

ALEXANDER VINOYA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, REGENT FOOD CORPORATION AND/OR RICKY SEE (PRESIDENT), RESPONDENTS.

G.R. No. 126586. August 25, 2000

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

This treats of a motion for reconsideration filed by private respondent Regent Food Corporation (RFC) of our Decision, promulgated on 2 February 2000, which affirmed the decision of the labor arbiter ordering RFC to reinstate petitioner Alexander Vinoya to his former position and pay him backwages and other benefits.

In its first motion for partial reconsideration,[1] filed on 8 March 2000, RFC alleges that it respects and abides by the finding of the Supreme Court that it is the employer of petitioner. However, RFC points out that in view of the existing employment contract between petitioner and Peninsula Manpower Company, Inc. (PMCI) and the service contract between RFC and PMCI, both of which have not been declared as void by the Court, RFC claims that petitioner still appears to be the employee of PMCI, since petitioner was merely assigned to it by PMCI by virtue of its own declaration in the aforesaid contracts. Along this line, RFC argues that since PMCI held itself out to the public as a qualified and legitimate independent contractor which convinced RFC to enter into a contract of service with PMCI, when it truth and as held by the Court, it was not so, PMCI should be made to reimburse RFC of the amount it will pay to petitioner as the adjudged employer of the latter.

Subsequently, on 24 March 2000, a supplemental motion for reconsideration[2] was filed by RFC. In this motion, RFC pleads that in the event that the Court sustains its original decision and denies its first partial motion for reconsideration, it prays that the Court modify the award of reinstatement of petitioner and instead order the payment of separation pay in favor of the latter.

In a Resolution,[3] dated 5 April 2000, the Court required the petitioner to file his comment to the motion for partial reconsideration filed by RFC. On 12 May 2000, petitioner filed his comment/opposition[4] to the motion for partial reconsideration. Petitioner argues that the motion filed by RFC dealt with issues already resolved and discussed by the Court in its decision. Thus, petitioner prays that the motion for partial reconsideration be dismissed for lack of merit.

We have carefully examined and studied the records of the case but we have found no reason to modify our finding that RFC is the true employer of petitioner. Indeed, despite the existence of the alleged contracts of service and employment, the status of petitioner as the employee of RFC is not affected. As we have previously held in our 2 February 2000 Decision, RFC is the rightful employer of petitioner under the four-fold test of employer-employee relations.[5] Moreover, PMCI, based on the standards set by the Labor Code, is merely a labor-only contractor and, as such, cannot be properly considered as the employer of petitioner. On this score, we deny the first motion for partial reconsideration of RFC.

However, we find merit in the supplemental motion for reconsideration filed by RFC. Previously, we have held

that an illegally dismissed employee is entitled to: (1) either reinstatement, if viable, or separation pay if reinstatement is no longer viable, and (2) backwages. Private respondent claims that reinstatement is no longer feasible due to the parties' strained relations. As a general rule, strained relations is an issue factual in nature that should be raised and proved before the Labor Arbiter.[6] However, the case before us presents peculiar circumstances as the strained relations arose after the filing of the case. As pointed out by the private respondent, the antagonistic feelings of the parties towards each other stemmed from the filing by the petitioner of the complaint before the labor arbiter and deepened during the eight-year pendency of the case. This fact, petitioner has failed to deny in his comment to the motion for reconsideration. Petitioner merely opposes private respondent's motion for reconsideration on the ground that the same does not raise any new issues not resolved in the decision. However, the issue of strained relations was never squarely dealt with in the decision being reconsidered. The Court finds that it would be impractical and not in the best interest of the parties if we insist that petitioner be reinstated to his former position. Considering further that petitioner's former position as sales representatives involves the handling of accounts and other property of RFC, it would not be equitable on the part of RFC to be forced to maintain petitioner in its employ since it may only inspire vindictiveness on the part of petitioner. Accordingly in lieu of reinstatement, payment of separation pay equivalent to one month's salary for every year of service may be awarded.[7]

WHEREFORE, premises considered, the motion for reconsideration is hereby **PARTIALLY GRANTED**. The dispositive portion of the 2 February 2000 decision is hereby **MODIFIED** in that private respondent is ordered to pay petitioner separation pay equivalent to one month's salary for every year of service in lieu of reinstatement, plus full backwages, without deduction or qualification, counted from the date of dismissal until the finality of this resolution including other benefits to which he is entitled under the law.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Pardo, and Ynares-Santiago, JJ., concur.

[1] Rollo, p. 273.

[2] Id., at 285.

[3] Id., at 282.

[4] Id., at 298.

[5] Id., at 250, 264-269.

[6] Quijano v. Mercury Drug Corporation, 292 SCRA 109, 120 (1998)

[7] De la Cruz v. NLRC, 268 SCRA 458 (1997).

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