

FILOMENO N. LANTION, CLARITA C. LANTION, AND JUANA C. FUENTES, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, GREGORIO ARANETA UNIVERSITY FOUNDATION AND OBED JOSE MENESES...

G.R. No. 82028. January 29, 1990

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

The instant controversy traces its roots to the retrenchment and reorganization program (RRR) adopted in 1983 by respondent Gregorio Araneta University Foundation (the University, for short).

In particular, this Petition for Certiorari seeks a reversal of the Decision of public respondent National Labor Relations Commission (NLRC), dated 20 January 1988, which modified the judgment of the Labor Arbiter in the Illegal Dismissal Case entitled "Filomeno N. Lantion et als., vs. Gregorio Araneta University Foundation et als.," in NLRC Case No. NCR-3-981-85.

The three (3) Complainants in this case charged the University with Illegal Dismissal, Non-payment of separation pay, retirement pay, and gratuity pay, Unfair Labor Practice with Damages, and Attorney's Fees.

The first Complainant, Filomeno Lantion, was the Acting Vice President and Executive Officer of the University at the time of his dismissal. He started as a clerk and has had thirty-two (32) years and seven (7) months of service. His last monthly salary was P4,247.00.

The second Complainant, Clarita C. Lantion, is his wife. The last position she held was that of Dean of the Institute of Business and Agricultural Administration and concurrently Head and Professor of the Department of Business and Finance. She is a holder of a Ph. D in Commerce and has had twenty-six (26) years of service in the University. Her last monthly salary was P2,550.00.

The third Complainant is Juana C. Fuentes, sister-in-law of petitioner Filomeno Lantion. She joined the University in 1967, her last position being that of Secretary of the Chief Legal Officer. She is a BSBA holder and has served the University for sixteen (16) years. Her last monthly salary was P998.00.

On 15 March 1983, Mr. Cesar A. Mijares, then President of the University, addressed a letter to the Minister of Labor and Employment informing him of the financial predicament of the University, thus:

"This University can no longer afford to continue operation under the present salary rates of its personnel. The reduction of personnel is not an adequate solution to this problem, because to do so would not enable the University to accommodate its present enrolment. x x x.

"Reducing the salaries of personnel even to an amount which is not below the statutory minimum is not legally allowable. Therefore, the only effective solution is for the University to have all its personnel resign and pay them their separation pays, or retirement pays, whichever is higher, so that it could effect a top-to-bottom

reorganization and restructure its salary rates and other benefits not mandated by law x x x.

"After we have paid our employees their separation/retirement pays, we will immediately rehire them in accordance with new and restructured salary rates x x x and without the benefits not mandated by law x x x, subject to the University's actual needs under its reorganized set-up.

"x x x " (Underscoring ours).

On 29 March 1983, then Minister Ople replied:

"We understand that under the proposed retrenchment and reorganization plan, the following measures are envisaged:

"1. a top-to-bottom, University-wide reorganization, functional and structural in scope, as well as restructuring of salary rates and other personnel benefits not mandated by existing labor standard laws;

"2. separation or retirement of ALL personnel with corresponding grants of termination pay or retirement benefits, whichever is higher;

"3. re-hiring of ALL personnel so separated or retired under terms and conditions of employment to be established for the reorganized University Foundation, with the possible exception of those whose present positions will be affected by the proposed reorganizational changes.

x x x.

"On the basis of the foregoing considerations, we find no serious objections that may be interposed to the proposed reorganization and retrenchment program of the University Foundation. Implementation of this program shall of course be instituted without prejudice to whatever benefits that might have accrued to the employees concerned at the effective date of reorganization." (Emphasis supplied).

On 14 October 1983, the Executive Committee of the Board of Trustees of the University issued a Memorandum-Circular providing, among others:

"The following guidelines are hereby issued:

"1. All ad hoc, ad interim and temporary appointments will be considered terminated as of the date indicated in their respective appointments, or as of October 31, 1983, whichever is earlier;

"2. GAUF faculty members and associates are invited to submit courtesy letters of resignation to the Executive Vice President on or before October 31, 1983. Those who submit may be re-appointed while those who would fail to submit may be retrenched;"

x x x."

We come now to the respective situations of petitioners. On 10 November 1983, petitioner Filomeno Lantion received a letter, dated 9 November 1983, terminating him as the Acting Vice-President and concurrently Executive Officer of the University effective 11 November 1983. Petitioner Clarita Lantion, wife of Filomeno, was terminated as Dean of the Institute of Business and Agricultural Administration and Concurrent Head of the Department of Business, Finance, and Management effective 1 June 1984. While petitioner Fuentes, Filomeno's sister-in-law, was terminated as Secretary to the Legal Office on 21 November 1983.

On 25 March 1985, petitioners filed their Complaint against the University and its President, respondent Obed Jose Meneses, before the NLRC.

Petitioners maintain that their positions were not affected by the reorganization program; that they were not

re-hired despite their seniority in service, superior qualifications, and efficiency; that petitioner, Clarita Lantion, was replaced by a faculty member who does not even possess the necessary academic qualification required by the University and the Ministry of Education; that petitioner, Juana Fuentes, was replaced by an undergraduate and very much her junior in terms of service; that their dismissal was motivated by vindictiveness since petitioner, Filomeno, had previously testified in the administrative charge against respondent Meneses; that petitioners were illegally dismissed without the one-month notice and are entitled to their monetary claims and reinstatement without loss of seniority rights and with full backwages.

Traversing the foregoing averments, the University contends that on 18 November 1983, petitioner Filomeno Lantion expressed in clear and unequivocal terms his conformity to be retired and separated from the service such that he has no cause for illegal dismissal, much less for reinstatement; that on 3 November 1983, petitioner Clarita Lantion was extended an ad interim appointment as Acting Officer-in-Charge of the Institute of Business and Agricultural Administration up to 31 March 1984; that her appointment was extended to 31 May 1984 after which she was not reappointed so that since her appointment was for a fixed period the same had expired; she then ceased to be employed in the University and, in fact, she requested the payment of her termination benefits which has been partially met by the University; that petitioner Juana C. Fuentes tendered a courtesy resignation in a letter, dated 28 October 1983, which was accepted; that her position had been abolished; and that she had already been paid partially her retirement benefits.

Referring to all three complainants, the University submits that they were not illegally dismissed nor was their removal motivated by vindictiveness; that the claim of vendetta is a childish and immature display of ill-feeling and animosity to respondent Meneses because of their futile attempt to hold or to administer the University; that the retrenchment program was already being implemented when respondent Meneses was appointed; and that the letter of some employees terminating their services was even signed by petitioner Filomeno Lantion.

Resolving the issues raised, in a Decision, dated 17 June 1986, the Labor Arbiter opined that failure of respondents to pay retirement and other benefits due complainants does not make their retrenchment illegal (p. 7, Decision) since retrenchment was effected to avert bigger losses in the future. By reason thereof, the entitlement of complainants was limited to the payment of "retirement benefits under the Blue Book," namely, "to petitioner Filomeno Lantion, the amount of P165,526.59; to Clarita C. Lantion P72,769.89; and to Juana C. Fuentes, P17,577.17; plus 10% interest from the date of their separation, with 10% attorney's fees. Partial payments received are deductible. All other claims are hereby dismissed."

Both parties appealed to the NLRC.

On 20 January 1988, the NLRC affirmed the Labor Arbiter's finding that retrenchment was not illegal since it was resorted to in order to avert the financial collapse of the University. But it modified the amounts awarded by deleting the 10% interest as well as the 10% attorney's fees and adjusting the award of COLA to Fuentes to P5,269.30. The following explanation was given in the matter of interest and attorney's fees:

"Regarding the correctness of the 10% interest of the monetary awards and 10% attorney's fees raised by the respondents in their appeal which is certainly an added financial burden because the complainants were not illegally dismissed nor was it proven that their discharge was motivated by ill-feelings or vindictiveness, we find no sufficient or factual basis for the award. The 10% interest, is to our mind, in the form of damages and this must not only be prayed for but must also be properly averred and proven. With respect to the award of attorney's fees, we have considered the fact that respondents never resisted complainants' claim of retirement benefits which they are entitled to and which they have partially received even before filing of the complaint and therefore, we do not see any legal basis to award attorney's fees against respondents."

In this Petition for Certiorari, petitioners assign the following errors to the NLRC:

"1. The interest of 10% awarded by the Honorable Arbiter a quo is even a far cry of the amount of actual damages pleaded and duly established which were sustained by herein petitioners as a result of the non-payment of their retirement/gratuity pay and other employee benefits by private respondent.

"2. The attorney's fee awarded by the Honorable Labor Arbiter a quo was also duly pleaded and established and herein petitioners are entitled to the same because of the obstinate refusal of private respondents to settle in full the money claims of the former despite verbal and written demands therefor, necessitating the filing of the instant case and hiring of the services of counsel.

"3. Herein petitioners who had served respondent university from 16 to 32 years had been terminated from service discriminatorily, arbitrarily and illegally and had not been rehired by private respondents contrary to their own guidelines and those set forth by MOLE in the implementation of GAUF RRR program, and in not ordering the reinstatement with back wages of herein petitioners. The NLRC, Second Division, abusively ignored and/or totally disregarded applicable and clear-cut decision and/or rulings of the Supreme Court on cases which transpired contemporaneously in the same respondent university which are four-square on the matter, and which decision had been timely brought to the attention of said NLRC Division causing flagrant and notorious discrimination against herein petitioners." (pp. 10-11, Rollo).

Significantly, in his Comment/Memorandum, the Solicitor General supports the position adopted by petitioners, on the principal ground that the NLRC departed from the Decision of this Court in *Gregorio Araneta University Foundation vs. NLRC et als.*, (G.R. Nos. 79525-26, October 29, 1987, 155 SCRA 301) [hereinafter, the First GAUF Case], in that "since petitioners' positions were not abolished, their dismissal should have been held illegal in the absence of basis to consider them retired or separated from the service under the retrenchment program of the University nor are their dismissals in accordance with the regular rules and procedures on dismissal of employees" (p. 18, Comment).

On the other hand, private respondents and the NLRC, on its own behalf, contend that there was no grave abuse of discretion amounting to lack of jurisdiction in holding that there was no basis in law and in fact for the award of 10% interest in the absence of malice or bad faith that preceded the termination of service of petitioners; nor was there reversible error in deleting the award of attorney's fees there being nothing in the record that petitioners ever spent any amount for attorney's fees; that there was neither a departure from the rule in the First GAUF Case, *supra*, inasmuch as the complainants in those cases did not tender their resignation while petitioner Filomeno Lantion did; petitioner Clarita's re-appointment was for a fixed period and the same had expired; while petitioner Clarita Fuentes had resigned. What is more, except for petitioner Clarita Fuentes, their positions had been abolished. Additionally, the University claims that petitioners have received partial payment of their retirement benefits whereas complainants in the First GAUF Case had not.

We gave due course to the Petition and required the submittal of Memoranda, with which directive the parties have complied.

There is a striking paralellism between the facts and issues in this case and those in the First GAUF Case. Both cases arose from the implementation of the retrenchment and reorganization program of the University. In the First GAUF Case, Complainants were permanent employees and had worked in the University from eighteen (18) to twenty-five (25) years. Petitioners in this case are also permanent employees and have rendered service within a span of from sixteen (16) to thirty-two (32) years. In both cases, Complainants were retrenched and not reappointed. The difference between the two cases lies in that in the First GAUF Case, Complainants therein did not submit their courtesy resignations, whereas in this case petitioners Clarita Lantion and Fuentes did. Petitioners Filomeno and Clarita Lantion were reappointed but were subsequently terminated because petitioner Filemono allegedly resigned and Clarita's term had expired. Noting these similarities and variances, the NLRC held in the First GAUF Case, that the dismissal was illegal as their positions were not affected by the reorganization. But in

this case the dismissal was pronounced legal and only the payment of retirement pay under the "Blue Book" was ordered.

The basic question for determination is whether or not the NLRC gravely abused its discretion in holding in this case that petitioners were not illegally dismissed.

Following the First GAUF Case as a precedent, the answer must be in the affirmative.

Under the guidelines to the retrenchment program given by the University and the Ministry of Labor, the following considerations emerge clear: (1) there was to be a separation or retirement of ALL personnel with corresponding grant of termination pay or retirement benefits, whichever is higher; (2) top-to-bottom University-wide reorganization subject, however, to the condition of rehiring of ALL personnel so separated or retired; (3) but with the exception of those whose present positions will be affected by the proposed reorganizational changes.

That retrenchment was proper, therefore, there can be no question. The conditions laid down, however, were not religiously followed. Petitioners were not rehired although they fall outside the exception provided. Their positions were not affected by the re-organizational changes envisioned in the retrenchment program. The position of Vice-President continued to exist (Exh. K). And as far as Filomeno and Clarita Lantion are concerned, their temporary appointment to other positions could not have affected their permanent status pursuant to the ruling in the First GAUF Case. Clarita's position was neither abolished. She was replaced by another faculty member.

It may be that petitioners Filomeno and Clarita Lantion had expressed their conformity to their termination, while Fuentes had tendered her courtesy resignation. As is obvious, however, those steps were but in administrative compliance with the Memorandum Circular of 14 October 1983 of the University, ante. As a matter of fact, courtesy resignations could have been dispensed with as all personnel were deemed resigned. Besides, such compliance had placed them in a better position than the Complainants in the First GAUF Case considering the proviso in the Memo-Circular of the University that "those who submit courtesy resignations may be re-appointed while those who would fail to submit may be retrenched."

Reinstatement of petitioners with backwages for three (3) years is thus called for as held in the First GAUF Case. In fact, in its Comment dated 10 December 1988, the NLRC now admits that petitioner Fuentes is entitled to reinstatement with three (3) years backwages as it is not clear from the records that her position as Secretary to the Legal Office was abolished under the retrenchment program of the University.

Petitioners call attention, however, to the amendatory provision in Republic Act No. 6715 (March, 1989) to substantiate their contention that full backwages should be awarded. That provision reads:

"Sec. 34. Article 279 of the Labor Code is hereby amended to read as follows:

"Art. 279. Security of Tenure. — x x x An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement." (Emphasis ours).

Nothing in said law, however, provides for its retroactive application aside from the fact that the University is in dire financial straits and can hardly assume additional monetary obligations.

As to the award by the Labor Arbiter of 10% interest on the retirement pay, respondent NLRC did not err in deleting it for lack of legal basis. There is no showing that private respondents were motivated by ill-feeling or

bad faith. Respondents had effected partial payments of petitioners' retirement benefits even before the filing of this case except that payment could not be made in full due to financial constraints. An additional monetary burden may only exacerbate the University's inability to meet its monetary obligations due to its precarious financial state.

In respect of the argument that the inflation that has supervened justifies the imposition of interest, this Court has held that the effects of extraordinary inflation are not to be applied without an agreement between the parties and without an official declaration thereof by competent authorities (*Velasco vs. Manila Electric Co.*, G.R. No. L-18390, December 20, 1971, 42 SCRA 556; *Commissioner of Public Highways vs. Burgos*, L-36706, March 31, 1980, 96 SCRA 831).

And in regards attorney's fees, respondent NLRC properly disallowed the award as the same is granted only in case of unlawful withholding of wages (*Gregorio Araneta University foundation vs. NLRC et al.*, G.R. No. L-75583, November 8, 1988, 167 SCRA 79; Article III (a), P.D. 442 as amended). In this case, it cannot be said that wages had been unlawfully withheld by the University. In fact, it had made partial payments of retirement benefits.

WHEREFORE, the Decision of respondent National Labor Relations Commission is REVERSED in so far as it holds that the dismissal of petitioners was not illegal and hereby ORDERS respondent Gregorio Araneta University Foundation to REINSTATE petitioners to their former positions with three (3) years backwages under the new terms and conditions of employment in the University as reorganized. In all other respects, the Decision of the National Labor Relations Commission is AFFIRMED. No costs.

SO ORDERED.

Paras, Padilla, Sarmiento, and Regalado, JJ., concur.

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