PHILIPPINE AMUSEMENT AND GAMING CORPORATION, PETITIONER, AUSTRIA-MARTINEZ, VS. MARITA A. ANGARA AND BEATRIZ T. LA VICTORIA,

G.R. NO. 142937. July 25, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is a Motion for Clarification[1] dated April 9, 2006 filed by Marita A. Angara and Beatriz La Victoria (respondents).

A brief background of the case:

Respondents were Slot Machine Roving Token Attendants (SMRTAs) of the Philippine Amusement and Gaming Corporation (petitioner) assigned at its casino in Davao City. On June 28, 1997, they were dismissed from service on the ground of lack of trust and confidence. After their motion for reconsideration was denied, they filed an appeal memorandum with the Civil Service Commission (CSC). In its Resolution No. 991110 dated May 27, 1999, the CSC granted the appeal and directed petitioner to reinstate respondents to their former positions or, if no longer available, to comparable positions. Petitioner filed a petition for review with the Court of Appeals (CA) but the latter dismissed the petition for late filing. After its motion for reconsideration was denied, petitioner filed a petition for review on certiorari with this Court. On November 15, 2005, this Court rendered its Decision finding that the CA erred in dismissing the petition on procedural infirmities but nonetheless held that petitioner's substantial contentions failed to invite judgment in its favor. Petitioner cannot justify respondents' dismissal on loss of trust and confidence since the latter are not confidential employees. Thus, the Court denied the petition.[2]

On January 3, 2006, petitioner filed a Motion for Reconsideration but it was denied with finality by the Court in its Resolution dated February 22, 2006.[3]

Since the Resolution dated February 22, 2006 addressed to respondents at No. 8560 Fabian Yabut Street, 1212 Guadalupe Nuevo, 1200 Makati City was returned unserved, on June 5, 2006 the Court re-sent the Resolution to respondents at No. 017 Amparo Velez St., Bulua, Cagayan de Oro City.[4]

On June 14, 2006, respondents filed the present Motion for Clarification, which in fact appears to be a partial motion for reconsideration. They contend that the Court inadvertently omitted to include in its decision that, aside from reinstatement, respondents shall be restored to their former positions without loss of seniority rights and shall be entitled to payment of their backwages, allowances and other benefits to which they should have been entitled had they not been illegally dismissed. In addition, respondents pray that considering the length of time the case has been pending final resolution, petitioner should be condemned to pay respondents not less than P200,000.00 as reimbursement for expenses and attorney's fees, as pleaded in their appeal memorandum before the CSC.

The motion is partly granted.

As a rule, a party who did not appeal from a decision of a court cannot obtain affirmative relief other than that granted in the appealed decision.[5] This applies also to decisions of administrative or quasi-judicial tribunals.[6] In the present case, however, while respondents did not appeal from CSC Resolution No. 991110 dated May 27, 1999 which merely ordered reinstatement and that they raised the issue of backwages only in the present motion, these did not preclude them from praying for the monetary benefits provided by law. Where an ironhanded application of the rules will result in an unmistakable failure or miscarriage of justice, technicalities should be disregarded in order to resolve the case.[7] This Court is, therefore, constrained to relax the rules to give way to the supreme and overriding interest of labor and justice. Indeed, laws and rules should be interpreted and applied not in a vacuum or in isolated abstraction but in light of surrounding circumstances and attendant facts in order to afford justice to all.[8]

Article 279 of the Labor Code, as amended, provides that an illegally dismissed employee shall be entitled to reinstatement, full backwages, inclusive of allowances, 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.

In De Guzman v. National Labor Relations Commission,[9] the Court elucidated on the normal consequences of a finding that an employee has been illegally dismissed, the statutory intent on the matter and nature of the twin remedies of reinstatement and payment of backwages:

> The normal consequences of a finding that an employee has been illegally dismissed are, firstly, that the employee becomes entitled to reinstatement to his former position without loss of seniority rights and, secondly, the payment of back wages corresponding to the period from his illegal dismissal up to actual reinstatement. The rationale therefor is clearly obvious. Reinstatement restores the employee to the position from which he was removed, i.e., to his status quo ante dismissal, while the grant of backwages allows the same employee to recover from the employer that which he lost by way of wages because of his dismissal. These twin remedies of reinstatement and payment of back wages make whole the dismissed employee, who can then look forward to continued employment. These two remedies give meaning and substance to the constitutional right of labor to security of tenure.
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> However, the two remedies are distinct and separate. Though the grant of reinstatement commonly carries with it an award of back wages, the inappropriateness or non-availability of one does not carry with it the inappropriateness or non-availability of the other. Reinstatement is a restoration to a state from which one has been removed or separated. On the other hand, the payment of backwages is a form of relief that restores the income that was lost by reason of the unlawful dismissal. The award of one is not a condition precedent to an award of another. Backwages may be ordered without ordering reinstatement; conversely, reinstatement may be ordered without payment of back wages.
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> Thus, in a number of cases, the Court, despite its order of reinstatement or award of separation pay in lieu of reinstatement deemed it appropriate not to award back wages as penalty for the misconduct or infractions committed by the employee.[10]

The factual milieu of the present case does not warrant exception to the general principle that an employee is entitled to reinstatement and to receive backwages where there is a finding of illegal dismissal. Loss of trust and confidence not being a just cause for respondents' dismissal since they are not confidential employees, they are entitled to reinstatement, backwages, inclusive of allowances, and to their other benefits or their monetary equivalent computed from the time their compensation was withheld from them up to the time of their actual reinstatement.

On the prayer for an award for litigation and attorney's fees, it is already too late in the day for respondents to bring this matter to the Court's attention in their Motion for Clarification, a somersault that neither law nor policy

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will sanction. Respondents chose to be silent and never lifted a finger to raise this matter in a separate appeal before the CA. As a result, they are deemed to have waived this matter and they cannot now be heard to seek affirmative relief at this late stage.

WHEREFORE, the Motion for Clarification is partly GRANTED. In addition to reinstatement to their former positions, or to substantially equivalent ones, without loss of seniority rights, respondents are declared entitled to full backwages and other benefits from the time of their illegal dismissal up to actual reinstatement. For a determination of the amount of backwages to be paid to them, the case is REMANDED to the Civil Service Commission, which is instructed to further receive or require such evidence on this point as may be necessary.

SO ORDERED.

Puno, (Chairperson), Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur

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[1] Rollo, p. 641.

[2] Rollo, p. 576.

[3] Id. at 636.

[4] Id. at 640.

[5] Radiowealth Finance Company v. Del Rosario, 390 Phil. 601, 613 (2000).

[6] Pison-Arceo Agricultural and Development Corporation v. National Labor Relations Commission, 344 Phil. 723, 736 (1997).

[7] Fulgencio v. National Labor Relations Commission, 457 Phil. 868, 880-881 (2003).

[8] Tamayo v. Court of Appeals, G.R. No. 147070, February 17, 2004, 423 SCRA 175, 180; Magsaysay Lines, Inc. v. Court of Appeals, 329 Phil. 310, 323 (1996).

[9] 371 Phil. 192 (1999).

[10] Id. at 273-275.

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