

JAIME T. TORRES, PETITIONER, VS. FIRST DIVISION, NATIONAL LABOR RELATIONS COMMISSION, AND LOTA ALAFRIZ, MARIVIC VALDEVISO, ANNABELLE FABRO AND LEYLITA LAWIG, RESPONDENTS.

G.R. No. 90338. August 09, 1991

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for certiorari seeking to nullify: (1) the public respondent National Labor Relations Commission's resolution dated October 30, 1987 which affirmed with modification the decision of the Labor Arbiter dated June 13, 1986; (2) its resolution dated September 1, 1989 which, inter alia, approved the computation of the monetary claims of private respondents; and (3) its resolution dated September 29, 1989 which denied petitioner's motion for reconsideration.

The antecedent facts are, as follows:

Private respondents Lota Alafriz, Marivic Valdeviso, Annabelle Fabro and Leylita Lawig are all teachers of St. James Child Care Center in its branch at 86 Scout Alcaraz, Sta. Mesa Heights, Quezon City. Marivic Valdeviso, who is a nursery teacher, started working with the school on June 10, 1985, with a salary of P800.00 a month. Annabelle Fabro and Leylita Lawig started teaching in May and June, 1985, respectively, each of them receiving a salary of P1,000.00 a month. Lota Alafriz, who is also a nursery teacher, started working sometime in July, 1982, with the latest salary of P1,700.00 a month.

Sometime in September 1985, the school issued a memorandum requiring its teachers to submit their respective original transcripts of records on or before October 5, 1985, with a warning that failure to do so shall entitle the school to withhold their respective salaries. Most of the teachers, including private respondents, were not able to comply with the requirement of the school for different reasons. Because of their failure to submit their respective transcripts of records, the school withheld their salaries. On the following working day, October 7, 1985, private respondents were absent from their respective classes. When private respondents reported for work later (or after October 7, 1985), they were able to receive their salaries but were not allowed anymore to resume their duties.

On November 28, 1985, private respondents filed a complaint for illegal dismissal, illegal deduction, underpayment and non-payment of wages and allowances against St. James Child Care Center and petitioner Jaime T. Torres, the school's proprietor, before the Labor Arbiter.

On June 13, 1986, the Labor Arbiter ruled in private respondents' favor, the dispositive portion of which, reads (p. 13, Rollo):

"WHEREFORE, all the foregoing considered, respondents are hereby ordered to reinstate the complainants to their former positions and to pay their backwages from the time they were dismissed up to their actual reinstatement.

"All other claims are hereby dismissed for lack of merit.

"SO ORDERED."

In arriving at this decision, the Labor Arbiter rationalized (pp. 12-13, Rollo):

"The first issue (whether or not private respondents' dismissal was for a valid cause) should be resolved in favor of the complainants. The trust (sic) of respondents' defense is that the complainants staged a one (1) day strike in protest to the withholding of their salaries for failure to submit their transcript of records. Such claim has no merit. Complainants could not have staged a strike because they were following up the release of their transcript of records. The complainants absented themselves in order to secure transcript of records from their respective schools so they could be paid of (sic) their salaries. It is significant to note in this connection that some of the complainants wanted to report for work before 12:00 o'clock on October 7, 1985, but they were not (sic) longer allowed to enter the premises of the school. It is thus clear that the intention of the complainants (sic) was to secure transcript of records in order to get their salaries and not to declare (a) strike as concluded by respondents. Such was the real situation in the case at bar and it would be the height of justice (sic) to rule otherwise in the face of the records before us.

"Moreover, the records show that the respondents were remiss in serving written notice on the complainants and that no investigation having (sic) been accorded to the complainants.

"The second issue (whether or not petitioner and the school are guilty of illegal deduction) should be resolved against the complainants. There is simply no evidence in the records of the case of any illegal deduction being made by respondents on the salaries of the complainants. On the contrary, all deductions appear to be proper and authorized by the law like Medicare, Pag--ibig and SSS premiums.

"On the third issue (whether or not petitioner and the school are guilty of underpayment of wages), it is sufficient to state that the wages of all the complainants are in accordance with the applicable statutory (sic) minimum wage.

"The claim, however, for non-payment of allowance is meritorious. The mandatory emergency living allowance of the complainants (sic) is (sic) not granted.

"On the last issue (whether or not petitioner and the school are liable for unpaid wages or commissions), it is clear from the records and, in fact admitted by the complainants themselves, that they have been paid of all benefits due them including their wages, with the exception of allowance."

Petitioner and St. James Child Care Center appealed to the public respondent National Labor Relations Commission. On October 30, 1987, the NLRC resolved to affirm with modification the Labor Arbiter's ruling, the dispositive portion of which, reads (p. 14, Rollo):

"WHEREFORE, the appealed decision is hereby AFFIRMED with modification in that complainants' backwages should be, as it is hereby, limited to one (1) year without qualification and/or deduction whatsoever.

"SO ORDERED."

Petitioner and St. James Child Care Center then filed an urgent ex-parte motion for clarification of decision dated March 19, 1988 before the NLRC wherein it averred the following (p. 32, Rollo):

"x x x:

1. A computation on the backwages of Lota Alafriz, et al., was made on February 5, 1988 by the Sr. Labor Arbitration Analyst;

2. The decision of the NLRC awards only One (1) year backwages, but why is there an award/computation for ECOLA? There is no statement on ECOLA in said Decision;

3. Further, the computation of the one (1) year backwages is also defective in the sense that of the one (1) year contract signed by and between the respondents and complainants for the school year beginning June, 1985 to March, 1986, the complainants already received their respective compensations up to the month of September, 1985. If ever, what remained unpaid in the period of the one (1) year contract were for the months of October to December, 1985 and the months of January to March, 1986 or for a period of six months. To do otherwise, will amount to double compensation which is contrary to law for no one shall enrich himself at the expense of the other."

On September 1, 1989, the NLRC, acting on said motion and considering the computation dated February 5, 1988 made jointly by the Acting Chief of the Research and Information Unit and the Sr. Labor Arbitration Analyst of the total amount of private respondents' monetary claims, resolved (pp. 17-19, Rollo):

"(1) to approve as it hereby approves the computation dated 5 February 1988 of complainants' monetary claims herein to include, as therein included complainants' emergency cost of living allowance (ECOLA) adjudged due them in the decision of 13 June 1986 and affirmed by the Commission, but which was inadvertently overlooked in the dispositive portion thereof, as well as complainants' backwages computed at an equivalent to one (1) whole year's pay without any qualification and deduction whatsoever, representing the earnings complainants were unduly deprived of by reason of their illegal dismissal from the service;

"(2) to lift as it hereby lifts the injunction issued on 15 November 1988 staying the execution of the aforementioned decisions;

"(3) to order as it hereby orders the immediate execution thereof; and

"(4) to order as it hereby orders the immediate return of the entire record of this case to the Executive Labor Arbiter of origin for purposes of execution of the aforesaid decisions in the instant case."

On September 18, 1989, petitioner and St. James Child Care Center filed a motion for reconsideration of the aforementioned resolution. On September 29, 1989, the motion for reconsideration was denied by the NLRC for lack of merit (p. 20, Rollo). Hence, the present petition.

The petition raises the issue of whether or not the NLRC committed grave abuse of discretion in holding that: (1) the dismissal from employment of private respondents was illegal; (2) private respondents were not paid their ECOLA; and (3) private respondents are entitled to the award of one (1) year backwages.

Petitioner alleges that there is no illegal dismissal because the termination of the employment contracts of private respondents was for a valid cause. Their employment contracts carry the following provision (p. 6, Rollo):

" 'g. The teacher must avoid the commission of the following acts which may be the causes for termination of this contract during the schoolyear:

1gxx

2gxx

xxx

5 g violation of the school's rules and regulations.' "

One of these school rules and regulations is (ibid):

" '1b. The school office must be notified in writing three (3) days before if the teacher has to be absent for a

valid reason."

Not one of the private respondents notified the school regarding their plan to be absent on October 7, 1985. This circumstance constitutes gross violation of the aforementioned school regulation. Their absence was not even satisfactorily explained. Moreover, they failed to submit their transcripts of records leaving petitioner no other recourse but to terminate their services. The amounts that they received every pay day include ECOLA, as clearly shown in the payroll sheets. The period covered by the award of backwages exceeds the period covered by private respondents' employment contracts. While the contracts ended in March 31, 1986, the award, as computed, was up to September, 1986. At any rate, the private respondents are not entitled to the award of backwages because the termination of their contracts was justified.

The remedy of certiorari under Rule 65 of the Rules of Court insofar as an inquiry on the legality of private respondents' dismissal and the propriety of the award of ECOLA to them is concerned, is no longer available. The present petition seeking to annul, inter alia, the NLRC's resolution dated October 30, 1987 was filed only on October 14, 1989. We reiterate the trite statement that a petition for certiorari under Rule 65 of the Rules of Court should be filed within a reasonable period of time.

Even if We were to dispense with said requirement, pro hac vice, petitioner and the school are deemed to have admitted the finding of the Labor Arbiter in its June 13, 1986 decision, as affirmed by the NLRC in its October 30, 1987 resolution, that private respondents were dismissed from employment illegally, in the urgent ex-parte motion for clarification of decision filed by them before the NLRC (supra). It was their prayer in said motion that "a corresponding clarification on the award computation be first made before a writ of execution is issued" (p. 32, Rollo, underscoring supplied). It is plain enough that the only concern of petitioner, and the school was the correct computation of the monetary award to private respondents.

Likewise, petitioner and the school are deemed to have admitted the finding of the Labor Arbiter, as affirmed by the NLRC, that ECOLA was not granted to private respondents. Petitioner and the school did not raise the propriety of the award of ECOLA to private respondents as one of the issues in the appeal before the NLRC (p. 16, Rollo). When petitioner limited the issues on appeal, necessarily the NLRC may review only those issues raised. All other matters are final and, therefore, can no longer be reviewed (*Del Monte Philippines, Inc. v. NLRC, et al.*, G.R. No. 87371, August 6, 1990, 188 SCRA 370).

Petitioner's other allegation with respect to the issue on the period covered by private respondents' employment contracts, aside from being unsupported by documents, involves a question of fact which does not merit Our consideration. We mention for emphasis another trite statement that this Court is not a trier of facts.

ACCORDINGLY, the petition is hereby DISMISSED. The resolutions of the National Labor Relations Commission dated October 30, 1987, September 1, 1989 and September 29, 1989 are AFFIRMED.

SO ORDERED.

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

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