

NATIONAL STEEL CORPORATION, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND PELAGIO REMOLADO, RESPONDENTS.

G.R. No. 74711. September 19, 1988

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition under Rule 65 of the Rules of Court to annul the resolution of public respondent National Labor Relations Commission rendered on December 27, 1985 in NLRC RABX Case No. 352-78, insofar as it orders payment of backwages to private respondent Pelagio Remolado, from April 24, 1981 to February 13, 1984.

On June 8, 1978, private respondent Pelagio Remolado (hereinafter referred to as Remolado) filed a case for illegal dismissal against the petitioner National Steel Corporation with the Regional Office of the Ministry of Labor and Employment at Cagayan De Oro City.

On September 20, 1978, Labor Arbiter Ildefonso Agbuya rendered a decision dismissing Remolado's complaint. Remolado appealed the decision to the public respondent National Labor Relations Commission (hereinafter referred to as the Respondent Commission).

On October 30, 1980, Respondent Commission rendered a decision, the dispositive portion of which reads:

"WHEREFORE, premises considered, the appealed Decision is as it is hereby MODIFIED by ordering respondent-appellee to reinstate complainant-appellant to his former job without backwages. Except for this modification, the appealed Decision is hereby affirmed.

"SO ORDERED." (Page 26, Rollo).

Petitioner appealed the above-mentioned decision to the Office of the President which, on October 13, 1983, denied petitioner's appeal. In the order of denial, the aforesaid Office, inter alia, stated:

"This conviction has resulted in major changes in labor relations law and policy as instituted through and given expression in Presidential Decree Nos. 1367 and 1391 as well as Batas Pambansa Blg. 70, 130 and 277, all amending Book Five (Labor Relations) of the Labor Code. In particular, decisions of the Bureau of Labor Relations, the National Labor Relations Commission and of the Minister of Labor and Employment in matters within their respective exclusive jurisdiction, have been declared final and executory, and, the President will refrain from intervening and exercising his undisputed power of review therein, unless in his opinion, there are compelling reasons of national interest for doing so." (Page 27, Rollo).

On January 31, 1984, Remolado reported to the petitioner and, after completion of his medical examination and reinstatement papers, actually reported for work on February 13, 1984.

On June 22, 1984, Remolado filed with the Labor Arbiter a motion for the issuance of a writ of execution of the September 20, 1978 order of the Labor Arbiter as modified by the October 30, 1980 decision of the Respondent

Commission. Since the motion sought payment of backwages, petitioner opposed the same on the ground that neither the order nor the decision sought to be executed directed such payment.

On April 29, 1985, the Labor Arbiter rendered a resolution awarding backwages and other related benefits to Remolado, the dispositive portion of which reads:

"IN VIEW OF THE FOREGOING, Respondent National Steel Corporation is hereby ordered to pay Complainant Pelagio Remolado the total amount of P108,969.80 on the basis of the above-quoted computation subject to ten (10) days period given to Respondent to verify the computation as above-mentioned.

"SO ORDERED." (Page 34, Rollo).

Petitioner appealed the resolution of the Labor Arbiter to the Respondent Commission which, on December 27, 1985, rendered a resolution, the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby entered:

"(1)

Dismissing the appeal for lack of merit;

"(2)

Ordering respondent-appellant to pay complainant-appellee backwages and from April 24, 1981 to February 13, 1984; and

"(3)

Ordering respondent-appellant to pay complainant-appellee his salary differential and 13th month pay.

"The Corporate Auditing Examiner of this Commission is directed to compute the award in this Decision after ten (10) days from receipt of this Decision.

"SO ORDERED." (Page 16, Rollo).

Later, petitioner filed a motion for reconsideration which was denied by the Respondent Commission for lack of merit. Hence, this petition.

As a justification for the award of backwages, the Labor Arbiter said:

"We find merit in Complainant's claim that he should be paid backwages from the time Respondent NSC received the decision of the NLRC. When the NLRC mentioned reinstatement without backwages, the phrase (sic) 'without backwages' refers to the period August 9, 1977 when he was dismissed until our decision was modified by the same. The main point to consider is, when are backwages to be granted or not? The principle should be, backwages is to be granted in the event, among others, when an employer, in this particular case Respondent NSC, deprived a particular worker/Complainant his earnings. In this particular case as correctly adverted to by Complainant, had Respondent NSC reinstated him upon receipt of the NLRC decision then he could have earned the wages and benefits due him. But for appealing further the NLRC decision to the Office of the President, Respondent NSC took the risk that if the appeal is denied then it should be subjected to pay backwages from the time of the NLRC decision, because the effectivity of the NLRC decision retroacts to the day it was promulgated. There is no merit therefore in the contention of Respondent that they already complied with the decision of the NLRC by reinstating Complainant to his former position but without backwages."

(Page 31, Rollo).

The Respondent Commission upheld the April 29, 1985 resolution of the Labor Arbiter adding that the petitioner's appeal to the Office of the President "was seasonably filed but it was filed with a wrong agency and this mistake did not stop the running of the period of appeal. Hence, the appealed decision of this Commission under date of October 30, 1980 became final and executory." (Page 15, Rollo).

On the other hand, petitioner argues that Respondent Commission gravely abused its discretion because (a) it granted backwages when no provision therefor was contained in the decision sought to be implemented; and (b) it (the petitioner) was merely exercising its right to appeal and hence, should not be penalized for doing so.

The legal issues outstanding in the instant case are:

(1)

Whether or not Respondent Commission erred when it decided that backwages and other benefits should be paid to Remolado; and

(2)

Whether or not petitioner should be held liable for the delay in the implementation of Respondent Commission's decision of October 30, 1980.

The Respondent Commission's decision of October 30, 1980 simply ordered the reinstatement of Remolado to his former job without backwages. Nonetheless, the Labor Arbiter, in his resolution of April 29, 1985, awarded backwages counted from the date when the Respondent Commission's decision was rendered or on October 30, 1980, to the date of the actual reinstatement of Remolado on February 13, 1984. Clearly, the Respondent Commission acted without or in excess of jurisdiction in sustaining the aforesaid resolution of the Labor Arbiter. It is a well-settled rule that the execution of judgment must conform to that which is ordained or decreed in the dispositive portion of the decision (*Laingo vs. Camilo*, No. L-35833, June 29, 1984, 130 SCRA 144). Where the writ runs counter to, differs or exceeds the specific provisions in the judgment, the same is issued without or in excess of jurisdiction (*Philippine Virginia Tobacco Administration vs. Gonzales*, No. L-34628, July 30, 1979, 92 SCRA 172).

The petitioner should not be held liable for the delay in the implementation of Respondent Commission's decision of October 30, 1980, allegedly due to the appeal it undertook. The petitioner was rightfully entitled to appeal. In fact it did so to the Office of the President which the Respondent Commission considered a wrong agency for that purpose. We really cannot find any basis for this conclusion of the Respondent Commission. Presidential Decree No. 1391 (took effect on May 29, 1978) which amended Article 223 of the Labor Code simply eliminated appeals from the National Labor Relations Commission to the Secretary of Labor but provided that the President of the Philippines may continue to exercise his powers under the aforesaid Code, that is, to assume jurisdiction over any case which he considers national interest cases. Thus, it cannot be said that the petitioner actually appealed to a wrong agency considering the law then prevailing.

The Respondent Commission and Remolado very well knew that petitioner appealed to the Office of the President but this fact did not constitute a hindrance to the early and immediate implementation of the decision of October 30, 1980. Under Article 223 of the Labor Code, as amended, the decision of the National Labor Relations Commission is immediately executory even pending appeal. Remolado could have moved for the issuance of a writ of execution of the decision during the pendency of the appeal and insisted on his right to be reinstated or the

Respondent Commission could have issued a writ of execution on its own initiative, conformably with Article 224 (a) of the same Code. Thus, the delay in the implementation of the decision cannot be wholly attributed to petitioner.

It is significant to note that it was only after the Office of the President had denied petitioner's appeal or approximately three years from the decision of Respondent Commission in his favor did private respondent act by filing a motion for execution which included a claim for backwages for the period that the appeal had remained pending.

What obviously caused the delay was the sheer inaction of private respondent who was entitled to enforce it. Under the circumstances, it would definitely be offensive to justice and fair play to hold petitioner liable for the consequence of such inaction.

ACCORDINGLY, the petition for certiorari is GRANTED. The Resolution of respondent National Labor Relations Commission dated December 27, 1985 is hereby annulled and set aside. No costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Griño-Aquino, JJ., concur.

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