

AUTOMOTIVE ENGINE REBUILDERS, INC. (AER), ANTONIO T. INDUCIL, LOURDES T. INDUCIL, JOCELYN T. INDUCIL AND MA. CONCEPCION I. DONATO, PETITIONERS, VS. PROGRESIBONG UNYON NG MGA MAN...

G.R. No. 160138. January 16, 2013

Ponente: MENDOZA, J.

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MENDOZA, J.:

For resolution is the Motion for Partial Reconsideration filed by Progresibong Unyon Ng Mga Manggagawa Sa AER (Unyon) which questioned the Court's July 13, 2011 Decision insofar as it failed to award backwages to fourteen (14) of its members. The decretal portion of the decision reads:

WHEREFORE, the petition are DENIED. Accordingly, the complaining employees should be reinstated without backwages. If reinstatement is no longer feasible, the concerned employees should be given separation pay up to the date set for their return in lieu of reinstatement.[1]

In arriving at said determination, the Court found out both parties were at fault or in *pari delicto* and must bear the consequences of their own wrongdoing.[2] Thus, it decreed that the striking employees must be restored to their respective positions prior to the illegal strike and illegal lockout.

Records disclose that this labor controversy started when both parties filed charges against each other, blaming the other party for violating labor laws. Thirty-two (32) employees filed and signed a complaint,[3] dated February 18, 1999, against Automotive Engine Rebuilders, Inc. (AER). The complaint prayed that AER be declared guilty of Unfair Labor Practices, Illegal Dismissal, Illegal Suspension, and Run-away shop; that the complainants be reinstated; and that they be paid “full backwages and without loss of seniority rights and privileges, payment of wages during suspension, plus moral and exemplary damages and attorney’s fees.”[4]

The names of the 32 complaining employees are as follows:

- Felino Agustin
- Ruperto Mariano II
- Eduardo Brizuela
- Otilio Rabino
- Arnold Rodriguez
- Froilan Madamba
- Ferdinand Flores
- Jonathan Taborda

- Rodolfo Mainit, Jr.
 - Danilo Quiboy
 - Christopher Nolasco
 - Roger Belatcha
 - Claud Moncel
 - Cleofas dela Buena, Jr.
 - Edwin Mendoza
 - Herminio Papa
 - Oscar Macaranas
 - William Ritual
 - Roberto Caldeo
 - Rafael Gacad
 - James Caampued
 - Esperidion Lopez, Jr.
 - Frisco Lorenzo, Jr.
 - Bernardino Acosta, Jr.
 - Benson Pingol
 - Tammy Punsalan
 - Edward Ferrancol
 - Crisanto Lumbao, Jr.
 - Arnold Villota
 - Menching Mariano, Jr.
 - Carlos Carolino
 - Renato Sarabuno
- Out of the 32, six (6) resigned and signed waivers and quitclaims, namely:
- Oscar Macaranas
 - Bernardino Acosta
 - Ferdinand Flores
 - Benson Pingol
 - Otillo Rabino
 - Jonathan Taborda

On the other hand, the earlier complaint[5] filed by AER against Unyon and eighteen (18) of its members for illegal concerted activities prayed that, after notice and hearing, judgment be rendered as follows:

- Finding respondents guilty of unfair labor practice and illegal concerted activity;
- Finding respondents guilty of abandonment of work, serious misconduct, gross disrespect, commission of felonies against the complainant and their respective officers, threats, coercion and intimidation;
- Penalizing complainants with dismissal and/or termination of employment; and
- Adjudging respondents to be jointly and solidarily liable to complainant for moral damages in the sum of P500,000.00, exemplary damages in the sum of P500,000.00 and attorney's fees and costs.

The names of the 18 workers charged with illegal strike by AER are as follows:

- Felino Agustin
- Eduardo Brizuela
- Otilio Rabino
- Ferdinand Flores
- Jonathan Taborda
- Rodolfo Mainit, Jr.
- Christopher Nolasco
- Claud Moncel
- Cleofas dela Buena
- Herminio Papa
- Oscar Macaranas
- William Ritual
- Rafael Gacad
- James Caampued
- Benson Pingol
- Frisco Lorenzo, Jr.
- Bernardino Acosta, Jr.
- Esperidion Lopez, Jr.

AER likewise suspended seven (7) union members who tested positive for illegal drugs, namely:

- Froilan Madamba
- Arnold Rodriguez
- Roberto Caldeo
- Roger Bilatcha

- Ruperto Mariano
- Edwin Fabian
- Nazario Madala

Out of the seven (7) suspended employees, only Edwin Fabian and Nazario Madala were allowed by AER to report back to work. The other five (5) suspended employees were not admitted by AER without first submitting the required medical certificate attesting to their fitness to work.

On August 9, 2001, after the parties submitted their respective position papers,[6] the Labor Arbiter (LA) rendered a decision[7] in favor of Unyon by directing AER to reinstate the concerned employees but without backwages effective October 16, 2001. Both parties filed their respective appeals[8] with the National Labor Relations Commission (NLRC).

On March 5, 2002, the NLRC issued its Resolution[9] modifying the LA decision by setting aside the order of reinstatement as it ruled out illegal dismissal. The NLRC likewise ruled that the concerned employees had no valid basis in conducting a strike. On April 19, 2002, Unyon filed a motion for reconsideration[10] insisting, among others, that AER was guilty of unfair labor practice, illegal suspension and illegal dismissal. Unyon also argued that since AER charged only 18 of the 32 employees with illegal strike, the employees who were not included in the said charge should have been admitted back to work by AER. Unyon also claimed that there was no allegation that these employees, who were not included in AER's charge for illegal strike, were involved in the January 28, 1999 incident.[11]

After the denial of their motion for reconsideration, Unyon and the concerned employees filed a petition[12] before the Court of Appeals (CA). Unyon reiterated its argument that AER should admit back to work those excluded from its list of 18 employees charged with illegal strike.[13]

On June 27, 2003, the CA rendered a decision,[14] the dispositive portion of which reads, as follows:

WHEREFORE, premises considered, the petition is GRANTED. Respondents are hereby directed to reinstate the petitioners effective immediately but without backwages, except those who were tested positive for illegal drugs and have failed to submit their respective medical certificates.

On October 1, 2003, ruling on the motion for partial reconsideration filed by Unyon, the CA rendered the assailed Amended Decision,[15] ordering the immediate reinstatement of all the suspended employees without backwages. Thus,

WHEREFORE, the partial motion for reconsideration is GRANTED insofar as the reinstatement of the suspended employees is concerned. This Court's decision dated June 27, 2003 is hereby MODIFIED. Private respondents are hereby directed to reinstate all petitioners immediately without backwages.

Unsatisfied, both parties filed the present consolidated petitions. Unyon argued that the CA erred in not awarding backwages to the suspended employees who were ordered reinstated. AER, on the other hand, argued that the CA erred in ordering the reinstatement of the suspended employees.

On July 13, 2011, this Court rendered a decision,[16] the dispositive portion of which reads, as follows:

WHEREFORE, the petitions are DENIED. Accordingly, the complaining employees should be reinstated without backwages. If reinstatement is no longer feasible, the concerned employees should be given separation pay up to the date set for their return in lieu of reinstatement.

Unyon filed the subject Motion for Partial Reconsideration[17] questioning the Court's July 13, 2011 Decision

insofar as it failed to award backwages to fourteen (14) of its members.

Unyon argues that backwages should have been awarded to the 14 employees who were excluded from the complaint filed by AER and that the latter should have reinstated them immediately because they did not have any case at all.

AER was directed to file its comment. Its Comment,[18] however, failed to address the issue except to say that the motion for partial reconsideration was pro-forma.

After going over the records again, the Court holds that only nine (9) of the fourteen (14) excluded employees deserve to be reinstated immediately with backwages.

Records disclose that thirty-two (32) employees filed a complaint for illegal suspension and unfair labor practice against AER. Out of these 32 workers, only eighteen (18) of them were charged by AER with illegal strike leaving fourteen (14) of them excluded from its complaint. The names of these 14 employees are as follows:

- Ruperto Mariano II
- Arnold Rodriguez
- Froilan Madamba
- Danilo Quiboy
- Roger Belatcha
- Edwin Mendoza
- Roberto Caldeo
- Tammy Punsalan
- Edward Ferrancol
- Crisanto Lumbao, Jr.
- Arnold Villota
- Menching Mariano, Jr.
- Carlos Carolino
- Renato Sarabuno

Technically, as no charges for illegal strike were filed against these 14 employees, they cannot be among those found guilty of illegal strike. They cannot be considered in *pari delicto*. They should be reinstated and given their backwages.

Out of these 14 employees, however, five (5) failed to write their names and affix their signatures in the Membership Resolution[19] attached to the petition filed before the CA, authorizing Union President Arnold Villota to represent them. It must be noted that Arnold Villota signed as the Affiant in the Verification and Certification by virtue of the Membership Resolution.[20] The names of these 5 employees are:

- Edwin Mendoza
- Tammy Punzalan

- Edward Ferrancol
- Menching Mariano, Jr.
- Carlos Carolina

Because of their failure to affix their names and signatures in the Membership Resolution, Edwin Mendoza, Tammy Punzalan, Edward Ferrancol, Menching Mariano, Jr. and Carlos Carolina cannot be granted the relief that Unyon wanted for them in its Motion for Partial Reconsideration. Only the following nine (9) employees who signed their names in the petition can be granted the relief prayed for therein, namely:

- Ruperto Mariano II
- Arnold Rodriguez
- Froilan Madamba
- Danilo Quiboy
- Roger Belatcha
- Roberto Caldeo
- Crisanto Lumbao, Jr.
- Arnold Villota
- Renato Sarabuno

These excluded nine (9) workers, who signed their names in their petition before the CA, deserve to be reinstated immediately and granted backwages. It is basic in jurisprudence that illegally dismissed workers are entitled to reinstatement with backwages plus interest at the legal rate.[21]

As stated in the Amended Decision of the CA, which the Court effectively affirmed after denying the petition of both parties, the reinstatement shall be "without prejudice to the right of private respondent AER to subject them for further medical check-up to determine if subject petitioners are drug dependents." [22]

WHEREFORE, the Motion for Partial Reconsideration filed by Progresibong Unyon Ng Mga Manggagavva Sa AER is GRANTED only insofar as the nine (9) employees are concerned, namely: Ruperta Mariano II, Arnold Rodriguez, Froilan Madamba, Danilo Quiboy, Roger Belatcha, Roberto Caldeo, Crisanto Lumbao, Jr., Arnold Villota, and Renata Sarabuno.

Accordingly, the July 13, 2011 Decision is hereby MODIFIED in that the aforementioned nine (9) workers are entitled to be reinstated and granted backwages with interest at the rate of six percent (6%) per annum which shall be increased to twelve percent (12%) after the finality of this judgment.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., (Chairperson), and Abad, JJ., concur.

[1] Rollo (G.R. No. 160138). p. 253.

[2] Id. at 245.

[3] Rollo (G.R. No. 160138), pp. 121-126; (G.R. No. 160192), pp. 115-120.

[4] Rollo (G.R. No. 160138), pp. 121-122.

[5] Rollo (G.R. No. 160192), pp. 139-144.

[6] Id. at 40-58.

[7] Id. at 69-73.

[8] Id. at 74-92.

[9] Id. at 93-101.

[10] Id. at 102-114.

[11] Id. at 109.

[12] Id. at 123-145.

[13] Id. at 139.

[14] Id. at 24-32..

[15] Id. at 33-34.

[16] Id. at 237-259.

[17] Id. at 260-266.

[18] Rollo (G.R. No. 160138), pp. 263-268.

[19] Rollo (G.R. No. 160192), pp. 116-117.

[21] Session Delights Ice Cream and Fast Foods v. CA, G.R. No. 172149, February 8, 2010, 612 SCRA 10, 24.

[22] CA Amended Decision, rollo (G.R. No. 160138), p. 50.

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