

GSIS EMPLOYEES' ASSOCIATION AND PEDRO OLASE, PETITIONERS, VS. GOVERNMENT SERVICE INSURANCE SYSTEM AND COURT OF INDUSTRIAL RELATIONS, RESPONDENTS..

G.R. No. 18561. December 26, 1963

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This is a petition for certiorari with mandamus to review the order of the Court of Industrial Relations dated 16 November 1960 (Annex III) and its resolution en banc dated 8 December 1960 (Annex VI) denying the motion for execution of Judgment filed by Pedro Olase in CIR Case No. 896-V (2) dated 3 October 1960 (Annex I).

On 7 January 1960, a judgment was rendered by the Court of Industrial Relations, the dispositive part of which reads—

In view of all the foregoing, this Court finds no substantial evidence to support respondent's accusation that Olase committed the swindle and that the investigation and administrative proceedings conducted by respondent's officials fall short of the due process as provided for under Executive Order No. 370. The Court, therefore, orders the respondent Government Service Insurance System, its general manager and agents, jointly and severally, to reinstate Pedro Olase to his former position. With respect to the petitioner-movant's claim for back wages, it is believed that the same cannot be granted in view of the fact that the dismissal was not motivated by malice but done in good faith. Although there might have been a bad judgment on the part of respondent in dismissing petitioner-movant, yet this judgment was based on its honest belief that petitioner-movant committed the act. The court also orders respondent, its general manager and agents, to post a copy of this order in two conspicuous places in the premises of respondent within a period of thirty (30) days and thereafter shall inform this Court from time to time compliance with the same. (CIR Case No. 986-V(2)).

Both parties filed motions for reconsideration. Olase asked that the judgment be modified so as to include payment of back wages. On the other hand, the respondent GSIS prayed for the reversal of the judgment as to reinstatement of Pedro Olase to his former position. On 18 February 1960, the Court en banc denied the motions for reconsideration. [Both parties have appealed. On 27 July 1960, after the ten-day period had elapsed from the receipt of the order denying the motion for reconsideration, Pedro Olase reported for work to the respondent GSIS but the latter refused to accept him; and so on 3 October 1960, Olase filed a motion for execution of the judgment rendered on 7 January 1960, contending that pursuant to Sec. 14, C.A. 103, as amended, appeal by certiorari does not stay the execution of the award but becomes self-executory ten (10) days after the defeated party has been notified of the resolution of the Court en banc, and praying that a writ of execution issue against the respondent GSIS directing it to reinstate him to his former position, to pay him the sum of P497.10, corresponding to his salary from 27 July 1960 to 30 September 1960, inclusive, and his monthly salary thereafter (Annex I). In its opposition dated 4 October 1960 (Annex II), the respondent GSIS alleged that because both parties have appealed from the judgment sought to be executed (G. R. Nos. L-17186 and L-17363), the reinstatement of Olase ordered by the judgment should be stayed until after this Court shall have passed upon the appeals taken by both parties. It invoked the rule in the case of Cebu Portland Co., vs. Varela, et al., 93 Phil., 878, where this Court upheld the suspension of the order for reinstatement made by the trial court until after this Court shall have decided the case

on appeal. The respondent GSIS objected to Olase's reinstatement because of loss of confidence, and further averred that "to reinstate him now, when the case is still pending would not be conducive to the efficiency of the service as the other employees' morale would be affected" and that the properties of respondent which are being held in trust for all government employees would be exposed to loss. On 16 November 1960, the Court of Industrial Relations stayed execution of judgment directing the reinstatement of Olase for the reason that there exists special and valid grounds for such a stay, but required the respondent GSIS to put up a bond in the sum of P1,000.00 to guarantee whatever lawful claim Olase might have against it should the Supreme Court decide the case in his favor, the judgment being for his reinstatement only without back wages (Annex III). On 22 November 1960, Olase moved for reconsideration of the order of 16 November 1960 claiming that the Court erred in holding that execution of judgment rendered by the Court of Industrial Relations may be stayed for special reasons upon the filing of a bond (Annex IV). On 6 December 1960, the respondent filed its opposition (Annex V) to the motion for reconsideration, contending that the order in question is just and well-founded, it being in accordance with law and the evidence, and in support of its contention it cites Section 14 of C.A. No. 103, as amended, which empowers the Court to stay the execution of an award, order, or decision for special reasons, and upon appellant's depositing in court either the amount of wages due the employees or upon its filing a bond in such form and for such amount that would ensure compliance with the decision or award. It also alleged that Olase being a party to a swindling of an aged retiree, Julian Caguite, of part of his retirement gratuity, Olase's reinstatement would work to its detriment. On 8 December 1960, after considering their pleadings and arguments, the Court en banc denied the motion for reconsideration (Annex VI). On 23 May 1961, the movant appealed from the order denying his motion for execution (Annex VII). The petition for review with Mandamus was filed in this Court on 26 May 1961 (G. R. No. L-18561). By resolution of this Court dated 5 July 1961, petitioners were allowed to litigate in this Court as paupers.

On 21 July 1961, the respondent GSIS filed its answer. On 2 August 1961, the respondent Court of Industrial Relations moved that it be allowed to adopt the answer of respondent GSIS as its (respondent Court) own answer and a copy of said motion was received by the counsel for petitioners on 3 August 1961. On 5 August 1961, petitioner Olase filed a pleading praying that, as both respondents had already filed their answer, he be allowed to adopt the arguments advanced in his petition for review with mandamus as his brief. In its resolution of 5 September 1961, this Court set the hearing of this case on 2 October 1961 at 9:30 in the morning.

Section 14 of C.A. 103, invoked by both parties to support their respective contentions provides—

“* * * The institution of such an appeal shall not, however, stay the execution of the award, order, or decision sought to be reviewed, unless for special reasons the Court shall order that the execution be stayed, in which event the Court in its discretion, may require the appellant to deposit with the clerk of court such amount * *”

On 31 October 1961, this Court affirmed the judgment of the Court of Industrial Relations in Case No. 896-V (2) ordering the reinstatement of Pedro Olase (G. R. No. L-17186) but denying him back wages (G.R. No. L-17363), the dispositive part of which reads—

“* * * We find that the denial of back wages is due to a conviction arrived at by the investigator, after a full consideration of all the facts disclosed at the investigation, that Olase was in part responsible for a customer being mulcted of a big portion of the value of his check. Only a technicality, i.e., lack of opportunity on the part of Olase to refute the charge that Caguite made the retraction because he was paid P300, was the ground why the respondent court ordered reinstatement, this without back wages. On our part, we find that the order denying back wages does not constitute abuse of discretion on the part of the respondent Court.

Wherefore, in G.R. No. L-17186 the petition of the GSIS is dismissed and the order appealed from is affirmed and in G. R. No. L-17363 the petition is also dismissed and the order appealed from also affirmed. Without costs.”

(Pp. 5-6, decision of G.R. Nos L-17186 & 17363).

There being no motion for reconsideration filed, said decision became final and executory on 18 November 1961, 15 days after a copy of the decision had been served on the respondent (Sec. 8, Rule 53 and Section 1, Rule 54, Rules of Court). On 12 December 1961, the chief legal counsel of respondent GSIS forwarded to the Board of Trustees a copy of the Supreme Court decision and recommended that Olase be reinstated in the service.

On 4 January 1962, Olase filed a motion for execution of the judgment in Case No. L-17186 against respondent GSIS—for his reinstatement and payment of his salaries from 27 July 1960, the day he should have been reinstated following the lapse of the 10-day period after respondent GSIS had received the decision en banc of the Court of Industrial Relations.

On 22 January 1962, the respondent GSIS reinstated Olase to his former position. By its order dated 28 April 1962 (Annex A) entered on 3 May 1962, the respondent court granted the motion for execution of the judgment against respondent GSIS directing it to "pay back wages due movant Pedro Olase from July 27, 1960, up to the date he was actually reinstated at the rate of P230.00 per month, within the period of ten (10) days from receipt" of said order. On 14 May 1962, respondent GSIS moved for the reconsideration of the court order dated 28 April 1962 on the ground that it is contrary to law and prayed that it be granted ten (10) days from said date within which to submit its arguments in support of said motion (Annex B). On 17 May 1962, petitioner Olase moved that his petition for certiorari with mandamus be decided by this Court. On 11 June 1962, the Court of Industrial Relations en banc affirmed its order dated 28 April 1962 which directed the reinstatement of Olase to his former position at the rate of P230.00 per month and payment of his back wages from 27 July 1960 up to the date of his actual reinstatement. On 6 February 1963, petitioner Olase filed a pleading praying that his petition for review with mandamus be decided for the reason that the order suspending execution dated 16 November 1960 (Annex III) was vacated for failure of the respondent GSIS to file a bond (p. 12, Annex A to "motion to set for decision" dated 16 May 1962). On 12 February 1963, the respondent GSIS filed its reply to petitioner's pleading and averred that as this Court in its decision in G. R. Nos. L-17363 and 17186 dated 31 October 1961 between the same parties dismissed Olase's petition for payment of back wages on the finding "that the order denying back wages does not constitute abuse of discretion on the part of the respondent Court (CIR)", it was beyond the authority of the respondent Court to grant the execution of the above decision or order the payment of back wages to petitioner Olase from 27 July 1960 up to and including 22 January 1962 when he was reinstated, there being no showing of unfair labor practice committed by the respondent GSIS. For this reason, the respondent GSIS refused to deposit with the Court the amount involved in the case but instead appealed by certiorari, now pending consideration by this Court (G. R. No. L-19988).

It appearing that petitioner Pedro Olase was already reinstated to his former position on 22 January 1962 by the respondent GSIS and that the latter appealed by certiorari (G. R. No. L-19988) from the order and resolution of the respondent Court dated 28 April and 11 June 1962, respectively, and without passing upon the legality of the award of back wages to petitioner during the pendency of the appeal, the petition filed in this case is dismissed, without pronouncement as to costs.

Bengzon, C. J., Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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