

LORENZO MA. D.G. AGUILAR, PETITIONER, VS. BURGER MACHINE HOLDINGS CORPORATION, OSCAR E. RODRIGUEZ AND MELCHOR V. DE JESUS, JR., RESPONDENTS.

G.R. NO. 172062. February 21, 2007

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This resolves respondents' (1) motion for reconsideration of the Court's October 30, 2006 Decision, praying that the dismissal of petitioner be declared legal, or in the alternative, that petitioner be awarded separation pay instead of reinstatement; and (2) motion for clarification on the computation of backwages in relation to the propriety of his payroll reinstatement instead of actual reinstatement pending appeal from the Labor Arbiter's decision.

Anent the issue of illegal dismissal, respondents merely reiterate the thrust of their Comment and after giving our ponencia a second look, we find no sufficient basis to reconsider our findings that petitioner was illegally dismissed.

As regards the award of reinstatement, the Court finds that it would be best to award separation pay instead of reinstatement, in view of the strained relations between petitioner and respondents. In fact, while petitioner prayed for reinstatement, he also admitted that there is a "strained relationship now prevailing between [him and respondents.]"[1] Under the doctrine of strained relations, the payment of separation pay has been considered an acceptable alternative to reinstatement when the latter option is no longer desirable or viable.[2]

In view of the illegal dismissal of petitioner, he is entitled to separation pay in lieu of reinstatement for the reason above stated, computed from the date of petitioner's employment until finality of our decision;[3] and backwages to be computed from the date he was constructively dismissed, i.e., July 17, 2002, up to the finality of this decision, less the amounts paid in accordance with his payroll reinstatement. While the discretion to choose the mode of reinstatement lies with the employer, the exercise thereof by respondents in the instant case was, as correctly held by the Labor Arbiter,[4] a mockery of the true import of actual reinstatement,[5] considering that petitioner was reinstated as a Reserved Franchise Manager[6] and was made to perform demeaning jobs.[7] This finding of fact by the Labor Arbiter as affirmed by the National Labor Relations Commission is entitled to great weight and respect and is therefore adopted by this Court. Moreover, payroll reinstatement is proper in this case because the physical presence of petitioner in the office might have worsened the already strained relations between him and respondents, particularly, his immediate superior respondent De Jesus, to whom he will directly report every day, as a Manager Reserve.

WHEREFORE, the motion for reconsideration is **PARTIALLY GRANTED**. The May 27, 2003 Decision of the Labor Arbiter finding that petitioner was constructively dismissed, is **REINSTATED** with the following **MODIFICATIONS**: (a) Respondents Caesar B. Rodriguez and Fe Esperanza B. Rodriguez are absolved of personal liability; (b) the award of 14th month pay is deleted; (c) the awards of moral and exemplary damages are reduced to P50,000.00 each; and (d) the award of reinstatement is deleted, and in lieu thereof, petitioner should be

paid separation pay.

SO ORDERED.

Austria-Martinez, Callejo, Sr., Chico-Nazario, and Nachura, JJ., concur.

[1] Rollo, p. 45.

[2] Coca-Cola Bottlers Phils., Inc. v. Daniel, G.R. No. 156893, June 21, 2005, 460 SCRA 494, 512.

[3] Rasonable v. National Labor Relations Commission, 324 Phil. 191, 201 (1996).

[4] Rollo, p. 448.

[5] See University of Immaculate Concepcion, Inc. v. Court of Appeals, G.R. No. 151379, January 14, 2005, 448 SCRA 190, 202.

[6] Rollo, p. 413.

[7] Id. at 448.

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