) after due proceedings, a decision be rendered reversing and setting aside the questioned [O]rder and [R]esolution of the public respondent xxx, and holding that the cut-off date for the accrual of the backwages of the private respondents is the time of the finality of the Supreme Court Decision dated September 12, 2003 and that in lieu of further backwages, their separation pay be awarded.

Respondent (sic) also prays for such other reliefs just and equitable under the premises."[35]

Petitioner raised this sole ground:

"The respondent NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction in not ruling that the accrual of the backwages of the private respondents should cease from the time the decision of Supreme Court became final, as they could no longer be reinstated due to the unavailability of their former positions and the financial condition of petitioner."[36] (*Italics made in the original*)

As properly argued by petitioner in its sole ground, the reinstatement of private respondents was no longer feasible.

In dismissing petitioner's Appeal, public respondent NLRC found that:

"Being not the trier of facts, the question of whether or not there are available positions for complainants or whether or not they are still interested in their jobs involve evidentiary matters that fall under the jurisdictional competence of the Labor Arbiter. The question, it is to be noted, has been answered by the Labor Arbiter when he said in his contested Order that 'said complainants were not reinstated even to this day to their former position as mandated in both decisions of the Supreme Court on the case x x x,' meaning that even as of the day of his Order, respondent has not been able to prove that reinstatement has become impossible. Aside from bare allegation, respondent has not proven that there are indeed no available positions for complainants or that complainants have categorically refused to be reinstated."[37] (*Emphasis supplied*)

Prevailing over public respondent NLRC's findings however, is that petitioner sufficiently showed that private respondents' reinstatement could no longer be effected. In showing this, petitioner presented the following: the Affidavit of Luis Ortega, then President of petitioner, stating that petitioner repeatedly informed private respondents that there were no longer available jobs for them;[38] private respondents' Reply dated August 6, 2004 to the Comment of petitioner to the Motion to Recompute and Update Awards showing private respondents that reinstatement was no longer feasible to them,[39] and; the Motion to Compute Separation Pays dated February 6, 2007 filed by private respondents stating that they had opted not to be reinstated.[40]

Reinstatement having indeed been rendered inutile and impracticable was also evident from the fact that a lapse of almost 20 years had transpired, from the time of private respondents' dismissal from work in 1992 to the filing of the Petition at bench.

Furthermore, the parties' relationship had been unduly strained by the parties' irreconcilable differences[41] and their stubborn stances, as well as by the animosity between them due to private respondents' filing of complaints for illegal dismissal against petitioner.

Such strained relations between petitioner and private respondents allow for the payment of separation pay, in lieu of reinstatement of private respondents. This is pursuant to the Supreme Court's declaration in *Golden Ace*

Builders and Azul v. Talde, G.R. No. 187200, May 5, 2010, to wit:

"Under the doctrine of strained relations, the payment of separation pay is considered an acceptable alternative to reinstatement when the latter option is no longer desirable or viable. On one hand, such payment liberates the employee from what could be a highly oppressive work environment. On the other hand, it releases the employer from the grossly unpalatable obligation of maintaining in its employ a worker it could no longer trust." (Emphasis supplied)

Thus, private respondents are entitled to backwages as well as separation pay, in lieu of private respondents' reinstatement.

However, contrary to petitioner and private respondents' arguments, and contrary to the ruling of the Labor Arbiter in its Order dated January 8, 2008, the cut-off date for the computation of private respondents' backwages and separation pay should be on November 18, 1996,[42] which was the date of finality of the Decision of the Supreme Court in Raycor Aircontrol System, Inc v. NLRC and Rolando Laya, G. R. No. 114290, September 9, 1996.[43] This Decision of the Supreme Court declared that private respondents' dismissal from their work was illegal.

Petitioner had argued that:

"Petitioner submits that the cut-off date should be the time of the finality of the September 12, 2003 Decision of the Supreme Court. This submission is in accordance with law.

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Although the private respondents were ordered to be reinstated, the law nonetheless does not require compliance with what is impossible. Reinstatement presupposes the availability or existence of a position. Since they can no longer be reinstated for reasons beyond control of petitioner, they are not entitled to further backwages. Instead, the law grants them separation pay."[44] (Emphasis supplied; underlining made in the original)

On the other hand, private respondents claimed that their backwages should have been computed from the time they were dismissed from employment up to July 29, 2004, which was the date petitioner had informed the NLRC that private respondents' reinstatement was no longer feasible.[45] Private respondents had argued that:

"xxx Having ultimately opted not to be reinstated to their former positions, as manifested in their Reply, dated August 6, 2004, private respondents must, and ought to, be paid by petitioner of their separation pays in lieu of their judicially-decreed reinstatement to their former positions which, by jurisprudential mandate, is supposed to be computed at the rate of one month pay for every year, or a fraction of a year, of service rendered by them; hence, the motion they filed with the labor Arbiter below to also compute the same. xxx"[46]

For his part, the Labor Arbiter declared in its Order[47] of January 8, 2007 that the payment of backwages of private respondents should cease on March 18, 2004.[48]

Prevailing over all these arguments however, is that, as is the settled rule, the period covered in the computation of backwages is from the time the employee, such as private respondents here, was unlawfully terminated, until the Decision, such as SC G.R. No. 114290[49] finding there to be illegal dismissal, became final, which in this case was on November 18, 1996.[50] That this is to be so is pursuant to the pronouncement of the Supreme Court in Sarona v. NLRC and Royale Security Agency and Cesar S. Tan, G.R. No. 185280, January 18, 2012, to wit:

"With respect to the petitioner's backwages, this Court cannot subscribe to the view that it should be limited to an amount equivalent to three (3) months of his salary. Backwages is a remedy affording the employee a way to recover what he has lost by reason of the unlawful dismissal. In awarding backwages, the primordial

consideration is the income that should have accrued to the employee from the time that he was dismissed up to his reinstatement and the length of service prior to his dismissal is definitely inconsequential.

As early as 1996, this Court, in *Bustamante, et al. v. NLRC, et al.*, clarified in no uncertain terms that if reinstatement is no longer possible, backwages should be computed from the time the employee was terminated until the finality of the decision, finding the dismissal unlawful.

xxx

In case separation pay is awarded and reinstatement is no longer feasible, backwages shall be computed from the time of illegal dismissal up to the finality of the decision should separation pay not be paid in the meantime. xxx" (Emphasis supplied)

Another result of private respondents' reinstatement being no longer feasible, is that in addition to backwages, private respondents are entitled to receive their separation pay. Such separation pay should be computed also up to November 18, 1996. That this is to be the situation is in accordance with the pronouncement of the Supreme Court in *Session Delights Ice Cream and Fast Foods v. the Court of Appeals, et al.*, G.R. No. 172149, February 8, 2010, as follows:

"That the amount the petitioner shall now pay has greatly increased is a consequence that it cannot avoid as it is the risk that it ran when it continued to seek recourses against the labor arbiter's decision. Article 279 provides for the consequences of illegal dismissal in no uncertain terms, qualified only by jurisprudence in its interpretation of when separation pay in lieu of reinstatement is allowed. When that happens, the finality of the illegal dismissal decision becomes the reckoning point instead of the reinstatement that the law decrees. In allowing separation pay, the final decision effectively declares that the employment relationship ended so that separation pay and backwages are to be computed up to that point." (Emphasis supplied)

In addition, considering the period of time that elapsed before private respondents could be fully paid their backwages and separation pay, petitioner is liable to pay private respondents legal interest, computed from November 18, 1996, when SC G.R. No. 114290 had become final and executory, up to the full satisfaction of the total monetary awards. The rate of the legal interest would be twelve percent (12%) per annum from November 18, 1996 to June 30, 2013. However, the rate of legal interest from July 1, 2013 to the full satisfaction of the total monetary awards would be six percent (6%) per annum. This is because the rate of legal interest applicable in judgments starting July 1, 2013 is six percent (6%) per annum, and not the old rate of twelve percent (12%) per annum. All of these are pursuant to the following pronouncement of the Supreme Court in *Nacar v. Gallery Frames and/or Felipe Bordey, Jr.*, G.R. No. 189871, August 13, 2013:

"Thus, from the foregoing, in the absence of an express stipulation as to the rate of interest that would govern the parties, the rate of legal interest for loans or forbearance of any money, goods or credits and the rate allowed in judgments shall no longer be twelve percent (12%) per annum as - reflected in the case of *Eastern Shipping Lines* and Subsection X305.1 of the Manual of Regulations for Banks and Sections 4305Q.1, 4305S.3 and 4303P.1 of the Manual of Regulations for Non-Bank Financial Institutions, before its amendment by BSP-MB Circular No. 799 - but will now be six percent (6%) per annum effective July 1, 2013. It should be noted, nonetheless, that the new rate could only be applied prospectively and not retroactively. Consequently, the twelve percent (12%) per annum legal interest shall apply only until June 30, 2013. Come July 1, 2013 the new rate of six percent (6%) per annum shall be the prevailing rate of interest when applicable." (Emphasis supplied)

A need exists therefore, to compute the actual amount of private respondents' backwages, separation pay, and legal interest in accordance with the terms here. This therefore necessitates the remand of the case to the Labor Arbiter, such Office being charged with the implementation of decisions of public respondent NLRC.[51]

After careful consideration of all the facts, arguments, and issues appearing on the records, as well as of the pertinent laws and jurisprudence, and, in accordance with what is best determined to be just under the circumstances, the following disposition is therefore made on this matter.

WHEREFORE, the Order dated October 30 2007 of public respondent NLRC as well as its assailed Resolution dated February 29, 2008 are SET ASIDE.

The case is REMANDED to the Labor Arbiter for recomputation and payment of private respondents' backwages and separation pay in accordance with these directives:

- a. Backwages are to be computed from the date petitioner illegally dismissed private respondents up to November 18, 1996, when the Supreme Court's Decision in *Raycor Aircontrol System, Inc. v. NLRC and Rolando Laya, G. R. No. 114290* became final;
- b. Separation pay is to be computed at the rate of one month pay per year of service, from private respondents' first day of employment up to November 18, 1996, when the Supreme Court's Decision in *Raycor Aircontrol System, Inc. v. NLRC and Rolando Laya, G. R. No. 114290* became final, and;
- c. Interest is to be paid at twelve percent (12%) per annum of the monetary awards, computed from November 18, 1996 up to June 30, 2013, and six percent (6%) per annum of the monetary awards from July 1, 2013 until full satisfaction of such awards.

SO ORDERED.

Didican (Chairman), and Paredes, JJ., concur.

[1] Rollo, pp. 2-21.

[2] Rollo, pp. 26-29.

[3] Rollo, pp. 30-31.

[4] Rollo, p. 11.

[5] Rollo, p. 35.

[6] Rollo, p. 35.

[7] Rollo, p. 36.

[8] Rollo, p. 37.

[9] Rollo, p. 37.

[10] Rollo, p. 37.

[11] Rollo, p. 37.

[12] Rollo, p. 37.

[13] Rollo, pp. 37-38.

[14] Rollo, p. 38.

[15] Rollo, p. 38.

- [16] Rollo, p. 38.
- [17] Rollo, p. 38.
- [18] Rollo, pp. 33-46.
- [19] Rollo, p. 36.
- [20] Rollo, p. 9.
- [21] Rollo, pp. 48-52.
- [22] Rollo, p. 50.
- [23] Rollo, pp. 48-52.
- [24] Rollo, pp. 53-57.
- [25] Rollo, pp. 76-80.
- [26] Rollo, pp. 48-52.
- [27] Rollo, pp. 79-80.
- [28] Rollo, pp. 91-96.
- [29] Rollo, pp. 91-96.
- [30] Rollo, pp. 81-89.
- [31] Rollo, pp. 76-80.
- [32] Rollo, pp. 26-28.
- [33] Rollo, pp. 97-104.
- [34] Rollo, pp. 30-31
- [35] Rollo, p. 20.
- [36] Rollo, p. 11.
- [37] Rollo, p. 28.
- [38] Rollo, pp. 12-13.
- [39] Rollo, pp. 13-14, 105-110.
- [40] Rollo, pp. 91-96.
- [41] Bank of Lubao, Inc. v. Manabat and NLRC, G.R. No. 188722, February 1, 2012.
- [42] Rollo, p. 35.
- [43] Rollo, p. 35.
- [44] Rollo, p. 15.
- [45] Rollo, pp. 106-109.
- [46] Rollo, pp. 120-121.

[47] Rollo, pp. 76-80.

[48] Rollo, p. 80.

[49] Raycor Aircontrol System, Inc. v. NLRC and Rolando Laya.

[50] Rollo, p. 35.

[51] Session Delights Ice Cream and Fast Foods v. the Court of Appeals, et al., G.R. No. 172149, February 8, 2010.

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