

BERNITO MORALES, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, ROSARIO GEROCHE, AND/OR GEROCHE SCHOOL BUS, RESPONDENTS.

G.R. No. 91501. August 02, 1990

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

In this case petitioner questions the failure of public respondent to order his reinstatement despite the finding of illegal dismissal as well as the correctness of the other awards.

Petitioner was hired on May 2, 1984 as a conductor of the school buses owned and operated by private respondent. On February 12, 1987, while petitioner was working inside the garage compound, a backward-moving bus accidentally hit him, fracturing his thigh bone. The injury incapacitated petitioner from work for almost eight (8) months.

Having recuperated in the early part of December, 1987, petitioner reported back for work, but being assigned to do heavy chores which his injury did not permit him to do, he asked for a leave of absence. Much to his surprise, when he reported back for work on December 31, 1987, he was informed by private respondent that he was dismissed effective January 3, 1988.

On January 4, 1988, petitioner filed a complaint for illegal dismissal against private respondent before the National Labor Relations Commission (NLRC). After the parties submitted their respective position papers and supporting affidavits, Labor Arbiter Edgardo M. Madriaga rendered on June 27, 1988 a decision in petitioner's favor, the dispositive portion of which reads as follows:

“WHEREFORE, premises considered, complainant (petitioner) is declared to have been illegally dismissed by (private) respondent and is hereby given the option of reinstatement to the position of Garage Helper with backwages, or separation pay in accordance with law.

Respondents are hereby ordered to pay all of complainant's money claims and attorney's fees in either case, excepting overtime pay and all money claims where respondents have proof of payments.

SO ORDERED.”

Not satisfied therewith, the private respondent appealed to the NLRC the assailed decision but the NLRC affirmed the same with modifications as follows:

“WHEREFORE, except for some modifications above-discussed, the Decision assailed of is AFFIRMED. Accordingly, respondents-appellants are hereby directed to pay complainant-appellee:

(1) separation pay in the amount equivalent to one half (1/2) month salary for every year of service, a fraction of six (6) months considered as one (1) whole year, and one year backwages without qualification;

(2) thirteenth (13th) month pay pro-rated as to the number of months of actual service rendered during the

year, less the amount of P300.00 admitted to have been previously received by the complainant as Christmas bonus;

(3) the amount by which the complainant was underpaid during his service to the respondents; and

(4) the attorney's fees which in no case shall exceed 10% of the total awards.

SO ORDERED.”[1]

A motion for reconsideration of the said decision was denied on August 16, 1989.

Hence, this petition where the petitioner raised a singular issue: “Did the NLRC gravely abuse its discretion in (1) not reinstating petitioner and granting him, in lieu thereof, only separation pay and one year backwages and (2) not awarding petitioner Holiday Pay and Service Incentive Leave benefits?”[2]

There is no question as to illegal dismissal of petitioner as found by the NLRC, which findings are conclusive in this proceedings.

In this connection, the NLRC also made the following observations in its decision:

“x x x From the cursory examination of the pleadings below as well as the Memorandum on Appeal and the Opposition thereto, it is apparent that parties and their privies have taken the instant suit rather personally, exchanging in the process intermittent personal attacks. To insist in reinstating the complainant would only but exacerbate and aggravate the already precarious state of relationship of parties. In this light, We feel that instead of reinstatement, separation pay equivalent to one half month pay for every year of service should be awarded herein complainant-appellee. This grant of separation pay, however, did not redress the injury that is intended to be relieved by the remedy of backwages, that is the loss of earnings that would have accrued to the illegally dismissed complainant during the period between his dismissal and supposed reinstatement. It must be borne in mind that findings of illegal dismissal carries with it the remedial measures of (1) reinstatement to the former or at least equivalent position and (2) backwages from the time of illegal dismissal until actual reinstatement. These two remedies are separate and distinct from each other. The appropriateness of one will not result to the inappropriateness of the other. Put a little differently, the payment of backwages is a form of relief that restores the income that was lost by reason of unlawful dismissal; separation pay in contrast is oriented towards the immediate future, the transitional period the dismissed employee must undergo before locating a replacement job.”[3]

The foregoing findings of the NLRC are also binding and conclusive on this Court. This Court not being a trier of facts cannot consider the claim of petitioner at this stage that actually there is no ill-will between him and private respondent. In similar occasions in the past this Court held that a reinstatement may not be appropriate or feasible in case of antipathy and antagonism between the parties.[4]

The Court, therefore, sustains the findings of the NLRC in this case that the reinstatement of petitioner to his former position is improper.

However, We disagree with the accord of one (1) year backwages beside separation pay to the petitioner by the NLRC.

Article 279 of the Labor Code of the Philippines provides inter alia:

“x x x An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and to his backwages computed from the time his compensation was withheld up to the time of his reinstatement (underscoring supplied).”

In cases of this nature, wherein the employee was ordered reinstated without loss of seniority rights, the Court

uniformly awards backwages from the time of his separation to the time of his reinstatement but in no case are the backwages to exceed the period corresponding to three (3) years. In the present case, the Court finds and so holds that it is but just and equitable that petitioner be entitled to at least two (2) years backwages.

As to the other claims of petitioner, the Court finds that the NLRC did not commit a grave abuse of discretion in denying the same.

WHEREFORE, the petition is GRANTED in that the questioned decision of the NLRC dated June 15, 1989 is modified by increasing the backwages to be paid to petitioner from one (1) year to two (2) years. No costs in this instance.

SO ORDERED.

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

[1] Pages 19-20, Rollo.

[2] Page 36, Rollo.

[3] Pages 18-19, Rollo.

[4] Divine Word High School vs. NLRC, 143 SCRA 346 (1986); Bautista vs. Inciong, 158 SCRA 665 (1988).

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