

**NESCITO C. HILARIO, PETITIONER, VS. NATIONAL LABOR
RELATIONS COM-MISSION, REYNOLDS PHILIPPINES CORPORATION,
JAMES G. MILLER, HENRY W. PINKEY, AND GEORGE C. MOLINA,
RESPONDENTS.**

G.R. No. 119583. January 29, 1996

Ponente: ROMERO, J.

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ROMERO, J.:

Petitioner Nescito C. Hilario seeks to modify the Decision[1] of public respondent National Labor Relations Commission, which reversed and set aside the decision of Labor Arbiter Salimathar V. Nambi, National Capital Region.

Petitioner was hired by private respondent Reynolds Philippines, Inc. (Reynolds) through the Bob Garon Consultancy, Inc. as personnel manager of its Cavite plant on December 1, 1984.

Sometime in June 1985 he was transferred to the Head Office to handle various legal matters.

On November 29, 1985, petitioner was handed a letter by Reynolds personnel informing him that the company had been incurring financial losses and that, as a result, his employment would be terminated on the ground of retrenchment, effective January 1, 1986.

On December 5, 1985 petitioner filed a complaint for illegal dismissal with prayer for reinstatement, backwages and damages with Labor Arbiter Nambi.

On December 15, 1992, the Labor Arbiter rendered a decision dismissing the complaint but ordering Reynolds to pay petitioner his unpaid salary for December 1985, Christmas bonus and separation pay equivalent to one (1) month salary.

Petitioner appealed to the National Labor Relations Commission. Finding the appeal meritorious, on March 7, 1995, the NLRC reversed and set aside the decision of the Labor Arbiter and declared petitioner's dismissal as illegal. The NLRC said:

"While we concede to the fact that during those trying times of the 80s, business was at its lowest, nevertheless, We find the circumstances affecting the complainant's dismissal as rather irregular and abnormal in view of the mercurial turn of events in that, after six (6) months his being hired as Personnel Manager for the respondent's Dasmariñas Plant, he was transferred to the Makati Office to do another job; then five (5) months after the transfer, he was terminated on the ground of retrenchment.

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We are puzzled no end by the stance of the respondent of placing a 'Want-Ad' for its personnel manager, thus enticing applicants to leave their existing job and once accepted would only find themselves victims of retrenchment and be thrown out of job. If, indeed, it were true that the respondent was already suffering from

severe financial difficulties at the time it announced its 'Want-Ad' through its agent, this act of the respondent, to Us, amounts to misrepresentation and bad faith and therefore should (sic) be contemned. As in this case, the complainant was lured into respondent to its 'Want-Ad,' thereby leaving his job only to find out after one (1) year that he could be retrenched due to alleged business reverses.

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While there are records submitted relative to the financial status of the respondent company is concerned in support of its claim of severe business reverses, the complainant has, however, established the contrary. It has not be (sic) substantially refuted the fact that after the complainant's pull out from the Dasmarinas plant, his salary was increased by One Thousand Pesos (P1,000.00) per month; that after his termination, Atty. George Molina who took over his position as Plant Manager also enjoyed an increase and even Atty. George Molina's successor was given a much higher salary than his predecessors.

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In the overall analysis of the pieces of evidence submitted as well as those raised on appeal and the respondent's opposition to appeal, We find the position of the respondent to be paradoxical in the sense that while before the National Labor Relations Commission, it tries to project a dying image, and yet, before the Securities and Exchange Commission, per the latter's Order dated September 18, 1986, the following pronouncement is made, to wit:

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Among the other considerations, RPC (Reynolds) itself declares that, while its liabilities exceeds its assets, it believes that its true going concern value in fact exceeds its liabilities, RPC is a viable going concern as it generates a net operating cash flow of about five million pesos a month from sales of thirty million pesos per month. x x x.' (Records, pp. 129-130)

Thus, We find unwarranted the ground of retrenchment in the complainant's termination as We are fully convinced that there are other whimsical reasons obtaining that compelled the respondent into terminating his employment from the company, We have meticulously reviewed."

Thus, the NLRC ordered private respondent to pay petitioner his backwages from January 2, 1986 up to August 1986 when he was appointed City Attorney of Quezon City; separation pay equivalent to one (1) month salary for every year of service; his unpaid salary for the month of December 1985 and his 13th month pay; and the amount of P30,000.00 and P20,000.00 as moral and exemplary damages, respectively.

Dissatisfied with the NLRC decision, petitioner now seeks to have it modified before this Court.

Petitioner prays for reinstatement to his former position (or its equivalent); payment of his backwages from January 1, 1986 to January 1, 1989 without deduction; payment of his December 1988 salary and his 13th month pay for the years 1985, 1986, 1987 and 1988 and for an increase in the award of damages from P30,000.00 to P1,000,000.00 for moral damages and from P20,000.00 to P100,000.00 as exemplary damages.

We agree with petitioner that he is entitled to the payment of backwages for three (3) years from January 1, 1986 to January 1, 1989 without deduction and qualification.

The payment of backwages is a normal consequence of a finding that an employee has been illegally dismissed. Prior to the amendment introduced by Section 34 of Republic Act No. 6715 to Article 279 of the Labor Code on March 21, 1989, the award of backwages to an illegally dismissed employee was limited to a three-year period, without modification or deduction, following the doctrine laid down in *Mercury Drug Co. Inc. v. Court of*

Industrial Relations[2] as refined by *Feati University Faculty Club v. Feati University*.^[3]

Although Republic Act No. 6715 amended the Labor Code by providing that an illegally dismissed employee is entitled to full backwages, inclusive of allowance, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement, we have ruled^[4] that this amendment has no retroactive effect, such that the award of backwages to an employee whose illegal dismissal occurred before March 21, 1989, such as petitioner herein, is limited to three (3) years without deduction or qualification. Petitioner should likewise be paid his unpaid salary for December 1985, as well as his Christmas bonus. The rest of petitioner's money claims have no legal basis.

Regarding the issue of reinstatement, to order the same at this juncture would no longer serve any logical purpose. As we have observed in previous cases,^[5] if the relationship between employer and employee has been unduly strained by reason of their respective imputations of bad faith to each other, as is quite evident from the vehement and consistent stand of private respondent in refusing to reinstate petitioner, it would be prudent not to order the same. This is particularly true in cases^[6] where the illegally dismissed employee holds a managerial or key position, such as petitioner used to hold, where he can only work effectively if he enjoys the full trust and confidence of top management.

Inasmuch as reinstatement is no longer feasible, respondent company is ordered to pay petitioner separation pay equivalent to one month's salary for his roughly one year's service.

Lastly, regarding petitioner's arguments for an increase in the amount of damages awarded to him, we find the same to be devoid of merit.

It bears emphasis that the Labor Code is silent on the liability of an employer for damages in case the termination of employment is declared to be unjust. However, we have ruled^[7] that the employer may be liable for damages if, in terminating the employment, it also committed an anti-social and oppressive abuse of its right to investigate and dismiss its employee in violation of Article 1701 of the Civil Code which prohibits oppression by either capital or labor against the other.

Thus, in *CLLC E.G. Gochangco Workers Union v. NLRC*,^[8] we said:

"As for moral damages, we hold the said respondent liable therefor under the provisions of Article 2220 of the Civil Code providing for damages for 'breaches of contract where the defendant acted fraudulently or in bad faith.' We deem just and proper the sum of P5,000.00 each in favor of the terminated workers, in the concept of such damages.

We likewise grant unto said workers another P5,000.00 each to answer for exemplary damages based on the provision of Articles 2229 and 2231 and/or 2232 of the Civil Code. For 'act[ing] in gross and evident bad faith in refusing to satisfy the [petitioners'] plainly valid, just and demandable claim[s], x x x."

After a meticulous examination of the records in this case, it is not shown that Reynolds acted in a wanton or oppressive manner against petitioner or in gross bad faith in terminating his employment. However, as the NLRC pointed out, there is evident bad faith in the respondent company's termination of petitioner on the ground of retrenchment, since his salary was increased after his pullout from the Dasmariñas plant and those appointed after his termination were given salaries much higher than what petitioner used to enjoy while connected with the company. In no case may this be considered as gross bad faith or wanton or oppressive act on the part of the company; hence an award of P20,000.00 as moral damages is sufficient.

WHEREFORE, the decision of the NLRC is hereby MODIFIED. Private respondent Reynolds Philippines, Inc. is hereby ordered to pay petitioner his backwages for three (3) years from January 1, 1986 to January 1, 1989

without deduction or qualification; his unpaid salary for December 1985, as well as his Christmas bonus and separation pay equivalent to one month's salary for roughly one year's service. However, the award of moral damages is reduced to P20,000.00

SO ORDERED.

Regalado (Chairman), Puno, and Mendoza, JJ., concur.

[1] Rollo, p. 26.

[2] 56 SCRA 696(1974).

[3] 58 SCRA 395 (1976).

[4] Maranaw Hotels and Resorts Corp. v. Court of Appeals, 215 SCRA 501 (1992); Sealand Service, Inc. v. NLRC, 190 SCRA 347 (1990); Lantion v. NLRC, 181 SCRA 513 (1990).

[5] Commercial Motors Corp. v. NLRC, 192 SCRA 199(1990); Sealand Service, Inc. v. NLRC, supra; City Trust Finance Corp. v. NLRC, 157 SCRA 87(1988) Pasar v. NLRC, 174 SCRA 551 (1989); Esmalin v. NLRC, G.R. No. 67880, September 15, 1989.

[6] Maranaw Hotels and Resorts Corp. v. Court of Appeals, supra; Asiaworld Publishing House, Inc. v. Ople, 152 SCRA 219(1987); Bautista v. Inciong, 158 SCRA 665 (1988); Esmalin v. NLRC, supra; Maglutac v. NLRC; 189 SCRA 767 (1990); Globe-Mackay Cable and Radio Corporation v. NLRC, 206 SCRA 712 (1992).

[7] Phil. Refining Co., Inc. v. Garcia, 18 SCRA 107 (1966); Nadura v. Benquet Consolidated, Inc., 5 SCRA 879 (1962).

[8] 161 SCRA 655 (1988).

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