

PHILIPPINE AIRLINES, INC., PETITIONER, VS. ENRIQUE LIGAN, EMELITO SOCO, ALLAN PANQUE, JOLITO OLIVEROS, RICHARD GONCER, NONILON PILAPIL, AQUILINO YBANEZ, BERNABE SANDOVAL, RUEL G...

G.R. No. 146408. April 30, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Before the Court are petitioner's Motion for Reconsideration and respondents' Motion for Clarification and/or Reconsideration of the Court's February 29, 2008 Decision in light of incidents bearing on the present case which were not brought to light by them before the Court promulgated said Decision.

The Decision of the Court affirmed with modification the appellate court's September 29, 2000 Decision and directed petitioner Philippine Airlines, Inc. to:

(a)

accept respondents ENRIQUE LIGAN, EMELITO SOCO, ALLAN PANQUE, JOLITO OLIVEROS, RICHARD GONCER, NONILON PILAPIL, AQUILINO YBANEZ, BERNABE SANDOVAL, RUEL GONCER, VIRGILIO P. CAMPOS, JR., ARTHUR M. CAPIN, RAMEL BERNARDES, LORENZO BUTANAS, BENSON CARESUSA, JEFFREY LLENOS, ROQUE PILAPIL, ANTONIO M. PAREJA, CLEMENTE R. LUMAYNO, NELSON TAMPUS, ROLANDO TUNACAO, CHERRIE ALEGRES, EDUARDO MAGDADARAUG, NELSON M. DULCE and ALLAN BENTUZAL as its regular employees in their same or substantially equivalent positions, and pay the wages and benefits due them as regular employees plus salary differential corresponding to the difference between the wages and benefits given them and those granted to petitioner's other regular employees of the same rank; and

(b)

pay respondent BENEDICTO AUXTERO salary differential; backwages from the time of his dismissal until the finality of this decision; and separation pay, in lieu of reinstatement, equivalent to one (1) month pay for every year of service until the finality of this decision.

There being no data from which this Court may determine the monetary liabilities of petitioner, the case is REMANDED to the Labor Arbiter solely for that purpose.

SO ORDERED.[1]

Synergy Services Corporation (Synergy) having been found to be a labor-only contractor, respondents were consequently declared as petitioner's regular employees who are entitled to the salaries, allowances, and other employment benefits under the pertinent Collective Bargaining Agreement.

Petitioner prays for a reconsideration of the Decision, maintaining its position that respondents were employed by

Synergy, and to "reinstate" respondents as regular employees is iniquitous since it would be compelled to employ personnel more than what its operations require. It adds that the Court should declare that reinstatement is no longer an appropriate relief in view of the long period of time that had elapsed.

For their part, respondents, deducing from the Decision that their termination was found to be illegal, posit that the portion of the Decision ordering petitioner to "accept" them should also mean to "reinstate" them with backwages.[2] Respondents additionally pray for the award to them of attorney's fees, albeit they admit that they failed to raise it as an issue.

Both parties point out that the Court's Decision "presupposes" or "was based on the erroneous assumption" that respondents are still in the actual employ of petitioner.

Respondents disclose that except for those who have either died, accepted settlement earlier, or declared as employee of Synergy, the remaining respondents have all been terminated in the guise of retrenchment. Joining such account, petitioner reveals that 13 out of the 25 respondents filed an illegal dismissal case, which is pending before the appellate court stationed at Cebu City as CA-G.R. SP No. 00922.[3]

Respondents add that the appellate court, by Resolution of April 22, 2008, held the illegal dismissal case in abeyance until after this Court rules on the present case.[4]

Petitioner also urges the Court to examine the cases of respondents Roque Pilapil (Pilapil) and Benedicto Auxtero (Auxtero) in light of the following information, viz: Pilapil entered petitioner's pool of regular employees on September 1, 1991[5] but was later terminated for submitting falsified academic credentials. Pilapil's complaint for illegal dismissal was dismissed by the labor arbiter, whose decision was reinstated with modification by the appellate court by Decision of March 7, 2001 in CA-G.R. SP No. 50578. On Pilapil's appeal, this Court, by Resolution of September 19, 2001 in G.R. No. 147853, declared the case terminated when Pilapil failed to file his intended petition.

Given its information in the immediately foregoing paragraph, petitioner claims that it already complied with the judgment awarding separation pay representing financial assistance to Pilapil on September 23, 2003, during the pendency of the present case.[6] Respondents do not dispute petitioner's information.[7]

Petitioner also informs the Court that Auxtero already secured a favorable judgment from this Court in G.R. No. 158710 which effectively affirmed the appellate court's Decision of February 26, 2003 in CA-G.R. SP No. 50480.[8] It appears from the "Joint Declaration of Satisfaction of Judgment"[9] with "Release and Quitclaim and Waiver,"[10] both dated November 29, 2007, that petitioner already satisfied the judgment rendered in said G.R. No. 158710 in favor of Auxtero in the amount of P1.3 Million, and that Auxtero had waived reinstatement. Respondents essentially corroborate this information of petitioner.[11]

In light of these recent manifestations-informations of the parties, the Court finds that a modification of the Decision is in order, the claims with respect to Pilapil and Auxtero having been deemed extinguished even before the promulgation of the Decision. That Pilapil was a regular employee yields to the final finding of a valid dismissal in the supervening case involving his own misconduct, while Auxtero's attempt at forum-shopping should not be countenanced.

IN ALL OTHER RESPECTS, the Court finds no sufficient reason to deviate from its Decision, but proceeds, nonetheless, to clarify a few points.

While this Court's Decision ruled on the regular status of respondents, it must be deemed to be without prejudice

to the resolution of the issue of illegal dismissal in the proper case. The Decision thus expressly stated:

Finally, it must be stressed that respondents, having been declared to be regular employees of petitioner, Synergy being a mere agent of the latter, had acquired security of tenure. As such, they could only be dismissed by petitioner, the real employer, on the basis of just or authorized cause, and with observance of procedural due process.[12] (Underscoring supplied)

Notably, subject of the Decision was respondents' complaints[13] for regularization and under-/non-payment of benefits. The Court did not and could not take cognizance of the validity of the eventual dismissal of respondents because the matter of just or authorized cause is beyond the issues of the case. That is why the Court did not order reinstatement for such relief presupposes a finding of illegal dismissal[14] in the proper case which, as the parties now manifest, pends before the appellate court.

Respecting petitioner's allegation of financial woes that led to the June 30, 1998 lay-off of respondents, as the Court held in its Decision, petitioner failed to establish such economic losses which rendered impossible the compliance with the order to accept respondent as regular employees. Thus the Decision reads:

Other than its bare allegations, petitioner presented nothing to substantiate its impossibility of compliance. In fact, petitioner waived this defense by failing to raise it in its Memorandum filed on June 14, 1999 before the Court of Appeals. x x x[15] (Underscoring supplied)

Petitioner, for the first time, revealed the matter of termination and the allegation of financial woes in its Motion for Reconsideration of October 10, 2000 before the appellate court,[16] not by way of defense to a charge of illegal dismissal but to manifest that supervening events have rendered it impossible for petitioner to comply with the order to accept respondents as regular employees.[17] Moreover, the issue of economic losses as a ground for dismissing respondents is factual in nature, hence, it may be determined in the proper case.

All told, the pending illegal dismissal case in CA-G.R. SP No. 00922 may now take its course. The Court's finding that respondents are regular employees of petitioner neither frustrates nor preempts the appellate court's proceedings in resolving the issue of retrenchment as an authorized cause for termination. If an authorized cause for dismissal is later found to exist, petitioner would still have to pay respondents their corresponding benefits and salary differential up to June 30, 1998. Otherwise, if there is a finding of illegal dismissal, an order for reinstatement with full backwages does not conflict with the Court's declaration of the regular employee status of respondents.

As to the belated plea of respondents for attorney's fees, suffice it to state that parties who have not appealed cannot obtain from the appellate court any affirmative reliefs other than those granted, if any, in the decision of the lower tribunal.[18] Since respondents did not file a motion for reconsideration of the appellate court's decision, much less appeal therefrom, they can advance only such arguments as may be necessary to defeat petitioner's claims or to uphold the appealed decision, and cannot ask for a modification of the judgment in their favor in order to obtain other positive reliefs.[19]

WHEREFORE, the Decision of February 29, 2008 is, in light of the foregoing discussions, MODIFIED. As MODIFIED, the dispositive portion of the Decision reads:

WHEREFORE, the Court of Appeals Decision of September 29, 2000 is AFFIRMED with MODIFICATION.

Petitioner PHILIPPINE AIRLINES, INC., is ordered to recognize respondents ENRIQUE LIGAN, EMELITO SOCO, ALLAN PANQUE, JOLITO OLIVEROS, RICHARD GONCER, NONILON PILAPIL, AQUILINO YBANEZ, BERNABE SANDOVAL, RUEL GONCER, VIRGILIO P. CAMPOS, JR., ARTHUR M. CAPIN, RAMEL BERNARDES, LORENZO BUTANAS, BENSON CARISUSA, JEFFREY LLENES, ANTONIO M.

PAREJA, CLEMENTE R. LUMAYNO, NELSON TAMPUS, ROLANDO TUNACAO, CHERIE ALEGRES, EDUARDO MAGDADARAUG, NELSON M. DULCE and ALLAN BENTUZAL as its regular employees in their same or substantially equivalent positions, and pay the wages and benefits due them as regular employees plus salary differential corresponding to the difference between the wages and benefits given them and those granted to petitioner's other regular employees of the same or substantially equivalent rank, up to June 30, 1998, without prejudice to the resolution of the illegal dismissal case.

There being no data from which this Court may determine the monetary liabilities of petitioner, the case is REMANDED to the Labor Arbiter solely for that purpose.

SO ORDERED.

Carpio, Corona*, and Tinga, JJ., concur.

Velasco, Jr., J., see dissenting opinion

* Additional member per Raffle dated March 16, 2009.

[1] Decision, pp. 15-16; rollo, pp. 648-649.

[2] Id. at 662. Respondents pray inter alia that the following directive be added to par. (a) of the dispositive portion: "x x x and/or to reinstate to their same or substantially equivalent positions the private respondents who have been terminated during the pendency of this case with full backwages and other benefits due them from the time of their termination up to their actual reinstatement."

[3] Id. at 665-666, 688-690 where petitioner manifests that the NLRC ruled in favor of the 13 respondents, namely, Enrique Ligan, Eduardo Magdaraog, Jolito Oliveros, Richard Goncer, Emelito Soco, Virgilio Campos, Jr., Lorenzo Butanas, Ramel Bernardes, Nelson Dulce, Clemente Lumayno, Arthur Capin, Allan Bentuzal, and Jeffrey Llenes, and ordered petitioner to pay them separation pay plus backwages.

[4] Id. at 689-690.

[5] Id. at 666, 684; the body of the CA Decision shows, however, that Pilapil was hired on September 1, 1992 (rollo, pp. 677, 681).

[6] Id. at 666-667, 676-687.

[7] Id. at 690.

[8] Id. at 698-701, 711. In that case entitled *Philippine Airlines, Inc. v. National Organization of Workingmen, et al.*, the Court denied the petition "as the issues raised are factual and petitioner failed to show that a reversible error had been committed by the appellate court" when it affirmed the NLRC's December 29, 1998 Decision which declared, among others, that Synergy Services Corporation is a labor-only contractor, that complainants (Auxtero included) were regular employees of petitioner, and that the complaints for illegal dismissal were meritorious.

[9] Id. at 714-715.

[10] Id. at 716-717.

[11] Respondents' counsel was not the one who handled Auxtero's other case. He states that Auxtero never informed him about such case nor coordinated with him despite efforts to contact Auxtero. vide rollo, pp. 691, 715.

[12] Decision, pp. 14-15; rollo, pp. 647-648.

[13] Id. at 77-99.

[14] Vide *Filflex Industrial & Manufacturing Corp. v. NLRC*, 349 Phil. 913, 922 (1998).

[15] Decision, p. 14; rollo, p. 647.

[16] Id. at 20-28. In the instant petition, petitioner reiterates that the law does not exact compliance with the impossible, to which respondents remark that such impossibility is no longer the fault of respondents who also expressed willingness to accept substantially equivalent positions.

[17] Rollo, p. 26; to which respondents tersely remark that assuming *arguendo* that the directive is no longer feasible, it does not mean that petitioner is now free from any obligation to them. (rollo, p. 471)

[18] *Solcus Corporation v. Court of Appeals*, G.R. No. 157488, February 6, 2007, 514 SCRA 522.

[19] Vide *Almendrala v. Ngo*, G.R. No. 142408, September 30, 2005, 471 SCRA 311.

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