

COCA-COLA SALESFORCE UNION, FOR AND IN BEHALF OF ITS MEMBERS, NAMELY: JERRY CALIBOT AND ROMEO DUVAL, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, COCA-COLA BOTTLERS PHI...

G.R. No. 116637. April 21, 1995

Ponente: PUNO, J.

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PUNO, J.:

This petition impugns public respondent's[1] twin orders: (1) remanding to the labor arbiter for further proceedings the illegal dismissal case filed by petitioner union for and in behalf of its members, Jerry Calibot and Romeo Duval, against private respondent corporation;[2] and (2) stopping the employees' payroll reinstatement.[3]

Calibot and Duval were hired by private respondent in 1987 and 1989, respectively, as driver/helper and route helper. In 1992, private respondent received a letter-complaint concerning an alleged short delivery made by the two on October 3, 1992. They were asked to explain. On April 23, 1993, they were dismissed and ordered to reconstitute private respondent the amount of SEVEN THOUSAND SIX HUNDRED FIFTY-TWO PESOS (P7,652.00) to cover for their short delivery.

On May 18, 1993, Calibot and Duval filed a complaint for illegal dismissal, unfair labor practice (ULP) and damage against private respondent with the Department of Labor and Employment.[4] It was assigned to Labor Arbiter Saldares.

The parties agreed that the case would be submitted based on records available before the labor arbiter. They submitted their respective pleadings, position papers and documentary evidence. On their bases, the labor arbiter rendered his Decision, dated February 23, 1994, finding in favor of petitioner. The arbiter ordered the payment to Calibot and Duval of backwages, unpaid commissions, and 13[th]--month pay. He further ordered private respondent to "immediately reinstate (the employees) to their former or equivalent positions under the same terms and conditions prevailing prior to their dismissal or separation or, at the option of the employer, merely reinstate them in the payroll." [5] The charge for ULP and claim for moral and exemplary damages were dismissed.

Private respondent appealed to public respondent which, on May 16, 1994, resolved inter alia:

"x x x x x x x x x x"

"We find the conclusions on illegal dismissal not well-substantiated by evidence and law.

"Considering the divergent positions on illegal dismissal, it was incumbent on the Labor Arbiter to have threshed out said issue as it involved factual matters which need further clarification. The New Rules of Procedure empowers the Labor Arbiter to do so (Sec. 4, Rule V). As it is, conclusions on illegality of dismissal border on speculation.

"Indeed, the ends of justice would better be served if both parties are granted further opportunity to ventilate their respective positions on illegal dismissal.

"PREMISES CONSIDERED, the Decision of February 23, 1994 is hereby MODIFIED. The issue of illegal dismissal is hereby REMANDED to Arbitration Branch of origin for further appropriate proceedings. The other findings stand affirmed.

"SO ORDERED."[6]

Petitioner moved for a reconsideration of the order. In the impugned Resolution, dated July 20, 1994, public respondent denied the Motion For Reconsideration, and further directed that the "payroll reinstatement of (Calibot and Duval) should stop upon finality of (the) aforecited Resolution."[7]

We are now petitioned to resolve whether public respondent committed grave abuse of discretion in remanding the labor case to the arbiter and ordering the stop of Calibot's and Duval's payroll reinstatement.

We find for petitioner.

Section 4, Rule V of the New Rules of Procedure of the National Labor Relations Commission empowers labor arbiters to further clarify factual matters even after the parties have submitted their position papers or memoranda, thus:

"Section 4. Determination of Necessity of Hearing. — Immediately after the submission of the parties of their position papers/memoranda, the Labor Arbiter shall *motu proprio* determine whether there is need for a formal trial or hearing. At this stage, he may, at his discretion and for the purpose of making such determination, ask clarificatory questions to further elicit facts or information, including but not limited to the subpoena or relevant documentary evidence, if any, from any party or witness."

It is clear from the law that it is the arbiters who are authorized to determine whether or not there is a necessity for conducting formal hearings in cases brought before them for adjudication. Such determination is entitled to great respect in the absence of arbitrariness.

In the case at bench, both parties agreed to submit NLRC Case No. RAB-III-05-5044-93 to Labor Arbiter Saldares on the basis of their position papers and replies, as well as the documentary evidence annexed thereto. They are likewise of the view that public respondent erred in ordering the case remanded for hearings and further reception of evidence. They submit that there is ample evidence on record for public respondent to have decided on the appeal, even with respect to the issue of illegal dismissal. Even the Solicitor General finds public respondent's order for remand as constitutive of grave abuse of discretion. He correctly observed, viz.:

"x x x x x x x x

"By remanding the case to the labor arbiter for rehearing and reception of evidence, the NLRC gravely abused its discretion because it scuttled the rules of procedure and destabilized proceedings already finished and decided by the labor arbiter. Its order for a rehearing ... xxx ... was uncalled for, not only because it is not sanctioned by its own rules, but also because it was opposed by the parties themselves. (Hawaiian?Philippines, Co. vs. NLRC, G.R. No. 100712, Sept. 2, 1992, Minute Resolution).

"There is grave abuse of discretion when the challenged decision 'amounts to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.' (Franklin Baker Co. v. Trajano, 157 SCRA 416)

"To repeat, both the petitioners and the private respondents agreed to submit the case for disposition based on their own position papers, replies and attached documentary evidence. Indeed, the labor arbiter has aptly noted that the parties 'have no manifest desire to go on formal trial or adduce additional evidence in support of their

stands,' in his Order dated December 8, 1993. xxx

"Both parties have likewise reiterated in their separate motions for reconsideration, their manifest desire for respondent NLRC to completely resolve all the issues in the case instead of undergoing the crucible of further protracted proceedings. They contend that they have submitted more than substantial evidence to merit a decision in their respective favors.

"It is wrong and clearly in grave abuse of discretion for public respondent NLRC to fail or refuse to take into account the material facts and evidence for both parties — clearly shown by the transmitted record on appeal and to which its attention had already been drawn, and from which a final resolution of all the issues could and should have been made." [8]

Anent the issue of the stoppage of Calibot's and Duval's s payroll reinstatement, there is no need to look further than Article 223 of the Labor Code, as amended, which provides, in part:

"xxx In any event, the decision of the Labor Arbiter reinstating a dismissed or separated employee, insofar as the reinstatement aspect is concerned, shall immediately be executory, even pending appeal. The employee shall either be admitted back to work under the same terms and conditions prevailing prior to his dismissal or separation or, at the option of the employer, merely reinstated in the payroll. The posting of a bond by the employer shall not stay the execution for reinstatement provided herein. xxx" (Emphasis supplied)

Since the May 16, 1994 Resolution of public respondent ordering the remand of the illegal dismissal case to the labor arbiter was issued in grave abuse of discretion and must be set aside it inescapably follows that the payroll reinstatement of the two employees should not be stopped.

IN VIEW WHEREOF, the petition is GRANTED. The Resolutions of the National Labor Relations Commission, dated May 16, 1994 and July 20, 1994, respectively, in NLRC Case No. RAB-III-05-5044-93 are REVERSED AND SET ASIDE. Public respondent is ordered to decide said case on the basis of the record on appeal.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, and Mendoza, JJ., concur.

[1] Through its Third Division, composed of Presiding Commissioner Lourdes C. Javier (ponente), and Commissioners Ireneo B. Bernardo and Joaquin A. Tanodra.

[2] Resolution, dated May 16, 1994.

[3] Resolution, dated July 20, 1994.

[4] Docketed as NLRC Case No. RAB-III-05-5044-93.

[5] Decision of the Labor Arbiter, dated February 23, 1994, pp. 12-13; Rollo, pp. 62-63.

[6] Resolution, dated May 16, 1994, pp. 7-8; Rollo, pp. 26-27.

[7] Resolution, dated July 20, 1994, pp. 1-2; Rollo, pp. 37-38.

[8] Solicitor General's Comment, pp. 10-11; Rollo, pp. 155-156.

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