

**PIONEER TEXTURIZING CORP. AND/OR JULIANO LIM, PETITIONERS,
VS. NATIONAL LABOR RELATIONS COMMISSION, PIONEER
TEXTURIZING WORKERS UNION AND LOURDES A. DE JESUS,
RESPONDENTS.**

G.R. No. 118651. October 16, 1997

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

The facts are as follows:

Private respondent Lourdes A. de Jesus is petitioners' reviser/trimmer since 1980. As reviser/trimmer, de Jesus based her assigned work on a paper note posted by petitioners. The posted paper which contains the corresponding price for the work to be accomplished by a worker is identified by its P.O. Number. On August 15, 1992, de Jesus worked on P.O. No. 3853 by trimming the cloths' ribs. She thereafter submitted tickets corresponding to the work done to her supervisor. Three days later, de Jesus received from petitioners' personnel manager a memorandum requiring her to explain why no disciplinary action should be taken against her for dishonesty and tampering of official records and documents with the intention of cheating as P.O. No. 3853 allegedly required no trimming. The memorandum also placed her under preventive suspension for thirty days starting from August 19, 1992. In her handwritten explanation, de Jesus maintained that she merely committed a mistake in trimming P.O. No. 3853 as it has the same style and design as P.O. No. 3824 which has an attached price list for trimming the ribs and admitted that she may have been negligent in presuming that the same work was to be done with P.O. No. 3853, but not for dishonesty or tampering. Petitioners' personnel department, nonetheless, terminated her from employment and sent her a notice of termination dated September 18, 1992.

On September 22, 1992, de Jesus filed a complaint for illegal dismissal against petitioners. The Labor Arbiter who heard the case noted that de Jesus was amply accorded procedural due process in her termination from service. Nevertheless, after observing that de Jesus made some further trimming on P.O. No. 3853 and that her dismissal was not justified, the Labor Arbiter held petitioners guilty of illegal dismissal. Petitioners were accordingly ordered to reinstate de Jesus to her previous position without loss of seniority rights and with full backwages from the time of her suspension on August 19, 1992. Dissatisfied with the Labor Arbiter's decision, petitioners appealed to the public respondent National Labor Relations Commission (NLRC). In its July 21, 1994 decision, the NLRC^[1] ruled that de Jesus was negligent in presuming that the ribs of P.O. No. 3853 should likewise be trimmed for having the same style and design as P.O. No. 3824, thus petitioners cannot be entirely faulted for dismissing de Jesus. The NLRC declared that the status quo between them should be maintained and affirmed the Labor Arbiter's order of reinstatement, but without backwages. The NLRC further "directed petitioner to pay de Jesus her back salaries from the date she filed her motion for execution on September 21, 1993 up to the date of the promulgation of [the] decision."^[2] Petitioners filed their partial motion for reconsideration which the NLRC denied, hence this petition anchored substantially on the alleged NLRC's error in holding that de Jesus is entitled to reinstatement and back salaries. On March 6, 1996, petitioners filed its supplement to the petition amplifying

further their arguments. In a resolution dated February 20, 1995, the Court required respondents to comment thereon. Private respondent de Jesus and the Office of the Solicitor General, in behalf of public respondent NLRC, subsequently filed their comments. Thereafter, petitioners filed two rejoinders [should be replies] to respondents' respective comments. Respondents in due time filed their rejoinders.

These are two interrelated and crucial issues, namely: (1) whether or not de Jesus was illegally dismissed, and (2) whether or not an order for reinstatement needs a writ of execution.

Petitioners insist that the NLRC gravely abused its discretion in holding that de Jesus is entitled to reinstatement to her previous position for she was not illegally dismissed in the first place. In support thereof, petitioners quote portions of the NLRC decision which stated that "respondent [petitioners herein] cannot be entirely faulted for dismissing the complaint"[3] and that there was "no illegal dismissal to speak of in the case at bar".[4] Petitioners further add that de Jesus breached the trust reposed in her, hence her dismissal from service is proper on the basis of loss of confidence, citing as authority the cases of *Ocean Terminal Services, Inc. v. NLRC*, 197 SCRA 491; *Coca-Cola Bottlers Phil., Inc. v. NLRC*, 172 SCRA 751, and *Piedad v. Lanao del Norte Electric Cooperative*,[5] 154 SCRA 500.

The arguments lack merit.

The entire paragraph which comprises the gist of the NLRC's decision from where petitioners derived and isolated the aforementioned portions of the NLRC's observation reads in full as follows:

"We cannot fully subscribe to the complainant's claim that she trimmed the ribs of PO3853 in the light of the sworn statement of her supervisor Rebecca Madarcos (Rollo, p. 64) that no trimming was necessary because the ribs were already of the proper length. The complainant herself admitted in her *sinumpaang salaysay* (Rollo, p. 45) that "Aking napansin na hindi pantay-pantay ang lapad ng mga ribs PO3853 - mas maigsi ang nagupit ko sa mga ribs ng PO3853 kaysa sa mga ribs ng mga nakaraang PO's. The complaint being an experienced reviser/trimmer for almost twelve (12) years should have called the attention of her supervisor regarding her observation of PO3853. It should be noted that complainant was trying to claim as production output 447 pieces of trimmed ribs of PO3853 which respondents insists that complainant did not do any. She was therefore negligent in presuming that the ribs of PO3853 should likewise be trimmed for having the same style and design as PO3824. Complainant cannot pass on the blame to her supervisor whom she claimed checked the said tickets prior to the submission to the Accounting Department. As explained by respondent, what the supervisor does is merely not the submission of tickets and do some checking before forwarding the same to the Accounting Department. It was never disputed that it is the Accounting Department who does the detailed checking and computation of the tickets as has been the company policy and practice. Based on the foregoing and considering that respondent cannot be entirely faulted for dismissing complainant as the complainant herself was also negligent in the performance of her job, We hereby rule that status quo between them should be maintained as a matter of course. We thus affirm the decision of Labor Arbiter reinstating the complainant but without backwages. The award of backwages in general are granted on grounds of equity for earnings which a worker or employee has lost due to his illegal dismissal. (*Indophil Acrylic Mfg. Corporation vs. NLRC*, G.R. No. 96488 September 27, 1993) There being no illegal dismissal to speak in the case at bar, the award for backwages should necessarily be deleted."[6]

We note that the NLRC's decision is quite categorical in finding that de Jesus was merely negligent in the performance of her duty. Such negligence, the Labor Arbiter delineated, was brought about by the petitioners' plain improvidence. Thus:

"After careful assessment of the allegations and documents available on record, we are convinced that the penalty of dismissal was not justified.

"At the outset, it is remarkable that respondents did not deny nor dispute that P.O. 3853 has the same style and

design as P.O. 3824; that P.O. 3824 was made as guide for the work done on P.O. 3853; and, most importantly, that the notation correction on P.O. 3824 was made only after the error was discovered by respondents' Accounting Department.

"Be sure that as it may, the factual issue in this case is whether or not complaint trimmed the ribs of P.O. 3853?

"Respondents maintained that she did not because the record in Accounting Department allegedly indicates that no trimming is to be done on P.O. 3853. Basically, this allegation is unsubstantiated.

"It must be emphasized that in termination cases the burden of proof rests upon the employer.

"In the instant case, respondents' mere allegation that P.O. 3853 need not be trimmed does not satisfy the proof required to warrant complainant's dismissal.

"Now, granting that the Accounting record is correct, we still believe that complainant did some further trimming on P.O. 3853 based on the following grounds:

"First, Supervisor Rebecca Madarcos who ought to know the work to be performed because she was in-charged of assigning jobs, reported no anomaly when the tickets were submitted to her.

"Incidentally, supervisor Madarcos testimony is suspect because if she could recall what she ordered the complainant to do seven (7) months ago (to revise the collars and plackets of shirts) there was no reason for her not to detect the alleged tampering at the time complainant submitted her tickets, after all, that was part of her job, if not her main job.

"Secondly, she did not exceed her quota, otherwise she could have simply asked for more.

"That her output was remarkably big granting misinterpreted it is true, is well explained in that the parts she had trimmed were lesser compared to those which she had cut before.

"In this connection, respondents misinterpreted the handwritten explanation of the complainant dated 20 August 1992, because the letter never admits that she never trimmed P.O. 3853, on the contrary the following sentence,

'Sa katunayan nakapagbawas naman talaga ako na di ko inaasahang inalis na pala ang presyo ng Sec. 9 P.O. 3853 na ito.'

is crystal clear that she did trim the ribs on P.O. 3853." [7]

Gleaned either from the Labor Arbiter's observations or from the NLRC's assessment, it distinctly appears that petitioners' accusation of dishonesty and tampering of official records and documents with intention of cheating against de Jesus was not substantiated by clear and convincing evidence. Petitioners simply failed, both before the Labor Arbiter and the NLRC, to discharge the burden of proof and to validly justify de Jesus' dismissal from service. The law, in this light, directs the employers, such as herein petitioners, not to terminate the services of an employee except for a just or authorized cause under the Labor Code.[8] Lack of a just cause in the dismissal from service of an employee, as in this case, renders the dismissal illegal, despite the employer's observance of procedural due process.[9] And while the NLRC stated that "there was no illegal dismissal to speak of in the case at bar" and that petitioners cannot be entirely faulted therefor, said statements are inordinate pronouncements which did not remove the assailed dismissal from the realm of illegality. Neither can these pronouncements preclude us from holding otherwise.

We also find the imposition of the extreme penalty of dismissal against de Jesus as certainly harsh and grossly disproportionate to the negligence committed, especially where said employee holds a faithful and an untarnished

twelve-year service record. While an employer has the inherent right to discipline its employees, we have always held that this right must always be exercised humanely, and the penalty it must impose should be commensurate to the offense involved and to the degree of its infraction.[10] The employer should bear in mind that, in the exercise of such right, what is at stake is not only the employee's position but her livelihood as well.

Equally unmeritorious is petitioners' assertion that the dismissal is justified on the basis of loss of confidence. While loss of confidence, as correctly argued by petitioners, is one of the valid grounds for termination of employment, the same, however, cannot be used as a pretext to vindicate each and every instance of unwarranted dismissal. To be a valid ground, it must be shown that the employee concerned is responsible for the misconduct or infraction and that the nature of his participation therein rendered him absolutely unworthy of the trust and confidence demanded by his position.[11] In this case, petitioners were unsuccessful in establishing their accusations of dishonesty and tampering of records with intention of cheating. Indeed, even if petitioners' allegations against de Jesus were true, they just the same failed to prove that her position needs the continued and unceasing trust of her employer's functions.[12] Surely, de Jesus who occupies the position of a reviser/trimmer does not require the petitioners' perpetual and full confidence. In this regard, petitioners' reliance on the cases of *Ocean Terminal Services, Inc. v. NLRC*; *Coca-Cola Bottlers Phil., Inc. v. NLRC*; and *Piedad v. Lanao del Norte Electric Cooperative*, which when perused involve positions that require the employers' full trust and confidence, is wholly misplaced. In *Ocean Terminal Services*, for instance, the dismissed employee was designated as expeditor and canvasser whose responsibility is mainly to make emergency procurements of tools and equipments and was entrusted with the necessary cash for buying them. The case of *Coca-Cola Bottlers*, on the other hand, involves a sales agent whose job exposes him to the everyday financial transactions involving the employer's goods and funds, while that of *Piedad* concerns a bill collector who essentially handles the employer's cash collections. Undoubtedly, the position of a reviser/trimmer could not be equated with that of a canvasser, sales agent, or a bill collector. Besides, the involved employees in the three aforementioned cases were clearly proven guilty of infractions unlike private respondent in the case at bar. Thus, petitioners' dependence on these cited cases is inaccurate, to say the least. More, whether or not de Jesus meets the day's quota of work she, just the same, is paid the daily minimum wage.[13]

Corollary to our determination that de Jesus was illegally dismissed is her imperative entitlement to reinstatement and backwages as mandated by law.[14] Whence, we move to the second issue, i.e., whether or not an order for reinstatement needs a writ of execution.

Petitioners' theory is that an order for reinstatement is not self-executory. They stress that there must be a writ of execution which may be issued by the NLRC or by the Labor Arbiter *motu proprio* or on motion of an interested party. They further maintain that even if a writ of execution was issued, a timely appeal coupled by the posting of appropriate supersedeas bond, which they did in this case, effectively forestalled and stayed execution of the reinstatement order of the Labor Arbiter. As supporting authority, petitioners emphatically cite and bank on the case of *Maranaw Hotel Resort Corporation (Century Park Sheraton Manila) v. NLRC*, 238 SCRA 190.

Private respondent de Jesus, for her part, maintains that petitioners should have reinstated her immediately after the decision of the Labor Arbiter ordering her reinstatement was promulgated since the law mandates that an order for reinstatement is immediately executory. An appeal, she says, could not stay the execution of a reinstatement order for she could either be admitted back to work or merely reinstated in the payroll without need of a writ of execution. De Jesus argues that a writ of execution is necessary only for the enforcement of decisions, orders, or awards which have acquired finality. In effect, de Jesus is urging the Court to re-examine the ruling laid down in *Maranaw*.

Article 223 of the Labor Code, as amended by R.A. No. 6715 which took effect on March 21, 1989, pertinently

provides:

“ART. 223. Appeal. --Decisions, awards, or orders of the Labor Arbiter are final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards, or orders. Such appeal maybe entertained only on any of the following grounds:

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“In an 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 reistated in the payroll. The posting of a bond by the employer shall not stay the execution for reinstatement provided herein.

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We initially interpreted the aforequoted provision in *Inciong v. NLRC*.^[15] The Court^[16] made this brief comment:

“The decision of the Labor Arbiter in this case was rendered on December 18, 1988, or three (3) months before Article 223 of the Labor Code was amended by Republic Act 6715 (which became law on March 21, 1989), providing that a decision of the Labor Arbiter ordering the reinstatement of a dismissed or separated employee shall be immediately executory insofar as the reinstatement aspect is concerned, and the posting of an appeal bond by the employer shall not stay such execution. Since this new law contains no provision giving it retroactive effect (Art. 4, Civil Code), the amendment may not be applied to this case.”

which the Court adopted and applied in *Callanta v. NLRC*.^[17] In *Zamboanga City Water District v. Buat*,^[18] the Court construed Article 223 to mean exactly what it says. We said:

“Under the said provision of law, the decision of the Labor Arbiter reinstating a dismissed or separated employee insofar as the reinstatement aspect is concerned, shall be immediately executory, even pending appeal. The employer shall reinstate the employee concerned either by: (a) actually admitting him back to work under the same terms and conditions prevailing prior to his dismissal or separation; or (b) at the option of the employer, merely reinstating him in the payroll. Immediate reinstatement is mandated and is not stayed by the fact that the employer has appealed, or has posted a cash or surety bond pending appeal.”^[19]

We expressed a similar view a year earlier in *Medina v. Consolidated Broadcasting System (CBS) – DZWX*^[20] and laid down the rule that an employer who fails to comply with an order of reinstatement makes him liable for the employee’s salaries. Thus:

“Petitioners construe the above paragraph to mean that the refusal of the employer to reinstate an employee as directed in an executory order of reinstatement would make it liable to pay the latter’s salaries. This interpretation is correct. Under Article 223 of the Labor Code, as amended, an employer has two options in order for him to comply with an order of reinstatement, which is immediately executory, even pending appeal. Firstly, he can admit the dismissed employee back to work under the same terms and conditions prevailing prior to his dismissal or separation or to a substantially equivalent position if the former position is already filled up as we have ruled in *Union of Supervisors (RB) NATU vs. Sec. of Labor*, 128 SCRA 442 [1984]; and *Pedroso vs. Castro*, 141 SCRA 252 [1986]. Secondly, he can reinstate the employee merely in the payroll. Failing to exercise any of the above options, the employer can be compelled under pain of contempt, to pay instead the salary of the employee. This interpretation is more in consonance with the constitutional protection to labor (Section 3, Art. XIII, 1987 Constitution). The right of a person to his labor is deemed to be property within the meaning of the constitutional guaranty that no one shall be deprived of life, liberty, and property without due process of law. Therefore, he should be protected against any arbitrary and unjust deprivation of

his job (Bondoc vs. People's Bank and Trust Co., Inc., 103 SCRA 599 [1981]). The employee should not be left without any remedy in case the employer unreasonably delays reinstatement. Therefore, we hold that the unjustified refusal of the employer to reinstate an illegally dismissed employee entitles the employee to payment of his salaries x x x.”[21]

The Court, however, deviated from this construction in the case of Maranaw. Reinterpreting the import of Article 223 in Maranaw, the Court[22] declared that the reinstatement aspect of the Labor Arbiter's decision needs a writ of execution as it is not self-executory, a declaration the Court recently reiterated and adopted in Archilles Manufacturing Corp. v. NLRC.[23]

We note that prior to the enactment of R.A. No. 6715, Article 223[24] of the Labor Code contains no provision dealing with the reinstatement of an illegally dismissed employee. The amendment introduced by R.A. No. 6715 is an innovation and a far departure from the old law indicating thereby the legislature's unequivocal intent to insert a new rule that will govern the reinstatement aspect of a decision or resolution in any given labor dispute. In fact, the law as now worded employs the phrase “shall immediately be executory” without qualification emphasizing the need for prompt compliance. As a rule, “shall” in a statute commonly denotes an imperative obligation and is inconsistent with the idea of discretion[25] and that the presumption is that the word “shall”, when used in a statute, is mandatory.[26] An appeal or posting of bond, by plain mandate of the law, could not even forestall nor stay the executory nature of an order of reinstatement. The law, moreover, is unambiguous and clear. Thus, it must be applied according to its plain and obvious meaning, according to its express terms. In *Globe-Mackay Cable and Radio Corporation v. NLRC*,[27] we held that:

“Under the principles of statutory construction, if a statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This plain-meaning rule or *verba legis* derived from the maxim *index animi sermo est* (speech is the index of intention) rests on the valid presumption that the words employed by the legislature in a statute correctly express its intent by the use of such words as are found in the statute. *Verba legis non est recedendum*, or from the words of a statute there should be no departure.”[28]

And in conformity with the executory nature of the reinstatement order, Rule V, Section 16 (3) of the New Rules of Procedure of the NLRC strictly requires the Labor Arbiter to direct the employer to immediately reinstate the dismissed employee. Thus:

“In case the decision includes an order of reinstatement, the Labor Arbiter shall direct the employer to immediately reinstate the dismissed or separated employee even pending appeal. The order of reinstatement shall indicate that 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.”

In declaring that reinstatement order is not self-executory and needs a writ of execution, the Court, in Maranaw, adverted to the rule provided under Article 224. We said:

“It must be stressed, however, that although the reinstatement aspect of the decision is immediately executory, it does not follow that it is self-executory. There must be a writ of execution which may be issued *motu proprio* or on motion of an interested party. Article 224 of the Labor Code provides:

‘ART. 224. Execution of decisions, orders or awards. –(a) The Secretary of Labor and Employment or any Regional Director, the Commission or any Labor Arbiter, or med-arbiter or voluntary arbitrator may, *motu proprio* or on motion of any interested party, issue a writ of execution on a judgment within five (5) years from the date it becomes final and executory ...’ (emphasis supplied)

“The second paragraph of Section 1, Rule VIII of the New Rules of Procedure of the NLRC also provides:

‘The Labor Arbiter, POEA Administrator, or the Regional Director, or his duly authorized hearing officer of origin shall, motu proprio or on motion of any interested party, issue a writ of execution on a judgment within five (5) years from the date it becomes final and executory No motion for execution shall be entertained nor a writ be issued unless the Labor Arbiter is in possession of the records of the case which shall include an entry of judgment.’ (emphasis supplied)

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“In the absence of an order for the issuance of a writ of execution on the reinstatement aspect of the decision of the Labor Arbiter, the petitioner was under no legal obligation to admit back to work the private respondent under the terms and conditions prevailing prior to her dismissal or, at the petitioner’s option, to merely reinstate her in the payroll. An option is a right of election to exercise a privilege, and the option in Article 223 of the Labor Code is exclusively granted to the employer. The event that gives rise for its exercise is not the reinstatement decree of a Labor Arbiter, but the writ for its execution commanding the employer to reinstate the employee, while the final act which compels the employer to exercise the option is the service upon it of the writ of execution when, instead of admitting the employee back to his work, the employer chooses to reinstate the employee in the payroll only. If the employer does not exercise this option, it must forthwith admit the employee back to work, otherwise it may be punished for contempt.”[29]

A closer examination, however, shows that the necessity for a writ of execution under Article 224 applies only to final and executory decisions which are not within the coverage of Article 223. For comparison, we quote the material portions of the subject articles:

“ART. 223. Appeal. x x x

“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.

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“ART. 224. Execution of decisions, orders, or awards. --(a) The Secretary of Labor and Employment or any Regional Director, the Commission or any Labor Arbiter, or med-arbiter or voluntary arbitrator may, motu proprio or on motion of any interested party, issue a writ of execution on a judgment within five (5) years from the date it becomes final and executory, requiring a sheriff or a duly deputized officer to execute or enforce final decisions, orders or awards of the Secretary of Labor and Employment or regional director, the Commission, the arbiter or med-arbiter, or voluntary arbitrators. In any case, it shall be the duty of the responsible officer to separately furnish immediately the counsels of record and the parties with copies of said decisions, orders or awards. Failure to comply with the duty prescribed herein shall subject such responsible officer to appropriate administrative sanctions.”

Article 224 states that the need for a writ of execution applies only within five (5) years from the date a decision, an order or awards becomes final and executory. It cannot relate to an award or order of reinstatement still to be appealed or pending appeal which Article 223 contemplates. The provision of Article 223 is clear that an award for reinstatement shall be immediately executory even pending appeal and the posting of a bond by the employer shall not stay the execution for reinstatement. The legislative content is quite obvious, i.e., to make an award of reinstatement immediately enforceable, even pending appeal. To require the application for and issuance of a writ of execution as prerequisites for the execution of a reinstatement award would certainly betray and run counter to the very object and intent of Article 223, i. e., the immediate execution of a reinstatement order. The reason is simple. An application for a writ of execution and its issuance could be delayed for numerous reasons. A mere

continuance or postponement of a scheduled hearing, for instance, or an inaction on the part of the Labor Arbiter or the NLRC could easily delay the issuance of the writ thereby setting at naught the strict mandate and noble purpose envisioned by Article 223. In other words, if the requirements of Article 224 were to govern, as we so declared in *Maranaw*, then the executory nature of a reinstatement order or award contemplated by Article 223 will be unduly circumscribed and rendered ineffectual. In enacting the law, the legislature is presumed to have ordained a valid and sensible law, one which operates no further than may be necessary to achieve its specific purpose. Statutes, as a rule, are to be construed in the light of the purpose to be achieved and the evil sought to be remedied.^[30] And where statutes are fairly susceptible of two or more construction, that construction should be adopted which will most tend to give effect to the manifest intent of the law maker and promote the object for which the statute was enacted, and a construction should be rejected which would tend to render abortive other provisions of the statute and to defeat the object which the legislator sought to attain by its enactment.^[31] In introducing a new rule on the reinstatement aspect of a labor decision under R.A. No. 6715, Congress should not be considered to be indulging in mere semantic exercise. On appeal, however, the appellate tribunal concerned may enjoin or suspend the reinstatement order in the exercise of its sound discretion.

Furthermore, the rule is that all doubts in the interpretation and implementation of labor laws should be resolved in favor of labor. In ruling that an order or award for reinstatement does not require a writ of execution the Court is simply adhering and giving meaning to this rule. Henceforth, we rule that an award or order for reinstatement is self-executory. After receipt of the decision or resolution ordering the employee's reinstatement, the employer has the right to choose whether to re-admit the employee to work under the same terms and conditions prevailing prior to his dismissal or to reinstate the employee in the payroll. In either instance, the employer has to inform the employee of his choice. The notification is based on practical considerations for without notice, the employee has no way of knowing if he has to report for work or not.

WHEREFORE, the petition is DENIED and the decision of the Labor Arbiter is hereby REINSTATED.

Costs against petitioner.

SO ORDERED.

Narvasa, C.J., Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Hermosisima, Jr., Panganiban, and Torres, Jr., JJ., concur.

[1] Second Division: Perez, Pres. Comm.; Calaycay, Rayala, Comms.

[2] NLRC Decision, p. 7; Rollo, p. 35.

[3] Petition, p. 12; Rollo, p. 13.

[4] Id; Rejoinder [should be Reply] to the Comment of the Office of the Solicitor General, pp. 2-3.

[5] Piedad's correct citation is 153 SCRA 500, and not 154 SCRA 500 as inadvertently stated by the petitioners.

[6] NLRC Decision, pp. 5-7; Rollo, pp. 33-35.

[7] Decision of the Labor Arbiter, pp. 4-6; Rollo, pp. 41-43.

[8] Art. 279, Labor Code, as amended.

[9] *Oania v. NLRC*, 244 SCRA 668; *Citytrust Finance Corp. v. NLRC*, 157 SCRA 87; *Manila Midtown Commercial Corp. v. Nuwhrain*, 159 SCRA 212; *Stellar Services, Inc. v. NLRC*, G.R. No. 117418, January 24, 1996.

- [10] Solmac Marketing, Inc. and Armando Macam v. NLRC, G.R. No. 116574, February 12, 1996.
- [11] Nevans v. CIR, 23 SCRA 1321; Galsim v. Philippine National Bank, 29 SCRA 293; Reyes v. Zamora, 90 SCRA 92; Tabacalera Insurance Co. v. NLRC, 152 SCRA 667.
- [12] Quezon Electric Cooperative v. NLRC, 172 SCRA 88; Valladolid v. Inciong, 121 SCRA 2053.
- [13] Rollo, p. 39.
- [14] Article 279, Labor Code, as amended; Pantranco North Express, Inc. v. NLRC, G.R. No. 114333, January 24, 1996; Oania v. NLRC, 244 SCRA 668; Valiant Machinery and Metal Corporation and Jimmy Lua Sing v. NLRC, G.R. No. 105877, January 25, 1996.

[15] 185 SCRA 651, 655.

- [16] First Division: Griño-Aquino, J., ponente; Narvasa [now C.J.], Cruz, and Medialdea, JJ., concurring.
- [17] 225 SCRA 526; Third Division: Bidin, J., ponente; Feliciano, Romero, Melo and Vitug, JJ., concurring.
- [18] 232 SCRA 526; First Division: Quiason, J., ponente; Davide, Jr., and Bellosillo, JJ., concurring; Cruz and Kapunan, JJ., on leave.
- [19] 232 SCRA at p. 593.
- [20] 222 SCRA 707; Third Division; Melo, J., ponente; Feliciano, Bidin, Davide, Jr., and Romero, JJ., concurring.
- [21] 222 SCRA at pp. 710-711.
- [22] First Division: Davide, Jr., J., ponente; Padilla, Bellosillo, Quiason and Kapunan, JJ., concurring.
- [23] 244 SCRA 750; First Division: Bellosillo, J., ponente; Padilla, Davide, Jr., and Kapunan, JJ., concurring; Quiason, J., on leave.
- [24] Art. 223. Appeal. –Decisions, awards, or orders of the Labor Arbiter or compulsory arbitrators are final and executory unless appealed to the Commission by any or both of the parties within ten (10) days from receipt of such awards, orders, or decisions. Such appeal may be entertained only on any of the following grounds;
- (a) If there is prima facie evidence of abuse of discretion on the part of the Labor Arbiter or Compulsory Arbitrator;
- (b) If the decision, order or award was secured through fraud or coercion, including graft and corruption;
- (c) If made purely on questions of law; and
- (d) If serious errors in the findings of facts are raised which would cause grave abuse or irreparable damage or injury to the appellant.

To discourage frivolous or dilatory appeals, the Commission or the Labor Arbiter shall impose reasonable penalty, including fines or censures, upon the erring parties.

In all cases, the appellant shall furnish a copy of the memorandum of appeal to the other party who shall file an answer not later than ten (10) days from receipt thereof.

The Commission shall decide all cases within twenty (20) working days from receipt of the answer of the appellee.

The decision of the Commission is appealable to the Secretary of Labor on any of the following grounds:

- (a) If there is a prima facie evidence of abuse of discretion;
- (b) If made purely on questions of law; and
- (c) If there is a showing that the national security or social and economic stability is threatened.

The decision of the Commission shall be immediately executory, even pending appeal, unless stayed by an order of the Secretary of Labor for special reasons. The decision of the Secretary of Labor shall be immediately executory; Provided, That the President of the Philippines may assume jurisdiction over any cases which he considers national interest cases. (Note: PD 1367 promulgated May 1, 1978 eliminated appeals of the Office of the President and made the Office of the Secretary the terminal appeal level. But PD 1391 promulgated May 29, 1978 further delimited appeals to the NLRC. See texts of PD 1367 and PD 1391.)

The Philippine Constabulary and other law-enforcement agencies may be deputized by the Secretary of Labor in the enforcement of orders, decisions, or awards.

[25] *Elmer v. Commissioner of Insurance*, 23 N. E. 2d 95, 304 Mass. 194.

[26] *Swift v. Smith*, 201 P. 2d 609, 119 Colo. 126; *City of Gary v. Yaksich*, 90 N.E. 2d 509, 120 Ind. App. 121; *Baranda v. Gustilo*, 165 SCRA 757.

[27] 206 SCRA 701.

[28] *Id.*, at p. 711.

[29] 238 SCRA at pp. 198-199.

[30] See *ALVN Pictures, Inc. v. Philippine Musicians Guild and CIR*, 110 Phil. 725.

[31] *US v. Toribio*, 15 Phil. 85, 90.

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