

**MARINERS POLYTECHNIC SCHOOL AND JAIME C. JIMENEZ,
PETITIONERS, VS. HON. VICENTE LEOGARDO, JR., DEPUTY
MINISTER OF LABOR AND EMPLOYMENT, AND MARCIAL H.
TRACENA, RESPONDENTS.**

G.R. No. 74271. March 31, 1989

Ponente: NARVASA, J.

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NARVASA, J.:

Raised in this special civil action of certiorari is the issue of the Regional Director's power to limit, in the process of enforcement of a final and executory judgment, the payment of back wages to three (3) years without deduction or qualification when no such limitation is imposed in the judgment itself.

In a case filed by respondent Marcial H. Tracena, a classroom teacher, against his employer, petitioner Mariners Polytechnic School, involving money claims arising under various labor laws, and another filed by the School for authority to terminate Tracena's services, which were consolidated[1] and jointly heard, judgment was rendered by the Labor District Officer on April 27, 1978[2] ordering the School -

" **to reinstate complainant (Tracena) to his former position without loss of seniority rights and payment of his backwages from the time of his dismissal up to the end of the school year 1977-1978 * * (and additionally) to pay complainant the amount of P874.04 representing 13th month pay, emergency cost of living allowance in the amount of P63.90, holiday pay in the amount of P33.00, or a total of P971.94. "

Clarification was later made of the decision by Order dated May 30, 1978[3] to the effect that

" ** if the complainant is not reinstated at the opening of classes in June, 1978, he shall continue to be entitled to and shall be paid backwages up to and until he is finally reinstated to his former position.

A subsequent Order, promulgated on June 22, 1978, declared the Order of April 27, 1978 final and executory, and directed the School to forthwith reinstate Tracena to his former position and to pay him back wages, subject to the modifications contained in the Order dated May 30, 1978.1

The School appealed to the Office of the Labor Minister, without success. That Office, in an Order rendered on July 8, 1981, affirmed the dispositions made by the Labor District Officer, "except for the reduction of P16.50 from the award issued," and commanded that "the Orders of April 27, May 30 and June 22, 1978 be enforced without further delay."2 The School next betook itself to this Court,3 but was also unsuccessful; its petition for certiorari was dismissed for lack of merit.4

In due time, Tracena moved for execution. After the aggregate of the back wages and other benefits due to Tracena had been computed and ascertained, the Regional Director issued the writ of execution prayed for commanding the School to reinstate Tracena and pay him the total sum of P50,000.18 -- representing his back wages from school year 1977 to 1985 -- as well as his 13th month pay, emergency cost of living allowance and holiday pay. At the School's instance, however, the Regional Director modified the Order by reducing the award

of back wages from P50,000.18 to P19,552.74, the latter sum being the sum of his wages for three (3) years without deduction or qualification. The Director gave the following justification for the reduction, viz:⁵

“ ** (W)e must, however, bear in mind that said decision (being executed) is open-ended in the sense that the period to be reckoned with in computing the backwages had no cut-off date hence dependent on the date of actual reinstatement. **

"On this score, this Office appreciates counsel for respondent for calling our attention to the error committed in computing the backwages with the period reckoned with far exceeding three (3) years. The Office is therefore constrained to recompute the backwages and limiting the same to three (3) years. This is so because the decision of the then Labor District Officer Reyes which became final and executory, being an open-ended one, falls squarely within the ambit of a long line of decisions of the Supreme Court consistently limiting backwages to only three (3) years, without qualification or deduction. **."

This time it was Tracena who moved for reconsideration. He argued that the order was contrary to existing jurisprudence prohibiting parties from attempting to frustrate execution of a final and executory judgment by raising new issues of fact and law. The Regional Director however refused to modify his order; so, Tracena appealed to the Office of the Labor Minister. The Deputy Minister adjudged his appeal to be "impressed with merit," it appearing that the Regional Director had "made a substantial alteration of the final decision ** (although this was) no longer possible." In his Order dated December 20, 1985, the Deputy Minister set aside the Regional Director's order of September 27, 1985 and enjoined him "to implement/enforce the final judgment dated June 22, 1978 as modified by this Office in its Order dated July 8, 1981 and affirmed by the Supreme Court in its Resolution, dated July 19, 1982."⁶

The School thereupon instituted the instant special civil action of certiorari assailing the Deputy Minister's Order just described -- which, it was claimed, "allow(ed) backwages for more than 7 years," and was "in gross violation of the doctrine laid down by the Supreme Court limiting backwages to only 3 years" in no less than 34 specified cases¹ -- as "an act of grave abuse of discretion." Acting on the School's application therefor, this Court issued a temporary restraining order² enjoining the respondents from executing the Order dated December 20, 1985 **."

Applicable jurisprudence is on the petitioner's side. It is entitled to the writ of certiorari it prays for, a proposition with which the Solicitor General agrees.

Prior to the adoption of the doctrine set out in the "long line of decisions" adverted to by the Regional Director, the monetary benefits awarded to an employee finally adjudged to have been unlawfully separated from employment, could be reduced by the sum of the salaries or wages actually earned by him during the period of his separation from employment until his reinstatement, or those which he could have earned had he applied himself with sufficient diligence to an effort to obtain gainful employment. It was therefore the employer's right to adduce evidence on these matters, and consequently cause suspension of execution of a judgment directing reinstatement of a worker and payment to him of back salaries and/or other pecuniary benefits until such evidence could be presented and a conclusion finally made on the basis thereof as to whether or not deductions should be made from the award³ It was in *Mercury Drug Co., Inc v. CIR*⁴ that the Court first found occasion, in order to preclude recurrence of this situation and speed up the process of execution, to provide a remedy by ruling that an employee whose illegal termination had lasted some years was entitled to back wages for a fixed period⁵ "without further qualifications." i.e., without need of taking account of whatever he might have earned during such period, and deducting it from the amount of recovery. The base period of three years now governing such cases was instituted in the later case of *Feati University Faculty Club (PAFLU v Feati University*,⁶ where it was declared that the policy "of fixing the amount to (such) a just and reasonable level without qualification or deduction ** (is) to avoid protracted delay in the execution of the award for backwages due to extended hearings and unavoidable

delays and difficulties encountered in determining the earnings of the laid-off employees ordered to be reinstated with backwages during the pendency of the case for purposes of deducting the same from the gross backwages awarded," and that:

* * (T)his formula of awarding reasonable net backwages without deduction or qualification relieves the employees from proving or disproving their earnings during their lay-off and the employers from submitting counterproofs, and obviates the twin evils of idleness on the part of the employee who would 'with folded arms remain inactive in the expectation that a windfall would come to him' and attrition and protracted delay in satisfying such award on the part of unscrupulous employers who have seized upon the further proceedings to determine the actual earnings of the wrongfully dismissed or laid-off employees to hold unduly extended hearings for each and every employee awarded backwages and thereby render practically nugatory such award and compel the employees to agree to unconscionable settlements of their backwages award in order to satisfy their dire need."

The Court perceives no cogent cause to revise or ignore this doctrine which, as petitioner stresses, has been consistently applied in a long line of decisions. It is no argument to say that the original judgment omitted to impose the three-year restriction and it is too late to do so now. Indeed, the doctrine is of peculiar application to executory judgments the enforcement of which invariably entails a computation of monetary benefits and, as above pointed out, is designed precisely to assure their unimpeded and speedy execution. If the three-year limitation were to be held as not applicable in this case, because not imposed in the judgment sought to be executed, it would follow, as a matter of logic and justice, that Mariners, the employer herein, should be allowed to prove the amounts earned or which could have been earned by its employee, Tracena, during the period of the latter's separation from employment; and until this is done, execution must be abated. As much is suggested by the Solicitor General. That need not be done. The three-year-limit doctrine has been consistently and uniformly applied by this Court and by the Ministry of Labor and Employment over many years. That it was unaccountably disregarded in the judgment in question is of no moment. Its disregard must be considered a clerical omission. The Deputy Minister was bound to the observance of the doctrine; it certainly was not within his power or discretion to decline to apply it; and his subsequent refusal, during the process of execution, to avail of the opportunity to uphold his subordinate's application of the doctrine constituted in the premises grave abuse of discretion. To correct the error, and to avoid the mischief against which the doctrine is aimed, the three-year limitation should be considered as written into the judgment.

WHEREFORE, the writ is granted; the Order of the respondent Deputy Minister of December 20, 1985 is ANNULLED AND SET ASIDE, and that of the Regional Director of September 27, 1985 REINSTATED and AFFIRMED. No costs.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Case No. RO5-D-312-77

[2] Rollo, pp. 32-33

[3] Id., p. 44

1 Rollo, p.34

2 Id., p. 40

3 G.R. No. 57792

4 Resolution dtd July 19,1982, Rollo, p. 11

5 Rollo, pp. 99-100

6 Id., pp. 10,11

1 Id., pp. 5-6

2 Resolution, May 7, 1986

3 SEE, e.g., East Asiatic Co., Ltd., et al. v. CIR, et al., 40 SCRA 521, 547-548

4 56 SCRA 694, 709 (April 30, 1974)

5 The period fixed in this particular case was one year, eleven months and fifteen days. The base figure of three years' back wages was proposed in the concurring and dissenting opinion of then Associate Justice (later Chief Justice) Teehankee.

6 58 SCRA 395, 418 (Aug. 15, 1974; Teehankee, J., ponente)

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