

PGA BROTHERHOOD ASSOCIATION, RODOLFO DACANAY, ALFREDO TAPEL, FROILAN BALASAN, CEFERINO PALENCIA, BENIGNO LAPENA, RODOLFO DULDULAO, ANTONIO TABACO, AUGUSTIN CARVAJAL, ERNESTO DUG...

G.R. No. 131085. June 19, 2000

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This is a Petition for Certiorari assailing the Resolution and Order of the National Labor Relations Commission (NLRC) dated 13 March 1997 and 5 August 1997, respectively, denying petitioners' application for an alias writ of execution for the payment of their salaries as payroll-reinstated employees, as well as their motion to reconsider such denial.

On 22 June 1989 PGA Brotherhood Association and its seventeen (17) union members filed a complaint for unfair labor practice and illegal dismissal against the following security agencies: Philippine Scout Veterans Security and Investigation Agency (PSVSIA), GVM Security and Private Detective Agency, Inc. (GVM) and Abaquin Security and Detective Agency, Inc. (ASDA) as well as the individuals Severo Santiago and Benjamin Ponce De Leon (PSVSIA-GVM-ASDA Security Agency, Severo Santiago/Benjamin de Leon).[1]

On 20 February 1990 a similar complaint was filed by petitioners Rodolfo Dacanay and Alfredo Tapel against PSVSIA which was later consolidated with the first case[2] as the two (2) cases were based on the same causes of action.[3]

As found by the Labor Arbiter, petitioners were officers and members of the PGA Brotherhood Association, a duly registered labor organization, operating as security guards employed by PSVSIA, et al. Prior to their dismissal, they were assigned and posted with three (3) different companies of the Roces Group of Companies, all clients of PSVSIA. On 21 March 1989 petitioners were surprised when they were informed that effective that day their services were being terminated. They contended that prior to their dismissal they were coerced and harassed by PSVSIA officers to withdraw their membership from the PGA Brotherhood Association through the following acts: (a) The identified union members were relieved of their posts in the Roces Group of Companies; (b) They were promised reassignment on the condition that they would sign a letter of retraction signifying their withdrawal from the union; and, (c) Union officers were fetched from their assigned posts and brought to meetings with PSVSIA officers where they were discouraged from their union activities as well as threatened with dismissal. They attributed these systematic acts of discrimination to their uncompromising stand not to withdraw their union membership.

PSVSIA strongly denied the charge of illegal dismissal. It explained: Firstly, effective 21 March 1989 its contract with the Roces Group of Companies was terminated. On two (2) occasions prior thereto, PSVSIA was informed by its client about reported shortages of gasette plates, synthetizer base, lacquer developer and chorlan developer worth P415,350.00. Although PSVSIA was subsequently exonerated from any responsibility for the alleged

shortages, its clients still opted to terminate its security contract. Of the fifty-three (53) security guards advised to report for reassignment, only twenty-nine (29) complied and were actually reassigned. Secondly, seven (7) of the petitioners, namely, Samuel Amistad, Bernardo Vivar, Millard Agustin, Ernesto Dugayo, Agustin Carbajal, Ceferino Palencia and Antonio Tabaco, were assigned and posted to other clients of PSVSIA, while ten (10) others failed to report and refused reassignments to other clients unless the union was recognized by PSVSIA. The officers of PSVSIA also vehemently denied all the imputations heaped against them by petitioners, particularly their alleged attempts to pressure petitioners into renouncing their union membership.[4]

Finding interference in petitioners' exercise of the right of self-organization, the Labor Arbiter rendered a decision on 31 January 1991 declaring PSVSIA and its responsible officers guilty of unfair labor practice and ordering it to reinstate petitioners to their former positions without loss of seniority rights plus back wages from 21 March 1989 until their actual reinstatement. What particularly convinced the Labor Arbiter of the PSVSIA officers' culpability was their failure to take the witness stand or even submit any evidence to rebut the charges levelled against them. On the other hand, petitioners presented overwhelming and unmistakable proofs of interference in the exercise of their right to self-organization amounting to unfair labor practice, as defined and understood under the Labor Code, as amended, particularly Art. 248, pars. (a), (b) and (e) thereof.[5]

The Labor Arbiter likewise found PSVSIA and its officers liable for constructive dismissal when petitioners were refused work reassignments unless they retracted their union membership. With regard to petitioners' claim that they had not been paid their salaries from 1 to 21 March 1989, which was likewise denied by PSVSIA, the Labor Arbiter ruled that petitioners were entitled to such claim in view of the failure of PSVSIA to present evidence, such as payrolls, daily time records and the like, to prove otherwise.

On 18 February 1991, petitioners filed a motion to execute the reinstatement aspect of the decision of the Labor Arbiter. The writ of execution was not however enforced in view of a manifestation filed by PSVSIA on 25 February 1991 that, with the exception of complainants Ernesto Dugayo, Rodolfo Duldulao and Narciso Infante who were earlier reassigned, petitioners were "payroll- reinstated." [6] Such fact was however denied by petitioners who insisted that despite such payroll reinstatement they were never paid their corresponding salaries and wages nor were they actually reinstated. Because of this, petitioners filed with the Labor Arbiter on 10 April 1991 [7] a motion to cite the PSVSIA officers in contempt.

Meanwhile, on 21 February 1991, PSVSIA appealed the adverse decision of the Labor Arbiter to the NLRC. However, on 29 April 1991 the Labor Arbiter issued a show-cause order requiring the PSVSIA officers to explain why they should not be cited for contempt for refusing to reinstate petitioners. Instead of explaining, PSVSIA filed a motion to dismiss (or disregard the show-cause order) arguing that the Labor Arbiter had no jurisdiction to entertain the motion for contempt. On 11 June 1991 the Labor Arbiter indorsed the PSVSIA appeal, together with the motion for contempt, to the NLRC.

On 9 July 1993 the NLRC affirmed the decision of the Labor Arbiter but modified the award of back wages to Benjamin Arinas limiting it to the period from 21 March 1989 to 15 June 1989 when he was posted to his new assignment. Similarly the back wages of the other complainants were reduced to three (3) years.

The NLRC explained that complainants Rodolfo Dacanay and Alfredo Tapel in NLRC-NCR Case No. 00-02-01043-90 charged PSVSIA only with unfair labor practice and illegal dismissal but did not claim non-payment of wages, hence, they were not included among those who were to receive the unpaid wages from 1 to 21 March 1989. Only the seventeen (17) complainants named in the first case (NLRC-NCR Case No. 00-06-02904-89) were entitled to unpaid salaries. The NLRC likewise agreed with the Labor Arbiter in ordering payment of unpaid wages to the seventeen (17) complainants from 1 to 21 March 1989 notwithstanding the

contrary claim of PSVSIA for the reason that the evidence for the complainants adequately showed that they were dismissed without receiving their earned wages for March 1989. Lastly, the NLRC found no reason to reverse the ruling of the Labor Arbiter that the officers of PSVSIA were guilty of unfair labor practice as was amply shown by the evidence on record.[8]

As the decision of the NLRC did not delve on the issue of "payroll reinstatement," which was the subject of the motion for contempt, petitioners filed another motion on 12 October 1993 for the early resolution of the contempt charge.

Meanwhile, its motion for reconsideration having been denied by the NLRC, which denial became final and executory on 5 June 1994, PSVSIA filed a petition for certiorari with this Court on 11 September 1994 assailing the aforesaid decision and resolution of the NLRC finding them guilty of illegal dismissal and unfair labor practice. On 6 March 1995 this Court dismissed the petition for lack of merit.

On 27 March 1995 petitioners filed a motion for clarification of the resolution of this Court dated 6 March 1995 reiterating their prayer for the inclusion of their "back wages from the time they were terminated up to the present (until actual or payroll reinstatement) x x x in the computation of monetary awards." Pursuant to the NLRC decision of 9 July 1993 which, in the meantime, had become final and executory, petitioners were paid their monetary awards for back wages for three (3) years.

On 3 October 1995 petitioners moved for the issuance of an alias writ of execution for the collection of their earned salaries, wages and other benefits as payroll-reinstated employees after deducting therefrom the judgment awards they might have actually received equivalent to three (3) years' back wages.

On 11 January 1996 the Labor Arbiter denied the alias motion for an writ of execution reasoning that the question regarding the alleged uncollected salaries of petitioners by virtue of their purported payroll reinstatement during the pendency of the appeal has been resolved by the NLRC in its decision of 9 July 1993 which limited the back wages to three (3) years. Moreover, what militated against their claim for unpaid salaries while on payroll reinstatement was their Joint Manifestation with PSVSIA dated 29 September 1995 which clearly indicated the full satisfaction of the judgment awards in their favor.

Unfazed, petitioners appealed the denial of their motion to the NLRC which in its assailed Resolution of 13 March 1997 sustained the Labor Arbiter and dismissed the appeal for lack of merit.[9]

Reconsideration was denied in the assailed Order of 5 August 1997.[10]

Petitioners now contend that the NLRC committed grave abuse of discretion in dismissing their appeal from the Labor Arbiter's denial of their motion for the issuance of an alias writ of execution to enforce their claims under their status as "payroll-reinstatement" employees. They claim that as early as 25 February 1991 private respondent PSVSIA had unequivocally opted to reinstate petitioners in the "payroll." This being the case, PSVSIA is bound by its election. Hence the NLRC committed grave error in denying their claim for unpaid benefits in contravention of RA 6715 amending Art. 223 of the Labor Code which grants the employer in case of illegal dismissal the option to actually reinstate his employee or to reinstate him in the payroll. They submit that the NLRC decision of 9 July 1993 did not pass upon the controversy arising out of the "payroll reinstatement" considering that it was never mentioned in the decision.

Private respondent PSVSIA, on the other hand, would have us discard the arguments of petitioners for the following reasons:[11]

11 (a) That the NLRC, in its 9 July 1993 decision, appears to have ruled upon the issue of payroll reinstatement of

petitioners when it awarded back wages not exceeding three (3) years without qualification. As pointed out by PSVSIA, the NLRC decision, which in the meantime had become final and executory, was subject to a motion for execution and hearing which prompted the Labor Arbiter to issue his order of 8 August 1995 touching upon the reinstatement of petitioners and the computation of their monetary awards; (b) That petitioners are likewise estopped from foisting the issue for not raising the same at the hearing on the motion for execution. In fact, petitioners represented by counsel accepted and received the amounts of P763,730.10 and P33,938.46 for attorney's fees as full satisfaction of the monetary awards in the instant case as shown in the their Joint Manifestation dated 29 September 1995; (c) That PSVSIA has already complied with the reinstatement order when it filed a manifestation on the reinstatement of petitioners with Special Security Detail attached thereto. But petitioners however refused to report for duty. In fact, the NLRC, in its Resolution dated 13 March 1997, acknowledged compliance by PSVSIA with the 11 January 1996 Order of the Labor Arbiter and submitted the Special Security Detail of the complainants. However, petitioners moved for reconsideration on the ground that the Special Security Detail would result in demotion if "complainants Balasan and Tapat be made from Detachment Commander to mere ordinary security guards." [12]

Petitioners' contentions are bereft of merit. It is important to note that in the dispositive portion of its decision of 9 July 1993, the NLRC held:

It appears from the records that all the complainants named in the dispositive portion of the decision except Arimas are not yet reinstated or posted as security guards since their dismissal. They should be reinstated to their positions as security guards but with limited back wages not to exceed three (3) years. Wherefore, premises considered, decision is modified insofar as back wages of Arimas is concerned which should be limited from March 21 1989 to June 15 1989. The back wages of the other complainants likewise, should be limited to 3 years. In all other respects, the appealed decision is affirmed. [13]

This is a crucial point since the contentious issues hinged on this particular decision. For petitioners, the decision did not rule on the reinstatement aspect they had been questioning nor on their entitlement to their salaries as payroll-reinstated employees. Whereas for PSVSIA, the modification of the award of the Labor Arbiter was in fact the ruling on the issue, which petitioners should have appealed.

A cursory examination of the 9 July 1993 NLRC decision readily shows that the grant of three (3) years' back wages entitled petitioners to a relatively smaller monetary award than if they were to be paid their payroll back wages which could be reckoned from the promulgation of the Labor Arbiter's decision ordering petitioners' reinstatement up to either the finality of the NLRC decision or their actual reinstatement. In other words, the two (2) reliefs would bring about divergent effects on the economic condition of petitioners. The fact that private respondent PSVSIA chose to limit the award of back wages to three (3) years demonstrates its preference over the other relief, i.e., grant of payroll back wages. Moreover, as correctly observed by PSVSIA, the 9 July 1993 decision of the NLRC has become final and executory, and petitioners are now barred from resurrecting the back wages issue which had lapsed to finality.

We note that neither a motion for reconsideration nor appeal was ever taken by petitioners on this point. This procedural lapse is fatal. It is an established principle that a final and executory decision cannot be altered nor amended by any tribunal except where a supervening cause transpires which renders its execution unjust or impossible, or in cases of special and exceptional nature, where it becomes imperative in the higher interest of justice to direct the suspension of its execution. No discernible supervening cause nor exceptional circumstance obtains in this case to prevent its execution.

Equally significant is the fact that petitioners actively participated in the enforcement of the execution by garnishing the supersedeas bond and the bank deposits of PSVSIA. The record shows that on 8 August 1995 the

Labor Arbiter issued an order by virtue of which the Research and Information Unit of the NLRC prepared a computation showing the back wages due petitioners for three (3) years. Inarguably, petitioners not only assented to the computation made when they did not object thereto but even filed a motion to release the remaining balance amounting to P398,600.00 still in the hands of the NLRC to fully satisfy the judgment awards.

There is likewise no cogent reason for us to disbelieve the binding effect of the Joint Manifestation dated 29 September 1995 executed by Atty. Jose Pascua, counsel for petitioners, together with PSVSIA, stating among others that "further garnishments on respondent's (PSVSIA) bank account are no longer appropriate and necessary." This after amounts had been released from the account of PSVSIA in order to satisfy the judgment order. Petitioners cannot now claim that they have remained unpaid, especially considering that they have already received the judgment award.

WHEREFORE, the petition is DISMISSED. The assailed Resolution of public respondent National Labor Relations Commission dated 13 March 1997 which dismissed the appeal of petitioners from the order of the Labor Arbiter denying their application for an alias writ of execution, as well as its assailed Order dated 5 August 1997, is AFFIRMED. Costs against petitioners.

SO ORDERED.

Mendoza, Buena, and De Leon, Jr., JJ., concur.

Quisumbing, J., no part.

[1] Docketed as NLRC-NCR Case No. 00-06-02904-89.

[2] Ibid.

[3] Docketed as NLRC-NCR Case No. 00-02-01043-90.

[4] Rollo, p. 15.

[5] Decision penned by Labor Arbiter Jose G. De Vera, NLRC-NCR; *id.*, pp. 13-22.

[6] *Id.*, p. 35.

[7] *Id.*, p. 36.

[8] *Id.*, p. 41-43.

[9] *Id.*, pp. 23-31.

[10] *Id.*, pp. 32-34.

[11] *Id.*, p. 97.

[12] *Id.*, p. 29.

[13] *Id.*, pp. 38-46.

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