

RUDY M. MILLEZA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND MARIWASA MANUFACTURING CORPORATION, RESPONDENTS.

G.R. Nos. 87389-90. June 18, 1990

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The center of controversy in this petition is the correct amount of retirement pay due to petitioner from private respondent.

Petitioner was an employee of private respondent since 1969. On August 16, 1985 he was informed by the company lawyer that starting the following day he should no longer report for work as private respondent had to retrench employees as required by the World Bank from which it was securing a loan.

Petitioner filed a complaint in the Arbitration Branch of the National Labor Relations Commission (NLRC for short) wherein the parties agreed to submit the question of retirement benefits due to petitioner to conciliator Jesus Sebastian through Executive Labor Arbiter Benigno L. Vivar, Jr. who indorsed the request of the parties to the said conciliator. Sebastian submitted a report to Vivar as to what plans shall be implemented, the 1979 retirement plan or the 1982 retirement plan. The parties agreed to implement Article XII of the 1979 Retirement Plan under the heading Vesting.

Accordingly, on September 20, 1986 Executive Labor Arbiter Arthur C. Amansec issued an order the dispositive part of which reads as follows:

“WHEREFORE, complainant Milleza is hereby declared to have been lawfully retrenched from employment. Respondent, however, is hereby ordered to pay him separation pay at fifteen (15) days for every year of service and retirement pay computed at ‘100% of his net equity arising from the company’s contribution’ under Article XII of respondent’s January, 1979 retirement plan. Respondent is also ordered to pay complainant P1,967.53 as his accrued vacation and sick leave benefits. All other claims are hereby dismissed for lack of merit and evidence. The Socio-Economic Analyst of this Office is hereby directed to compute the total amount due complainant.

The complaint of Prudencio N. Estino, Jr. is hereby dismissed for failure to prosecute.”[1]

Private respondent appealed therefrom to the NLRC which in due course, through its Second Division, promulgated a decision dated May 29, 1987, the pertinent and dispositive portions of which read as follows:

“The decision appealed from is therefore modified by deleting separation pay and retaining only the retirement pay under the retirement plan of 1979. The computation should be based on his monthly income before he was retrenched on August 16, 1985 which is P3,105.00.

WHEREFORE, premises considered the decision appealed from is hereby modified as above indicated. Except for this modification, the decision appealed from is hereby affirmed.”[2]

In an order dated February 23, 1988 Arbiter Amansec issued an order to the parties to comment in five (5) days on the computation of the retirement pay under the 1979 retirement plan and accrued vacation and sick leave benefits pursuant to a report dated February 10, 1988 submitted by the Acting Chief of Research and Information. The computation is P37,620.00 by way of retirement pay and P1,967.53 as accrued vacation and sick leave benefits.

Petitioner objected on the ground that under the 1979 retirement plan he is entitled to P49,680.00 as retirement pay. Reference was made to Article XII under the word Vesting, particularly sections 1 and 2 thereof.

Private respondent on the other hand agreed with the computation.

In an order dated July 5, 1988 Arbiter Amansec sustained the claim of petitioner in that:

“WHEREFORE, respondent is hereby directed to pay complainant P49,680.00 as retirement pay and P1,967.53 as accrued vacation and sick leave benefits pursuant to the Decision dated September 30, 1986 of the Executive Labor Arbiter as modified by the NLRC in its May 27, 1987 Resolution within five (5) days from receipt hereof. Failing at this, let a writ of execution issue.[3]

Hence, private respondent appealed to the NLRC which on October 28, 1988 rendered a decision, the dispositive part of which reads:

“WHEREFORE, the appealed Order is hereby SET ASIDE and a new one entered ordering the respondent-appellant to pay complainant-appellee P37,620.00 as retirement pay and P1,967.53 as accrued vacation and sick leave benefits for a total sum of P39,587.53 pursuant to the NLRC decision promulgated May 27, 1988. Let this case be remanded immediately to the Executive Labor Arbiter a quo for proper disposition.

No other pronouncement.

SO ORDERED.”[4]

Hence, the herein petition for certiorari alleging the following:

“a. Public Respondent NLRC, Second Division, committed grave abuse of discretion amounting to lack of jurisdiction in setting aside the Order (Annex ‘H’) of Executive Labor Arbiter Arthur Amansec considering that the said Order was based on the authentic and genuine Retirement Plan of 1979.

b. Public Respondent NLRC, Second Division, likewise committed grave abuse of discretion in that its Decision of October 28, 1988 (Annex-‘I’) is contrary to the evidence on record particularly that portion on the computation of the retirement pay of the petitioner.”[5]

The petition is devoid of merit. There is no question that the decision of the NLRC dated May 29, 1987 had become final and executory. The NLRC made the following disquisition:

“Consequently, complainant is entitled to only one benefit namely, the benefits under separation pay or under the applicable retirement plan, whichever is more advantageous to him. Furthermore, Section 5, Article V on severance benefit of either the 1979 or 1982 Retirement Plan provides that “any member who resigns or is terminated or separated by the company for causes not due to his own fault, shall be entitled to receive a sum equivalent to a percentage of his Retirement benefit in accordance with the vesting schedule below. Such benefit shall form part of and not in addition to the benefits required by the Termination Pay Law as embodied in the new Labor Code Law. (sic)”[6]

On the basis thereof the NLRC in its decision dated October 28, 1988 after reproducing the foregoing disquisition, held that Article V, Section 5 of the Retirement Plan of 1979 provides:

“Sec. 5 Severance Benefit.- A member who resigns or is terminated or separated by the company for causes

not due to his own fault, misconduct or material neglect shall be entitled to receive a sum equivalent to a percentage of his Retirement Benefit in accordance with the vesting schedule below. Such benefit shall form part of and not an addition to the benefits required by the Termination Pay law as embodied in the New Labor Code Law.

YEARS OF SERVICE PERCENTAGE OF BENEFIT

Less than 10 years None

10 but less than 11 50%

11 “ “ “ 12 55

12 “ “ “ 13 60

13 “ “ “ 14 65

14 “ “ “ 15 70

15 “ “ “ 16 75

16 “ “ “ 17 80

17 “ “ “ 18 85

18 “ “ “ 19 90

19 “ “ “ 20 95

20 years and over 100%

“From the foregoing, it is crystal clear that the computation of Retirement benefits submitted by Mr. Ricardo O. Atienza dated February 18, 1988 is correct and the proper interpretation of the Decision of the Second Division dated May 27, 1988 which is now final and executory. (sic) Thus the total amount due complainant-appellee is as follows:

P5,105.00 x 75% x 16 yrs. P37,620.00

Accrued vacation & sick

leave benefits as per

decision. 1,967.53

P39,587.53[7]

We agree. The final and executory decision of the NLRC cannot be modified by the labor arbiter or in this proceeding. Moreover, the factual findings of the NLRC are conclusive on this Court if supported by substantial evidence. Petitioner argues that it is Article XII of the 1979 retirement plan under the heading vesting which should be the legal basis of the computation not Article V, Section 5, thereof. This issue should have been raised before the NLRC before the decision of May 29, 1987 became final.

WHEREFORE, the petition is DENIED for lack of merit with costs against petitioner.

SO ORDERED.

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

[1] Pages 21 to 22, Rollo.

[2] Page 26, Rollo.

[3] Page 38, Rollo.

[4] Page 44, Rollo.

[5] Page 6, Rollo.

[6] Pages 25 to 26, Rollo.

[7] Pages 43 to 44, Rollo.

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