

AUGUSTO EVANGELISTA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, AND ARTURO MENDOZA, RESPONDENTS.

G.R. No. 93915. October 11, 1995

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

Eighteen years ago, in April, 1977, private respondent Arturo Mendoza filed a complaint for illegal dismissal against petitioner Augusto Evangelista. Eventually, the case reached this Court on July 30, 1990 through a petition for certiorari which was decided on March 22, 1991 in private respondent's favor.[1] The decision became final upon denial of petitioner's motion for reconsideration on May 13, 1991.[2]

Thereafter, private respondent filed a motion seeking clarification with respect to the salary scale which should be applied in computing the three years backwages awarded in his favor and cited the decision in the case of *De Jesus vs. Philippine National Construction Corporation*,[3] wherein the award of backwages was based on the latest pay scale of the employee's position.[4]

On July 24, 1991, the Court, through the First Division, issued a resolution granting private respondent's motion for clarification and modified the decretal portion of the decision to read as follows:

"WHEREFORE, the petition is DISMISSED, with costs against petitioner. The computation of the three (3) years backwages awarded to private respondent shall be based at the current rate of wage levels." [5]

As a result of the aforecited modification, petitioner, in turn, filed the instant motion for reconsiderations[6] seeking the reversal of the Resolution dated July 24, 1991.

Petitioner alleged that he was not furnished a copy of the motion for clarification and neither was there a resolution issued by the Court requiring him to comment thereto, thereby depriving him of his right to due process. Moreover, he disputes the computation of the award of backwages based on the current wage levels and maintains that the same should instead be computed based on the rate of the wage level in 1977 when private respondent was illegally dismissed, in accordance with the prevailing jurisprudence.

We find merit in petitioner's motion.

As explicitly declared in *Paramount Vinyl Products Corp. vs. NLRC*,[7] the determination of the salary base for the computation of backwages requires simply an application of judicial precedents defining the term "backwages". An unqualified award of backwages means that the employee is paid at the wage rate at the time of his dismissal.[8] Furthermore, the award of salary differentials is not allowed, the established rule being that upon reinstatement, illegally dismissed employees are to be paid their backwages without deduction and qualification as to any wage increases or other benefits that may have been received by their co-workers who were not dismissed or did not go on strike.[9]

ACCORDINGLY, the motion for reconsideration is hereby GRANTED and the assailed Resolution dated July 24,

1991, is hereby ordered SET ASIDE. The award of backwages in private respondent's favor is instead to be computed at the rate of the wage levels prevailing at the time of his illegal dismissal in 1977.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Puno, and Mendoza, JJ., concur.

[1] Rollo, p. 173. (Gancayco, ponente; Narvasa, Cruz, Griño-Aquino, Medialdea, concurring).

[2] Rollo, p. 185.

[3] 195 SCRA 468 (1991).

[4] Rollo, p. 199.

[5] Rollo, p. 202.

[6] Rollo, p. 203.

[7] 190 SCRA 525, 537 (1990).

[8] Ibid., citing *Davao Free Workers Front v. Court of Industrial Relations*, 67 SCRA 418; *Capital Garments Corp. vs. NLRC* 117 SCRA 473; *Durabilt Recapping Plant & Co. v. NLRC* 152 SCRA 328.

[9] *Insular Life Assurance Co. Ltd. v. NLRC* 156 SCRA 740, 749 (1987) citing *Durabilt Recapping Plant & Co. Inc. v. NLRC* 152 SCRA 328; *Insular Life Assurance Co., Ltd.; Employees Association-NATU v. Insular Life Co., Ltd.*, 77 SCRA 5.

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