

GREAT PACIFIC LIFE ASSURANCE CORPORATION, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND VICTOR T. SAREN, RESPONDENTS.

G.R. No. 74113, May 29, 1987

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

Great Pacific Life Assurance Corporation (GREPALIFE) questions the finding of the public respondent that Victor T. Saren was its regular employee who was unjustly dismissed and who should be reinstated with backwages and other benefits.

The facts of the case are stated in the Comments filed by the Solicitor General.[1] They are:

"Sometime in June 1976, private respondent Victor T. Saren filed his application for a Certificate of Authority as an Insurance Agent of petitioner GREPALIFE. It is a condition precedent, however, that private respondent first pass the examination given by the Insurance Commission before he could be issued a Certificate of Authority (Section 290, Insurance Code of the Phil.).

"In order to prepare private respondent for the examination to be given by the Insurance Commission, private respondent was taken in as a TRAINEE effective July 26, 1976, as per letter of GREPALIFE dated August 9, 1976. The letter reads:

'TO : Victor T. Saren GP-HSO-A-76-1556

Campagao, Bilar

B o h o l

'SUBJECT: YOUR APPLICATION FOR CA Date: 9 August 1976

'This is to acknowledge your application for Certificate of Authority. We shall process the same in the course of your training and inform you of the schedule for examination.

'Effective 26 July 1976 you are hereby considered as a TRAINEE for Home Service Agent assigned in the territory specified below with Zone Training Supervisor: Mr. Susano Penaflor, who shall give you extensive training in preparation to your taking and passing the IC examination.

TERRITORY: 62-02-04

'You shall be reporting directly to your Zone Training Supervisor under whose supervision the above territory falls and be responsible to him for any assignment and task in the course of your training.

'You shall receive a training subsidy from your Zone Training Supervisor. You shall not be entitled to any bonus and collection commission until you are issued a CA.

'Congratulations and we wish you success.

Sgd. REUBEN M. ABENOJAR

Production Manager

Home Service Operations'

"Apparently, GREPALIFE was dissatisfied with private respondent's performance forcing the former to sever its relations with the latter on February 12, 1977. (There is also no showing whether private respondent took the examination given by the Insurance Commission and whether or not he passed the same.)

"On June 15, 1977, private respondent filed a complaint for 'Unjust Dismissal with claims for Labor Standard Benefits provided by the Labor Code of the Philippines', alleging among others that he (private respondent) was an employee of GREPALIFE.

"On May 31, 1978, Regional Director Francisco P. Armado issued an Order finding Victor T. Saren as an employee of petitioner who was unjustly dismissed without prior clearance. The Regional Director also ordered the reinstatement of Victor T. Saren with 'full backwages from March 1977 up to the actual date of reinstatement to be computed in accordance with their agreement but not to contravene the provisions of the minimum wage law and other decrees applicable thereto and without loss of seniority rights.'

"Dissatisfied with the above Order, petitioner appealed and on August 11, 1981, Deputy Minister Vicente Leogardo, Jr. issued an Order finding Victor T. Saren as a Trainee thus setting aside the Order of Regional Director Francisco P. Armado.

"The case then was 'indorsed to the Arbitration Branch of Regional Office No. 7 for compulsory arbitration on the money claims of complainant.'

"At this point, we wish to stress that private respondent Victor T. Saren did not appeal the Order of Deputy Minister Vicente Leogardo, Jr.

"On November 8, 1982, Labor Arbiter Potenciano Cenizares, Jr., although cognizant of the limits of his jurisdiction, i.e. money claims, went further to state that Victor T. Saren was a regular employee and as such should be entitled to full salary, not just P40.00 per week training subsidy, and the other benefits under labor standard laws.

"Petitioner appealed to respondent NLRC, but in a resolution promulgated on November 20, 1985, the latter dismissed the former's appeal and affirmed the Order of November 8, 1982, rendered by Labor Arbiter Potenciano Cenizares, Jr.

"Petitioner moved to reconsider the resolution but to no avail."

(Rollo, pp-94-96)

The Solicitor-General, who appeared for the National Labor Relations Commission (NLRC), agrees with the petitioner that the respondent NLRC committed reversible error when it dismissed the petitioner's appeal and affirmed the decision of Labor Arbiter Potenciano Cenizares, Jr.

A review of the records of this petition shows that it is meritorious.

Mr. Saren applied for a certificate of authority as an insurance agent of GREPALIFE.

The letter accepting him as Trainee shows that he was not hired as a regular employee. He was taken in as a trainee to be given extensive training prepa-ratory to his taking the examinations given by the Insurance Commission.

Section 299 of the Insurance Code provides:

"Sec. 299. No insurance company doing business in the Philippines, nor any agent, thereof, shall pay any commission or other compensation to any other person for services in obtaining insurance, unless such person shall have first procured from the Commissioner a license to act as an insurance agent of such company or as an insurance broker as hereinafter provided.

"No person shall act as an insurance agent or as an insurance broker in the solicitation or procurement of applications for insurance, or receive for services in obtaining insurance, any commission or other compensation from any insurance company doing business in the Philippines, or any agent thereof, without first procuring a license so to act from the Commissioner, which must be renewed annually on the first day of January, or within six months thereafter. Such license shall be issued by the Commissioner only upon the written application of the person desiring it, such application if for a license to act as insurance agent, being approved and countersigned by the company such person desires to represent, and shall be upon a form prescribed by the Commissioner giving such information as he may require and upon payment of the corresponding fee hereinafter prescribed. The Commissioner shall satisfy himself as to the competence and trustworthiness of the applicant and shall have the right to refuse to issue or renew and to suspend or revoke any such license in his discretion. No such license shall be valid after the thirtieth day of June of the year following its issuance unless it is renewed." (As amended by Presidential Decree No. 1455).

It is obvious from the above provision that before Mr. Saren can be hired as an insurance agent, he must first qualify and get the necessary license. No regular employee-employer relationship could exist between the petitioner and the private respondent until the legal requirements were first met. The petitioner would have been violating the law if it hired Mr. Saren as an insurance agent before he had complied with the necessary requirements.

The one page comment filed by the private respondent presents only one argument, "that private respondent is performing a function truly indispensable and necessary to the business of petitioner which fact makes his work regular as purviewed by the Labor Code of the Philippines." (Rollo, p. 85).

We fail to see what is so indispensable and necessary in the work of a trainee who was only being prepared to take the government examinations for insurance agents. Mr. Saren was given a "training subsidy" and not a salary. He was not hired as a clerk, officer manager, accountant, or house counsel or to fill any other regular job in the firm.

One other point mentioned by the Solicitor General refers to the strange procedure in this case, followed in the then Ministry of Labor and Employment, where a Labor Arbiter alters an order of the Deputy Minister which is not only correct but is already final.

The Solicitor-General states:

"The resolution of the issue, we submit, hinges on whether or not Labor Arbiter Potenciano Cenizares, Jr. had the jurisdiction to alter the Order issued by Deputy Minister Vicente Leogardo, Jr. finding private respondent Victor R. Saren as a mere Trainee and not a regular employee of petitioner.

"The maxim is 'a judgment whether correct or wrong becomes final when not appealed' (Malia v. Intermediate Appellate Court, 138 SCRA 117), 'which deprives the court jurisdiction to alter final judgment' (Soliven v. WCC, 77 SCRA 518).

"It is a matter of record that on August 11, 1981, Deputy Minister Vicente Leogardo, Jr. issued an Order finding Victor T. Saren as a mere trainee and NOT a regular employee of GREPALIFE. The above Order was not appealed by private respondent and therefore became final and executory. Such being the case, Labor Arbiter Potenciano Cenizares acted with grave abuse of discretion in altering such final order. That Labor Arbiter Potenciano Cenizares, Jr. committed a grave abuse of discretion is more glaring considering that he

altered a judgment coming from an appellate body. The Order, therefore, of Labor Arbiter Potenciano Cenizares, Jr. finding Victor T. Saren as a regular employee and on the basis of which he (Labor Arbiter) ordered petitioner to pay additional benefits to Victor T. Saren is NULL and VOID and in legal effect no judgment. By it, no rights are divested. From them, no rights can be obtained. Being worthless in itself, all proceedings founded upon them are equally worthless. They neither bind nor bar anyone (*Abbain v. Chua*, 22 SCRA 748)." (Rollo, pp. 106-107).

There has to be a measure of finality to unappealed administrative decisions insofar as the Department or agency is concerned. More so, if the decision is correct as in this case.

WHEREFORE, the petition is hereby granted. The resolution of the National Labor Relations Commission dated December 20, 1985 is set aside. The private respondent's complaint is dismissed. The temporary restraining order issued on April 28, 1986 is made permanent.

SO ORDERED.

Fernan, (Chairman), Paras, Padilla, Bidin, and Cortes, JJ., concur.

[1] The Solicitor General was assisted by Assistant Solicitor General Ramon H. Barcelona and Solicitor Romeo R. Ramolete.

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