

**PAN-PHILIPPINE LIFE INSURANCE CORPORATION (FORMERLY
CARDINAL LIFE IN-SURANCE CORPORATION), PETITIONER, VS.
NATIONAL LABOR RELATIONS COMMISSION AND LUCIO G.
ANGELES, JR., RESPOND...**

G.R. No. 53721. June 29, 1982

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about the dismissal of an employee who allegedly discharged the duties of a chief accountant and vice-president in an insurance firm.

Lucio G. Angeles, Jr. was employed on August 1, 1966 as an accountant by Cardinal Life Insurance Corporation. On February 9, 1968, he was appointed accountant and personnel manager. Later, he was promoted to the position of assistant vice-president. In March, 1973, the board of directors elected him vice-president with an increase in salary.

Whether Angeles functioned concurrently as an accountant and vice-president, as contended by him, or as vice-president only, as contended by Pan-Philippine Life Insurance Corporation, the successor of Cardinal Life Insurance Corporation, is a controversial point.

In March, 1977, Angeles was not reelected vice-president by the board of directors. In a letter dated March 24, 1977 Angeles was notified that, as he was not reelected vice-president, he was no longer connected with the corporation. He was advised to settle all his obligations on or before March 31, 1977 (p. 133, Rollo). The corporate secretary notified the Department of Labor that Angeles and one Ceferino Villar, Jr. were not reelected vice-presidents.

On June 23, 1977, Angeles filed with the Manila regional office of the Department of Labor against Cardinal Life Insurance Corporation a verified complaint wherein he prayed that he be paid his separation pay for eleven years and moral damages amounting to P200,000 (p. 31, Rollo). He did not specify in his complaint the position from which he was removed. He just ambi-guously alleged that he was removed from his employment and that his monthly compensation and allowance at the time of his removal amounted to P1 ,767.50.

However, Angeles, in his position paper dated July 20, 1977 or twenty-seven days after he filed his complaint, changed his theory. He advanced the contention that he held the positions of accountant and vice-president. He categorically stated that he had no grievance against "his non-election as vice-president" but that he was "complaining about his termination as accountant" (p. 35, Rollo).

The case was certified to the Executive Labor Arbiter for compulsory arbitration. After the filing of position papers, the labor arbiter in his decision dated December 29, 1977 found that Angeles occupied simultaneously the two positions of chief accoun-tant and vice-president and that the termination of his tenure as vice-president did not mean that he ceased to be an accountant. There was no just cause for his removal from the position of

accountant.

The labor arbiter ordered that Angeles be reinstated to the position of chief accountant with backwages from March 31, 1977 up to his reinstatement and without loss of seniority rights and that he should be paid P5,000 as moral damages (p. 103, Rollo).

Cardinal Life Insurance Corporation appealed to the National Labor Relations Commission which in its decision dated March 18, 1980 confirmed the labor arbiter's finding that Angeles functioned in a dual capacity as an accountant and vice-president and that the termination of his managerial position as vice-president did not mean that he lost also his job as an accountant or that he ceased to be a rank-and-file employee. The NLRC affirmed the labor arbiter's decision but eliminated the award of moral damages.

On April 30, 1980, Pan-Philippine Life Insurance Corporation filed this petition for certiorari wherein it prayed for the annulment of the decision of the NLRC. The only issue is whether the NLRC committed a grave abuse of discretion in ordering Angeles' reinstatement with backwages.

We hold that we are bound by the factual finding of the NLRC and the labor arbiter that Angeles worked in Cardinal Life Insurance Corporation concurrently as an accountant and vice-president with a monthly compensation of P1,170 plus P300 as living allowance, or P1,470 in all (or P1,767.50 according to Angeles in his complaint, p. 30, Rollo). The decisions under review cite the documentary evidence to support that factual finding. Hence, the NLRC did not commit any grave abuse of discretion in ordering Angeles' reinstatement to the position of accountant.

Since the labor arbiter and the NLRC found that Angeles was validly dismissed as vice-president because the board of directors did not reelect him to that position and that he was illegally dismissed from his other position as chief accountant, his backwages cannot be computed on the basis of his entire salary as accountant and vice-president. The backwages should be based on his salary as an accountant only which amounted to P800 a month plus transportation allowance (p. 97, Rollo).

Angeles in his manifestation of February 3, 1981 alleged that since his dismissal he had not been gainfully employed.

WHEREFORE, the reinstatement of Lucio G. Angeles, Jr. to his position as chief accountant, as ordered by the labor arbiter and the NLRC, is affirmed with the clarification that the backwages due to him from April 1, 1977 up to his reinstatement should be computed at the rate of eight hundred pesos (P800) which amount was his monthly compensation plus transportation allowance as an accountant at the time he was first elected vice-president. No costs.

SO ORDERED.

Barredo, (Chairman), Guerrero, Abad Santos, De Castro, and Escolin, JJ., concur.
Concepcion, Jr., J., on leave.

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