

**ASIAN TERMINALS, INC., FORMERLY MARINA PORT SERVICES, INC.,
PETITIONER, VS. RENATO P. VILLANUEVA, ROLANDO T. RODOLFO,
ALFREDO L. LANZA, AND BRENDON S. POQUIZ, RESPONDENTS.**

G.R. NO. 143219. November 28, 2006

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for review[1] of the 17 February 2000 Decision[2] and the 5 May 2000 Resolution of the Court of Appeals in CA-G.R. SP No. 51086. The Court of Appeals set aside the decision of the National Labor Relations Commission (NLRC) and ordered the reinstatement of respondents Renato P. Villanueva, Rolando T. Rodolfo,[3] Alfredo L. Lanza, and Brendon S. Poquiz ("respondents") to positions substantially equivalent to their previous positions without loss of seniority rights, other privileges and benefits, and full backwages.

The Facts

Respondents were employees of Marina Port Services, Inc.[4] (MPSI) and members of the Associated Workers Union of the Philippines (AWU).

In a letter[5] dated 9 June 1993 to MPSI, the AWU president sought the dismissal from service of respondents who were expelled from AWU. On 11 June 1993, the MPSI issued a memorandum to respondents terminating them effective immediately pursuant to the closed-shop provision of the MPSI-AWU Collective Bargaining Agreement.

Respondents filed a complaint[6] for constructive illegal dismissal and unfair labor practice with the Arbitration Branch of the NLRC.

On 27 December 1995, Labor Arbiter Ernesto S. Dinopol ("Labor Arbiter Dinopol") rendered a decision, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered declaring illegal the termination of complainants Renato P. Villanueva, Rolando T. Rodolfo, Brendon S. Poquiz and Alfredo Lanza, and ordering respondent Marina Port Services, Inc. to reinstate them to their former or equivalent positions without loss of seniority rights and other privileges and ordering both respondents Associated Workers Union of the Philippines (AWU) and Marina Port Services, Inc. to jointly and severally pay them their backwages from the time of their illegal dismissal on June 11, 1993 up to the time of their reinstatement which, computed as of today, amounts to:

Renato P. Villanueva

(P130x26x29.5 mos.)

P 99,710.00

Rolando T. Rodolfo

99,710.00

Alfredo Lanza

99,710.00

Brendo S. Poquiz

(P3,800x29.5 mos.)

112,100.00

P411,230.00

=====

plus 10% thereof as attorney's fees since complainants had to engage the services of counsel to prosecute this case for the protection of their rights and interests.

All other claims are dismissed for lack of merit.

SO ORDERED.[7]

On 26 August 1996, the NLRC affirmed the decision which became final and executory.

Meanwhile, Labor Arbiter Dinopol issued a partial writ of execution on 7 February 1996.[8] Pursuant thereto, MPSI reinstated respondents on 26 February 1996 to the following positions:

1. Alfredo L. Lanza

-

CRE-120[9]

2. Rolando T. Rodolfo

-

CRE-370[10]

3. Renato P. Villanueva

-

CRE-412[11]

4. Brendo S. Poquiz

-

DWV-112[12]

However, respondents alleged that MPSI did not reinstate them to their former positions or to equivalent positions. Respondents Alfredo L. Lanza, Rolando T. Rodolfo, and Renato P. Villanueva alleged that they were

deliverymen at the time of their dismissal and not CRE or casual rotation employee. For his part, respondent Brendo S. Poquiz alleged that a certain Salvador Refruto had already occupied his former position. Respondents filed a motion^[13] for contempt against AWU and MPSI for non-compliance with the partial writ of execution.^[14] Respondents also prayed for additional backwages because they were allegedly not reinstated to their former positions or to equivalent positions.

On 28 August 1997, Labor Arbiter Geobel A. Bartolabac ("Labor Arbiter Bartolabac") issued an order, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered denying backwages to complainants Lanza, Rodolfo and Villanueva.

Be that as it may, respondent Marina Port Services, Inc. (Now Asian Terminals, Inc.) is ordered to admit Lanza, Rodolfo and Villanueva back to work.

Moreover, respondent Marina Port Services, Inc. (Now Asian Terminals, Inc.) is ordered to reinstate and pay complainant Brendo Poquiz his backwages, computed as of even date as follows:

P3,800 x 20 mos. = P76,000.00

SO ORDERED.^[15]

Labor Arbiter Bartolabac held that it was proper for MPSI to reinstate respondents Alfredo L. Lanza, Rolando T. Rodolfo, and Renato P. Villanueva to their former positions as CRE-120, CRE-370 and CRE-412, respectively. However, Labor Arbiter Bartolabac found that on respondent Brendo S. Poquiz, MPSI failed to prove that his position was still available or that MPSI offered him a substantially equivalent position. Thus, Labor Arbiter Bartolabac granted additional backwages to respondent Brendo S. Poquiz but denied the same to respondents Alfredo L. Lanza, Rolando T. Rodolfo, and Renato P. Villanueva.

MPSI appealed Labor Arbiter Bartolabac's Order to the NLRC. On 30 January 1998, the NLRC modified the order of Labor Arbiter Bartolabac by deleting the award of additional backwages in favor of respondent Brendo S. Poquiz.^[16]

The NLRC held that MPSI had reclassified the positions of deliveryman and day worker vessel as casual rotation employee (CRE) and dockworker vessel (DWV), respectively. The NLRC upheld the MPSI management's prerogative of streamlining its organizational set-up which resulted in the reclassification of positions. Thus, the NLRC ruled that MPSI had properly reinstated respondents to substantially equivalent positions and that respondents are no longer entitled to the award of additional backwages.

Respondents filed a petition for certiorari with the Court of Appeals. On 17 February 2000, the Court of Appeals rendered judgment, the dispositive portion of which reads:

WHEREFORE, the instant petition is hereby GRANTED. The assailed NLRC decision, having been issued with grave abuse of discretion, is SET ASIDE. Respondent Asian Terminals, Inc. is ordered to reinstate the above named petitioners to positions substantially equivalent to their previous positions without loss of seniority rights, other privileges and benefits, and full backwages. No costs.

SO ORDERED.^[17]

Hence, this petition.

The Ruling of the Court of Appeals

The Court of Appeals held that at the time of respondents' illegal dismissal, respondents were already regular

employees considering their

length of service in the MPSI. Citing Article 280[18] of the Labor Code, the Court of Appeals held that as long as the employee has rendered at least one year of service, he becomes a regular employee for the activity in which he is employed. Thus, if the positions previously held by respondents have already been abolished, then respondents should be reinstated to substantially equivalent positions.

The Issue

The sole issue for resolution is whether MPSI reinstated respondents to their former or equivalent positions.

The Ruling of the Court

We find the petition meritorious.

In this case, the decision dated 27 December 1995 of Labor Arbiter Dinopol ordered the reinstatement of respondents to their former or equivalent positions and the payment of backwages to respondents from the time of their illegal dismissal up to the time of their reinstatement. The NLRC affirmed the decision which became final and executory. The present controversy arose when respondents filed motions and prayed for additional backwages, alleging that MPSI did not reinstate them to their former or equivalent positions.

Reinstatement means restoration to a state or condition from which one had been removed or separated.[19] The person reinstated assumes the position he had occupied prior to his dismissal.[20] Reinstatement presupposes that the previous position from which one had been removed still exists, or that there is an unfilled position which is substantially equivalent or of similar nature as the one previously occupied by the employee.[21]

MPSI asserts that it reinstated respondents to their former positions. According to MPSI, respondents were regular employees and that their designation as casual rotation employees merely meant that they work on rotation.

The NLRC found that MPSI indeed reinstated respondents to their former positions or to substantially equivalent positions. The records of the case support this finding. Factual findings of labor officials, who possess the expertise in matters within their jurisdiction, are generally accorded great weight if substantial evidence support the findings.[22]

MPSI reinstated respondents on 26 February 1996 to the following positions:

1. Alfredo L. Lanza

-

CRE-120

2. Rolando T. Rodolfo

-

CRE-370

3. Renato P. Villanueva

-

CRE-412

4. Brendo S. Poquiz

-

DWV-112

These were the positions occupied by respondents before MPSI dismissed them, as evinced in the letter dated 9 June 1993 of the AWU president to MPSI:

June 9, 1993

Marina Port Services, Inc.
South Harbor, Manila

Attn.: Mr. Richard Barclay
Executive Vice-Pres.

Gentlemen:

After a careful and thorough investigation has been conducted, the following members, namely:

1. Alfredo L. Lanza

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CRE-120

2. Rolando T. Rodolfo

-

CRE-370

3. Renato P. Villanueva - CRE-412

4. Brendo S. Poquiz

-

DWV-112

were expelled from the roster of membership of the organization. They were found guilty of committing inimical acts against the union and therefore has openly violated Sec. 3 (a) (c) (d) (e) (f) (g), Art. X of the union's Constitution and By-Laws.

Because of the failure of the above-named members to retain and maintain their membership in good standing for the duration of their employment and as a condition for continued security of tenure pursuant to the express provision of our existing CBA, we demand that they be dismissed from the service.

Hereto attached is a membership resolution calling for their expulsion duly signed by the overwhelming members of our organization.

Very truly yours,
(signed)
ROBERTO M. OCA, JR.
President[23]

Likewise, these were the very same positions stated in the memorandum dated 11 June 1993, terminating the services of respondents:

11 June 1993

MEMORANDUM

TO : ALL CONCERNED

FR : VP-ADMIN.

SUBJ : TERMINATION OF SERVICES PURSUANT
TO THE CBA CLOSED SHOP PROVISION

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Pursuant to the "closed-shop" provision of the existing MPSI-AWU CBA particularly Section 1 Article IV and Section 4 Article XXI thereof the following personnel named hereunder on account of their expulsion from the union and their failure to remain members in good standing as a condition for continued employment are hereby terminated from the service EFFECTIVE IMMEDIATELY to wit:

1. ALFREDO L. LANZA

CRE - 120

2. ROLANDO T. RODOLFO

CRE - 370

3. RENATO P. VILLANUEVA

CRE - 412

4. BRENDON S. POQUIZ

DWV - 112

(signed)

ATTY. R. G. CORVITE, JR.

VP for Administration[24]

On the other hand, respondents maintain that MPSI did not reinstate them to their former permanent and regular positions. Respondents Alfredo L. Lanza, Rolando T. Rodolfo, and Renato P. Villanueva allege that they should be reinstated to their former position as deliverymen while respondent Brendon S. Poquiz insists on reinstatement to his former position as day worker vessel (DWV).

Respondents Rolando T. Rodolfo and Renato P. Villanueva submitted evidence showing their appointment to the position of reserved deliveryman.[25] Even their MPSI identification cards, which were both validated only for the year 1981, indicated their position as reserved deliveryman. There is no evidence showing that the position of deliveryman is the same as reserved deliveryman. Furthermore, respondents Alfredo L. Lanza, Rolando T. Rodolfo, and Renato P. Villanueva failed to prove that they were already occupying the position of deliveryman at the time of their dismissal. For his part, respondent Brendon S. Poquiz did not present any evidence showing that his position prior to his dismissal was day worker vessel. Respondent Brendon S. Poquiz's AWU identification card indicated his position merely as DWV-112, the same position to which he was reinstated.

In their 4 March 1998 Supplement[26] filed with the NLRC, respondents allege that MPSI should reinstate them to positions equivalent to those currently occupied by their co-employees who previously held the same position as respondents before their dismissal. Respondents submitted evidence showing that MPSI had already promoted these co-employees to higher positions.[27]

Reinstatement means restoration to the former position occupied prior to dismissal or to substantially equivalent position. Reinstatement does not mean promotion. Promotion is based primarily on an employee's performance during a certain period. Just because their contemporaries are already occupying higher positions does not automatically entitle respondents to similar positions.

WHEREFORE, we GRANT the petition. We SET ASIDE the 17 February 2000 Decision and the 5 May 2000 Resolution of the Court of Appeals in CA-G.R. SP No. 51086. We REINSTATE the 30 January 1998 Decision of the National Labor Relations Commission.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Tinga, and Velasco, Jr., JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Penned by Associate Justice Angelina Sandoval Gutierrez (now Supreme Court Associate Justice) with Associate Justices Ruben T. Reyes and Salvador J. Valdez, Jr., concurring.

[3] Also spelled as Rodulfo in some pleadings.

[4] Now Asian Terminals, Inc.

[5] Rollo, pp. 53-54.

[6] Id. at 60-62.

[7] Id. at 73-74.

[8] Id. at 90-91.

[9] Id. at 56.

[10] Id. at 57.

[11] Id. at 58.

[12] Id. at 59.

[13] Id. at 92-94.

[14] Labor Arbiter Dinopol denied the motion for contempt, ruling that there was substantial compliance with the writ and that the issue of whether respondents were reinstated to their former positions can only be resolved by the NLRC where the case was on appeal. Id. at 101-103.

[15] CA rollo, p. 44.

[16] Rollo, pp. 44-52.

[17] Id. at 37.

[18] Article 280 of the Labor Code reads:

ART. 280. Regular and Casual Employment. – The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a specific project or

undertaking the completion or termination of which has been determined at the time of the engagement of the employee or where the work or services to be performed is seasonal in nature and the employment is for the duration of the season.

An employment shall be deemed to be casual if it is not covered by the preceding paragraph: Provided, That, any employee who has rendered at least one year of service, whether such service is continuous or broken, shall be considered a regular employee with respect to the activity in which he is employed and his employment shall continue while such activity exists.

[19] *Viernes v. NLRC*, 448 Phil. 690 (2003).

[20] *Judy Philippines, Inc. v. NLRC*, 352 Phil. 593 (1998).

[21] *Philippine Engineering Corp. v. CIR*, 148-B Phil. 577 (1971).

[22] *Philippine Military Veterans Security and Investigation Agency v. Court of Appeals*, G.R. No. 139159, 31 January 2006, 481 SCRA 177.

[23] *Rollo*, pp. 53-54.

[24] *Id.* at 55.

[25] *Id.* at 120-122, 126-129.

[26] *Id.* at 118-119.

[27] *Id.* at 121, 123-124, 130.

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