

VETERANS PHILIPPINE SCOUT SECURITY AGENCY, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND ROBERTO DE LOS SANTOS, RESPONDENTS.

G.R. No. 78062. June 28, 1989

Ponente: GANCAYCO, J.

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GANCAYCO, J.

The final and executory character of a Decision of a labor arbiter is put in issue in these two consolidated Petitions.

On March 16, 1982, Roberto De Los Santos was employed as a security guard by the Veterans Philippine Scout Security Agency. He was assigned to the Naga City branch office of the Prudential Bank. He drew a monthly salary of P1,200.00.

On February 6, 1985, he was relieved from his post in Naga City and was ordered to report to the Quezon City office of the security agency for an inquiry. The inquiry was prompted by some complaints aired by the bank manager regarding the service rendered by the said security guard.

For some reason or another, De Los Santos reported to the Quezon City office of the security agency only on May 21, 1985. He explained that financial problems prevented him from reporting to the office earlier. He also requested the security agency that he be retained in Naga City or re-assigned to Metropolitan Manila.

The security agency was apparently satisfied with the explanation of De La Santos and as such, the inquiry was aborted. Acting favorably on his request to be reinstated, the security agency instructed him to wait for a number of days for a new assignment. He was also told that in the meantime, he would be paid a monthly cash allowance of P500.00 with free board and lodging.

However, De Los Santos felt he was ridiculed and oppressed by his employers so on May 23, 1985, he filed a Complaint for illegal dismissal against the security agency with the National Labor Relations Commission. He also sought the payment of some money claims. Two officials of the security agency, Willie O. Jamila and Sergio Jamila, were included in the Complaint as respondents. The Complaint was docketed as Case No. NLRC-NCR-5-1633-85.

The parties were called for hearings. Both sides submitted their respective position papers. In due time, the case was deemed submitted for decision.

In a Decision dated February 27, 1986, the labor arbiter assigned to the case ruled in favor of De Los Santos as follows:

"WHEREFORE, judgment is rendered in favor of complainant Roberto de los Santos and against respondents Willie O. Jamila and Sergio N. Jamila and/or Veterans Philippine Scout Security Agency, ordering the said

respondents to immediately reinstate complainant to his former position as security guard without loss of seniority rights, and to pay complainant's backwages, computed at P1,200.00 per month, from February 6, 1985 until actual reinstatement.

Respondents are likewise ordered to pay to complainant emergency cost of living allowance, 13th month pay, holiday pay, incentive leave pay and other benefits mandated by existing laws from May 23, 1982 until the actual reinstatement of the latter to his former position, which benefits are hereunder computed:

BACKWAGES:

Feb. 6, 1985-March 17, 1986 =

14.4 mos. x P1,200/mo.=

P17,280.00

BENEFITS

ECOLA:

May 23/82 - March 17/86 = ...

20,343.75

13th MONTH PAY:

May 23/82 - March 17/86 = ...

3,391.21

SERVICE INCENTIVE LEAVE PAY:

1982 to 1985

565.00

HOLIDAY/REST DAY PREMIUMS:

May 23/82 - March 17/86

2,910.40

MORAL DAMAGES

P50,000.00

EXEMPLARY & NOMINAL

DAMAGES

10,000.00

LITIGATION FEES

3,500.00

63,500.00

P90,710.36

ATTORNEY'S FEES

P9.071.03

TOTAL AWARD

P99,781.39

VVVVVVV

Also, respondents are ordered to pay the amount of ₱3,500.00 as reimbursement for litigation expenses and are also assessed ten per cent (10%) attorney's fees payable to complainant."[1]

The respective counsels of both parties received notice of the said Decision on April 23, 1986.

On May 5, 1986, the security agency filed a Motion for Reconsideration and/or Appeal with the National Labor Relations Commission. On May 7, 1986, De Los Santos filed a motion for the issuance of a writ of execution, alleging therein that the Decision of the labor arbiter had already become final and executory for failure of the security agency to file the said Motion for Reconsideration and/or Appeal within the ten-day reglementary period for doing so.

The respondent Commission acted on the Motion. In a Resolution dated January 30, 1987, the respondent Commission modified the Decision of the labor arbiter by eliminating the award of damages in favor of De Los Santos.[2]

The security agency sought a reconsideration of the said Resolution. The respondent Commission denied the reconsideration sought in another Resolution dated March 31, 1987.[3]

On June 19, 1987, the security agency elevated the case to this Court by way of the Petition docketed as G.R. No. 78062. On July 8, 1988, De Los Santos filed a separate Petition, a special civil action for certiorari docketed as G.R. No. 83927. The Petition in G.R. No. 78062 is erroneously captioned as a Petition for Review. This error notwithstanding, and in the interest of justice, the Court resolved to treat the same as a special civil action for certiorari on account of the jurisdictional issues raised therein.[4]

In fine, the security agency assails the two Resolutions of the respondent Commission on the ground that the said Commission committed a grave abuse of discretion in ruling that De Los Santos had been illegally dismissed. On the other hand, De Los Santos seeks the annulment of the said Resolutions on the ground that the respondent Commission has no jurisdiction to modify a final and executory Decision of a labor arbiter.

As stated earlier, the two Petitions were consolidated. In due time, these cases were deemed submitted for decision.

After a careful examination of the pertinent pleadings submitted by the parties, the Court rules in favor of the security agency.

The Court will first discuss the issue as to whether or not the Decision of the labor arbiter had become final and executory.

Under Article 223 of the Labor Code, a Decision of a labor arbiter is final and executory unless appealed to the National Labor Relations Commission by any or both of the parties within ten (10) days from notice of the said Decision. Thus, the perfection of an appeal within the reglementary period for the same is jurisdictional in character.

It appears that both parties received notice of the Decision of the labor arbiter on April 23, 1986. Pursuant to Article 223 of the Labor Code, the parties had ten (10) days from April 23, 1986, or up to May 3, 1986 within which period to bring an appeal to the National Labor Relations Commission. May 3, 1986 was, however, a Saturday. Hence, the respondent Commission, like other government offices, was closed. When the deadline for the filing of an appeal falls on a Saturday, Sunday or holiday, and the government office concerned is closed on such a day, the appeal may be filed on the next working day. In this case, the next working day was Monday, May 5, 1986. The parties had until May 5, 1986 to bring an appeal to the National Labor Relations Commission.

The security agency elevated the case to the respondent Commission on May 5, 1986. Therefore, the appeal had been seasonably taken. The Decision of the labor arbiter did not become final and executory and the respondent Commission could validly take cognizance of the appeal brought by the security agency.

The Court will now discuss the issue as to whether or not the respondent Commission committed a grave abuse of discretion in ruling that De Los Santos had been illegally dismissed.

The Court believes that De Los Santos was not illegally dismissed. He was instructed to report to the main office of the security agency for an investigation prompted by some complaints against him by a client firm. Instead of doing so, he simply disappeared for more than three months without even informing the security agency about his whereabouts. When he finally showed up at the main office, he explained that financial problems prevented him from reporting earlier. Apparently moved by his plight, the security agency did not push through with the investigation. On May 22, 1985, the security agency favorably considered his request that he be given another assignment. The security agency told him to wait for a few days for a new assignment and that in the meantime he would be paid a monthly cash allowance of P500.00 with free board and lodging. He found nothing objectionable about the arrangement. The very next day, May 23, 1985, he filed the Complaint against the security agency. These circumstances belie the allegation that De Los Santos had been illegally dismissed.

For these reasons, the Court rules that the respondent Commission committed a grave abuse of discretion in ruling that De Los Santos had been illegally dismissed. Accordingly, the writ of certiorari must be issued in G.R. No. 78062.

WHEREFORE, in view of the foregoing, the Petition in G.R. No. 78062 is hereby GRANTED while the Petition in G.R. No. 83927 is hereby DISMISSED, The Resolutions of the National Labor Relations Commission dated January 30, 1987 and March 31, 1987 in Case No. NLRC-NCR-5-1633-85 and the decision of the labor arbiter dated February 27, 1986 are hereby SET ASIDE and the said case is hereby ordered dismissed. The Court makes no pronouncement as to costs.

SO ORDERED.

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

[1] Pages 38 to 49, Rollo, G.R. No. 83927.

[2] Pages 15 to 18, Rollo, G.R. No. 78062.

[3] Pages 62, Rollo, G.R. No. 83927.

[4]Dentech Manufacturing Corporation v. National Labor Relations Commission, G.R. No. 81477, April 19, 1989.

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