

PHILIPPINE AIRLINES, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION & RODOLFO SALAZAR, ANTONIO MAGNO AND CLEMENTE BASINILLO, JR., RESPONDENTS.

G.R. No. 64809, November 29, 1983

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This petition for certiorari with preliminary injunction seeks to annul the portion of the decision of the Labor Arbiter which awards full backwages to the private respondents from the dates of their respective preventive suspensions up to the date of actual reinstatement, as well as the decision of the respondent Commission affirming in toto the Labor Arbiter's decision.

On August 24, 1983, this Court issued a Temporary Restraining Order restraining the National Labor Relations Commission from enforcing the decision of the Labor Arbiter insofar as it requires the herein petitioner to pay private respondents their backwages but not the order for private respondents' reinstatement to their former positions.

The private respondents were administratively charged with serious misconduct for the attempted pilferage of two cases of wine from the bonded warehouse of the Philippine Airlines on June 12, 1978. After a formal investigation, the respondents were found guilty of the administrative charge and were recommended for dismissal from the service.

On July 25, 1978, the petitioner filed with the Ministry of Labor and Employment an application for clearance to terminate the services of private respondents Clemente Basinillo, Jr., a storekeeper, and Antonio Magno and Rodolfo Salazar, Commissary Supplymen of Catering Services of petitioner for the attempted pilferage of the two cases of wine. The respondents were dismissed.

As a consequence, the private respondents filed a case for illegal dismissal against the petitioner. The case was assigned for arbitration to Labor Arbiter Francisco Jose, Jr. The parties agreed to submit the case for decision after submission of their respective position papers. Based on the papers submitted, Labor Arbiter Jose rendered his decision dated August 14, 1981, the dispositive portion of which states:

"WHEREFORE, IN VIEW OF ALL THE FOREGOING, judgment is hereby rendered:

"1. Denying the instant Application for clearance; and,

"2. Ordering respondent Philippine Airlines, Inc. to reinstate individual complainants Clemente Basinillo, Jr., Antonio Magno and Rodolfo Salazar to their former positions with full backwages from the date of their respective preventive suspension up to the date of actual reinstatement and without loss of seniority rights."

The petitioner appealed the decision of the Labor Arbiter to the National Labor Relations Commission on December 16, 1981.

On June 16, 1983, the National Labor Relations Commission affirmed in toto the decision of the Labor Arbiter.

Its motion for reconsideration having been denied, the petitioner filed the present petition. We consider the comments filed by the public respondents and the private respondents as their respective answers. Issues having been joined, we resolve this petition.

The petitioner is no longer questioning the reinstatement of the private respondents. It, however, contends that since the dismissal of the private respondents was made in good faith and in the honest belief that the private respondents committed misconduct it should not be made to shoulder the whole burden of backwages of private respondents from the date of their respective preventive suspension up to the date of actual reinstatement. It further argues that the long pendency of the case is not due to its own fault. Counsel for the public respondent agrees with these contentions.

We find the petition to be meritorious. In the case of *Mercury Drug Co., Inc. v. Court of Industrial Relations* (56 SCRA 694) this Court adopted the policy of fixing the amount of backwages to a just and reasonable level without qualification and deduction to do away with the attendant delay in awarding backwages because of the extended hearing to prove the earnings elsewhere of each and every employee. In view of this policy, we consistently awarded backwages to the maximum of only three (3) years. (*People's Bank and Trust Company, et al. v. People's Bank and Trust Company Employees Union, et. al.*, 69 SCRA 10; *Insular Life Insurance Co., Ltd. Employees Association-NATU v. Insular Life Assurance Co., Ltd.*, 76 SCRA 50; *Monteverde, et al. v. CIR, et al.*, 79 SCRA 259; *Danao Development Corporation v. NLRC, et al.*, 81 SCRA 489; *L.R. Aguinaldo, Inc. v. CIR, et al.*, 82 SCRA 309; *Liberty Cotton Mills Workers Union v. Liberty Cotton Mills, Inc.*, 90 SCRA 391; *Litex Employees Association, et al. v. CIR, et al.*, 116 SCRA 459).

In the recent case of *Capital Garment Corporation v. Ople* (117 SCRA 473) this Court held that "since this case has been pending for four (4) years, we find that a period of two years for purposes of fixing the backwages of petitioner is fair and reasonable."

The present case has been pending for five (5) years and four (4) months. Considering the reasons for the fixing of backwages as indicated in the abovesited decisions and following the ruling in the *Capital Garment Corporation* case, an award of two and one-half years of backwages is just and equitable.

WHEREFORE, the decision of the Labor Arbiter as well as of that of the respondent Commission are hereby MODIFIED insofar as the payment of backwages is concerned and the petitioner is ordered to pay the private respondents their corresponding backwages for a period of two and one-half years to be computed on the basis of their respective rate of earnings as of July 25, 1978 without qualification and deduction. The temporary restraining order issued on August 24, 1983 is also ordered LIFTED.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, and Relova, JJ., concur.

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