

[SP No. 108424, July 26, 2010]

BOTICA STA. LUCIA/ADELAIDA CARAOS AND JOSE CIPRIANO M. CARAOS, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND ANGELINA M. CUETO, RESPONDENTS.

Court of Appeals

Before Us is a petition for certiorari^[1] seeking to nullify the Resolution^[2] of the National Labor Relations Commission (NLRC) which affirmed to the Decision^[3] of the Labor Arbiter in NLRC Case No. SRAB-IV-05-8792-06-Q. Likewise challenged is the Resolution^[4] denying reconsideration thereof.

The Facts:^[5]

On April 1, 1980, Angelina M. Cueto⁶(Cueto) was employed as a Sales Clerk by Botica Sta. Lucia^[7] (BSL). On March 31, 2006, she applied for retirement after having continuously and loyally served BSL for twenty-six(26) years. On April 17, 2006, her application was approved and she was promised by BSL with a separation pay. At the time of her retirement, she was receiving a monthly compensation of Seven Thousand One Hundred Twenty Pesos (Php7,120.00), plus shares from promotional incentives.

On May 12, 2006, Cueto filed a complaint for non-payment of overtime pay, holiday pay, service incentive leave, separation pay, and retirement pay, before the Labor Arbiter against BSL/Adelaida Caraos and Jose Cipriano M. Caraos (collectively, Petitioners).

In her *Position Paper*^[8], Cueto claims that the Petitioners have ten (10) employees covered by the Philippine Health Insurance Corporation. Her daily work schedule was from 9:00 in the morning up to 7:00 in the evening, inclusive of two (2) hours overtime work until her retirement. She reports for work even during special holidays, thus, entitling her to the payment of holiday pay. Moreover, when she approached Jose Cipriano Caraos for approval of her application for retirement, the latter approved it with a promise of payment of separation pay. She, however, never received any. She likewise maintains that she is entitled to retirement pay since the same is provided for by law. Thus, she prays for the payment to her of overtime pay, holiday pay, service incentive leave pay, separation pay, and retirement pay.

In contrast thereto, the Petitioners contend that Cueto's work schedule was only from 10:00 in the morning until 6:00 in the evening. Sometime in year 2000, she became seriously ill and was absent for a long period of time. Thereafter, she was no longer able to regularly report for work and frequently rendered less than eight (8) hours of work due to her illness. At the time of her retirement, she had an outstanding obligation in the amount of Sixty-One Thousand One Hundred Pesos (Php61,100.00), representing her cash advances from them, which she promised to pay on installment basis. In consideration of her deteriorating health condition and

long years of service, they agreed that the payment thereof would be made without interest.^[9]

The Petitioners argue that they are exempt from paying retirement pay, holiday pay, and service incentive leave pay since BSL is a retail establishment which regularly employs less than ten (10) employees. Additionally, Cueto is not entitled to any overtime pay considering that she was frequently late and seldom worked for eight (8) hours a day. Likewise, she is not entitled to any separation pay since the law does not provide for the payment thereof when an employee voluntarily resigns from work. Thus, they pray for the dismissal of the complaint for lack of merit.^[10]

On April 27, 2008, the Labor Arbiter rendered judgment ordering the grant of financial assistance to Cueto but dismissing all other monetary claims, viz:

***Wherefore,** judgment is hereby rendered DIRECTING respondents to grant complainant the total amount of P185,120.00 as financial assistance.*

The other money claims are dismissed.

SO ORDERED.^[11]

Not satisfied, the Petitioners appealed to the NLRC.^[12] On August 6, 2008, the NLRC rendered judgment affirming the disposition of the Labor Arbiter.^[13] A subsequent reconsideration thereof was likewise denied.^[14] Hence, the instant recourse.

The Issues:

In assailing the NLRC's judgment, the Petitioners impute the following errors:

6.1 THE HONORABLE PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN (sic) EXCESS OF JURISDICTION IN GRANTING FINANCIAL ASSISTANCE IN FAVOR OF PRIVATE RESPONDENT CUETO, WHEN IN FACT, SHE WAS DETERMINED NOT TO BE ENTITLED TO ANY RETIREMENT OR SEPARATION PAY.

6.2 THE HONORABLE PUBLIC RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN (sic) EXCESS OF JURISDICTION IN GRANTING FINANCIAL ASSISTANCE IN FAVOR OF PRIVATE RESPONDENT CUETO, IN THE AMOUNT OF P185,120.00, WHICH IS EQUIVALENT TO ONE MONTH'S PAY FOR EVERY YEAR OF SERVICE.^[15]

This Court's Ruling:

The Petitioners posit that the NLRC committed grave abuse of discretion in affirming the Labor Arbiter's grant of financial assistance to Cueto despite its finding that the latter voluntarily resigned from employment. They argue that an employee who has voluntarily resigned or retired from employment is not entitled to separation pay unless there is a collective bargaining agreement (CBA) or company practice or policy providing for the payment thereof. Thus, the award of financial assistance to

Cueto is improper considering that there is no existing company policy or CBA which grants separation pay or any kind of financial assistance to their retiring or resigning employees. Moreover, even assuming that she is entitled thereto, the amount of financial assistance being awarded to Cueto is disproportionately excessive.

The petition is bereft of merit.

As reiterated all too often, where the remedy sought by a party is a petition for certiorari, the general rule is that the factual findings of an administrative tribunal shall be accorded great respect, if not finality, when supported by convincing evidence. The reason being that administrative tribunals are presumed to have gained expertise in their respective fields.^[16] Consequently, We are not duty-bound to delve into the accuracy of their factual findings, in the absence of a clear showing that the same were arbitrary and bereft of any logical basis, as in the instant case.

We explicate.

It is well to note that there is no provision in the *Labor Code* that grants separation pay to employees who voluntarily resign from their employment. Separation pay may be awarded only in cases when the termination of employment is due to: (a) installation of labor saving devices, (b) redundancy, (c) retrenchment, (d) closing or cessation of business operations, (e) disease of an employee and his continued employment is prejudicial to himself or his co-employees, or (f) when an employee is illegally dismissed but reinstatement is no longer feasible. In fact, the rule is that an employee who voluntarily resigns from employment is not entitled to any separation pay, except when it is sanctioned by established employer practice or policy.^[17]

In the case at bench, the factual findings of the labor tribunals reveal that Cueto's separation from employment is not based on any of the above-mentioned grounds as she voluntarily retired from employment. Likewise, there was no company practice or policy or CBA requiring the payment of separation pay to an employee who voluntarily resigns. Cueto, however, retired from work with the understanding that the Petitioners would give her separation pay. While the later denies having made such promise, We, nonetheless, believe that it is unlikely that a person who, at the time of her resignation, had a frail condition due to a recurring illness and had spent the best years of her life serving the company would leave her employment without a reasonable expectation of some financial assistance from her employer. For this reason, the Labor Arbiter's findings, as affirmed by the NLRC, that she was assured of payment of separation pay is more plausible under the circumstances, to wit:

Respondents failed to controvert, however, the proposition of complainant that she was promised separation pay leading her to retire voluntarily. This averment of complainant is believable. Already aging with frail health, complainant was faced with two choices: to continue working or to stop working with no visible means of income. The former seemed more practical for complainant as she could somehow still report for work and perform store duties. But a promise that she could retire with separation pay is an offer difficult to refuse. Complainant could get