

**PETER C. SANTOS, PETITIONER, VS. SAN MIGUEL BREWERY, INC.,
COL. JOSE P. RUEDA AND COURT OF INDUSTRIAL RELATIONS,
RESPONDENTS.**

G.R. No. L-20188. April 29, 1966

Ponente: DIZON, J.

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DIZON, J.:

Appeal by certiorari taken by Peter C. Santos from the order (penned by Judge Bugayong) and resolution en banc of the Court of Industrial Relations dated March 26 and June 13, 1962, respectively, in so far as they denied him back wages following his reinstatement as temporary guard of respondent San Miguel Brewery, Inc.

In CIR Case No. 647-ULP, the respondent court rendered a decision on June 12, 1957, the dispositive part of which reads as follows:

"The respondents are hereby directed to reinstate Peter C. Santos to take the place of Carlos Abelardo as a regular security guard and to pay him back wages from the time of his actual reinstatement. Furthermore, the respondents or their agents and representatives are hereby directed to cease and desist from committing similar unfair labor practices." (*Italics Supplied*)

Their motion for reconsideration of the aforementioned decision having been denied, respondents San Miguel Corporation, Inc., and Col. Rueda appealed to Us (G. R. No. L-12682).

On August 16, 1957 We dismissed the appeal on the ground that the questions raised were factual and, besides, the petition was without merit. A motion for reconsideration of our resolution was denied, but, upon a second motion for reconsideration based on the claim that "the Court of Industrial Relations acted with grave abuse of discretion and in excess of its jurisdiction by directing the employment of respondent Peter C. Santos as a permanent security guard when he was discharged as a temporary guard—an affirmative action which clearly exceeded the basic objective of 'effectuation of the policies' of Republic Act No. 875", the petition was given due course; and on August 31, 1961 We rendered judgment, the pertinent portion of which is as follows:

* * * * *

"ERROR 4.—We find this to be meritorious.

"The records show that Santos was employed as temporary guard, on and off for short durations between December 16, 1952 and February 3, 1955. On the date of his separation from the service, he was still occupying the position of temporary guard. There is no question that, having been the subject of unfair labor practice, Santos is entitled to reinstatement. However, the company cannot be required to appoint said dismissed employee to a position which he had not previously occupied. Reinstatement, in its generally accepted sense, refers to a restoration to a state from which one has been removed or separated; it is the return to the position from which he was removed.[4] Santos, therefore, should be ordered reinstated to his former position of temporary guard.

"With this modification, the appealed decision and confirmatory resolution of the Court a quo are hereby affirmed, without costs."

On September 30, 1961, after the record of the case had been returned to the respondent court, petitioner filed an ex-parte motion praying that respondent San Miguel Brewery, Inc. be directed to determine his backwages from the date of his dismissal on February 3, 1955 until actually reinstated, and to deposit the resulting amount with Us or pay it either directly to petitioner or thru his counsel.

Respondent company reinstated Santos on October 16, 1961 as evening guard in its Pandacan compound, but opposed the computation of backwages claiming that under our decision in G. R. L-12682 (supra) petitioner was not entitled to backwages but only to reinstatement as temporary guard. The matter having been submitted for resolution, the respondent court ruled on March 26, 1962 that the case, pursuant to our decision in G. R. No. L-12682, should be considered closed and terminated since petitioner was not entitled to backwages but to reinstatement only. After the denial of petitioner's motion for reconsideration of said order, he took the present appeal.

In their answer to the petition for certiorari, respondents corporation and Rueda claimed that under our decision already referred to, petitioner was not entitled to backwages. The respondent court relied upon the same defense.

It is clear from the foregoing that the decision of the respondent court in CIR Case No, 647-ULP granted petitioner Santos two reliefs, namely, reinstatement as a regular security guard, and payment of backwages. Upon the other hand, resolving the appeal taken by respondents San Miguel Brewery, Inc. and Jose P. Rueda on August 31, 1961, We modified the aforesaid decision only in so far as it directed petitioner's reinstatement as a regular security guard, for the reason that, at the time of his dismissal by said respondents, he was merely a temporary security guard, and We said: "With this modification, the appealed decision and confirmatory resolution of the court a quo are hereby affirmed, without costs." It is clear, therefore, that the appealed decision in said case was affirmed in so far as it granted backwages to petitioner Santos, and our decision on the matter having become final and executory, there is now no way of reversing it or modifying it in that particular respect.

Wherefore, the order and resolution appealed from are hereby reversed and set aside. With costs.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Regala, Makalintal, and Sanchez, JJ., concur.

[4] Vol. 36, Words and Phrases, Perm, ed., p. 730, and cases cited therein.

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