550 Phil. 111

THIRD DIVISION

[G.R. NO. 165594, April 23, 2007]

FRANCISCO SORIANO, JR., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND PHILIPPINE LONG DISTANCE TELEPHONE COMPANY, INCORPORATED, RESPONDENTS.

D E C I S I O N

CHICO-NAZARIO, J.:

In this Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court, petitioner Francisco Soriano Jr. seeks to set aside the Decision dated 29 April 2004[2] and Resolution dated 4 October 2004[3] of the Court of Appeals in CA-G.R. SP No. 75152, affirming the Decision and Resolution of the National Labor Relations Commission (NLRC) dated 20 August 2002[4] and 28 October 2002,[5] respectively, in NLRC-CA No. 024050-2000. In its Decision and Resolution, the NLRC affirmed the Decision of Labor Arbiter Joel S. Lustria (Labor Arbiter Lustria) dated 23 March 2000 in NLRC-NCR Case No. 00-08-05259-96[6] dismissing the petitioner's complaint for illegal dismissal against respondent Philippine Long Distance Telephone Company, Incorporated.

The factual antecedents of the petition at bar are as follows:

In 1980, petitioner and certain individuals namely Sergio Benjamin (Benjamin), Maximino Gonzales (Gonzales), and Noel Apostol (Apostol) were employed by the respondent as Switchman Helpers in its Tondo Exchange Office (TEO). After participating in several trainings and seminars, petitioner, Benjamin, and Gonzales were promoted as Switchmen. Apostol, on the other hand, was elevated to the position of Frameman. One of their duties as Switchmen and Frameman was the manual operation and maintenance of the Electronic Mechanical Device (EMD) of the TEO.[7]

In November 1995, respondent PLDT implemented a company-wide redundancy program.[8] In its "Notice of Separation Due to Redundancy" dated 27 November 1995 to the Director of the Department of Labor and Employment, National Capital Region (DOLE-NCR),[9] respondent PLDT cited the following reasons for the aforesaid redundancy program:

> a) Technological changes where new technologies necessitate reduction in workforce, *e.g.,* conversion of electro-mechanical switches; outmoded electronic switches to modern digital switches.
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> b) Position declared redundant due to collapsing/merging of functions where the required number of personnel became less, *i.e.* rehoming of toll centers or centralization of toll centers.

c) Non-replacement of function upon retirement of executive where attached staffs with the executive are no longer needed — Staff Assistant, Secretary, Clerk.

d) Process Improvements and Automation of functions which render the positions as redundant since the new process or Automation require less personnel.

e) Functions or positions which are affected adversely by market forces, thereby necessitating reduction of current workforce to match the reduction of workload, *i.e.,* Traffic — due to decreasing number of handled calls.

Subsequently, the respondent PLDT gave separate letters dated 15 July 1996 to petitioner, Benjamin, Gonzales, and Apostol informing them that their respective positions were deemed redundant due to the above-cited reasons and that their services will be terminated on 16 August 1996.[10] They requested the respondent PLDT for transfer to some vacant positions but their requests were denied since all positions were already filled up. Hence, on 16 August 1996, respondent PLDT dismissed the four from employment.[11]

On 20 August 1996, Benjamin received an amount of P315,435.04 from the respondent PLDT as separation pay,[12] while Apostol and Gonzales received on 2 September 1996 their separation pay from the respondent PLDT in the amounts of P486,484.95 and P472,897.08, respectively.[13] Likewise, petitioner received on 21 October 1996 an amount of P644,194.64 from the respondent PLDT as his separation pay.[14] All four of them executed a document entitled, "Receipt, Release and Quitclaim" in favor of the respondent PLDT;[15] they, however, placed a note of "Under Protest" beside their signatures in the said document.[16]

Thereafter, petitioner, Benjamin, Gonzales, and Apostol filed a joint complaint for illegal dismissal against respondent PLDT.[17] On 23 March 2000, Labor Arbiter Lustria rendered his Decision dismissing the complaint for lack of merit. He stated that the respondent PLDT legitimately exercised its management prerogative in terminating the services of petitioner, Benjamin, Gonzales, and Apostol, on the ground of a valid redundancy program. He was also convinced that the respondent PLDT complied with the requirements for dismissing an employee for redundancy under Article 283 of the Labor Code.[18]

Further, Labor Arbiter Lustria opined that respondent PLDT's redundancy program was effected in good faith as the reduction of the latter's employees was brought about by its adoption of the latest communication technology equipment which can be operated by computers alone. This undertaking was also done pursuant to the demand of the public for clearer signal, faster service and digital features. He found no ill-motive or bad faith on the part of the respondent PLDT in implementing the redundancy program and noted that petitioner, Benjamin, Gonzales and Apostol had already received their respective separation pay and had executed release and quitclaim in favor of respondent PLDT. In conclusion, Labor Arbiter Lustria held:

> Finally, we have often stressed that it has always been an avowed policy of this Arbitration Branch that in carrying out and interpreting the provisions of the Labor Code and its Implementing Rules and Regulations, the working man's welfare should be the paramount and primordial consideration. In protecting the working class, however, we could not simply close our eyes to the rule that justice is in every case for the deserving, to be dispensed in the light of the established facts and the applicable law and doctrine. This, is so, for while we favor the cause of the working class in his conflict with management, we likewise have to consider the rights and interest of the employers, which are equally entitled to legal protection.
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> WHEREFORE, foregoing premises considered, judgment is hereby rendered dismissing the instant complaint for lack of merit.[19]

Petitioner, Benjamin, Gonzales, and Apostol appealed to the NLRC. On 20 August 2002, the NLRC promulgated its Decision dismissing the appeal and affirming *in toto* the decision of Labor Arbiter Lustria. It ruled that the findings, conclusions and legal bases of Labor Arbiter Lustria were supported by the evidence on record. In parting, it ruled:

> Needless to state, not having been illegally dismissed, as comprehensively discussed above, Complainants-Appellants are therefore not entitled to reinstatement to their former positions without loss of seniority right and privileges and to payment of full back wages.
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> WHEREFORE, premises considered, the Appeal is hereby DISMISSED for lack of merit. Accordingly, the Decision appealed from is sustained *in toto*.[20]

Petitioner, Benjamin, Gonzales, and Apostol filed a Motion for Reconsideration of the NLRC Decision but the same was denied for lack of compelling reason in the Resolution dated 28 October 2002.

Thereafter, the four dismissed employees assailed the NLRC Decision and Resolution, dated 20 August 2002 and 28 October 2002, respectively, *via* a Petition for *Certiorari* to the Court of Appeals. On 29 April 2004, the Court of Appeals dismissed the Petition and found no grave abuse of discretion on the part of the NLRC in rendering its assailed Decision and Resolution. Pertinent portions of the said decision read:

> At any rate, grave abuse of discretion, the ground invoked to support the petition at bench, has been defined as "such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, or, x x x where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law. It is not in fact sufficient that a tribunal, in the exercise of its power, abused its discretion; (the) abuse must be grave.
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> Noting that no such abuse of discretion as defined attended the assailed resolutions, We have no choice but to dismiss the petition.

WHEREFORE, the petition for certiorari is DISMISSED.[21]

Petitioner, Benjamin, Gonzales, and Apostol filed a Motion for Reconsideration but the same was denied by the Court of Appeals in its Resolution dated 4 October 2004.

On 24 November 2004, petitioner, Benjamin, Gonzales, and Apostol filed before this Court a Petition for Review on *Certiorari* of the Court of Appeals Decision and Resolution, dated 29 April 2004 and 4 October 2004, respectively. In our Resolution dated 24 January 2005, we denied the Petition for failure of Benjamin, Gonzales, and Apostol to sign the attached verification and certificate of non-forum shopping, thus:

> In accordance with Rule 45 and other related provisions of the 1997 Rules of Civil Procedure, as amended, governing appeals by certiorari to the Supreme Court, only petitions which are accompanied by or comply strictly with the requirements specified therein shall be entertained. On the basis thereof, the Court Resolves to DENY the petition for review on certiorari dated 24 November 2004 assailing the decision and resolution of the Court of Appeals for petitioners' failure to submit a valid certification of non-forum shopping in accordance with Section 4 (e), Rule 45 in relation to Section 5, Rule 7, Section 2, Rule 42, and Sections 4 and 5 (d), Rule 56, the attached verification and certification of non-forum shopping having been signed by only one (1) of four (4) petitioners.[22]

On 28 February 2004, petitioner filed a Motion for Reconsideration alleging therein that:

> Since the cause of action of each petitioner is independent of the other three, petitioner SORIANO, JR. could validly proceed with his own petition for review on *certiorari* without the intervention of his co-petitioners. Consequently, he should not be prejudiced by the failure of his co-petitioners to verify the petition and submit a valid certification of non-forum shopping.
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> Petitioner SORIANO, JR. signed the verification and certificate of non-forum shopping in the petition for review on *certiorari*. Hence, as far as he is concerned, his petition has complied with Section 4 (e), Rule 45 in relation to Section 5, Rule 7, Section 2, Rule 42, and Sections 4 and 5 (d), Rule 56 of the 1997 Rules of Civil Procedure. The petition in regard to him should not have been dismissed by this Honorable Court.[23]

Hence, we reinstated the Petition but excluded Benjamin, Gonzales, and Apostol as petitioners.[24]

Petitioner raises the following issues for our consideration:

I.

> WHETHER OR NOT THE HONORABLE COURT OF APPEALS RULED CONTRARY TO LAW AND EXISTING JURISPRUDENCE IN REFUSING TO

REVIEW THE FACTUAL FINDINGS OF THE NLRC.

II.

WHETHER OR NOT THE FINDING OF THE NLRC THAT PETITIONER WAS LAWFULLY TERMINATED FROM EMPLOYMENT IS SUPPORTED BY SUBSTANTIAL EVIDENCE.

III.

WHETHER OR NOT PETITIONER'S ACCEPTANCE OF SEPARATION BENEFITS AMOUNTS TO A WAIVER OF HIS RIGHT TO QUESTION THE VALIDITY OF HIS DISMISSAL.[25]

Apropos the first issue, petitioner argues that the Court of Appeals may review the findings of fact of the NLRC in a petition for *certiorari* under Rule 65 even if the factual findings of the Labor Arbiter and the NLRC do not conflict with each other; that the reliance of the Court of Appeals on the case of *Gonzales v. National Labor Relations Commission*[26] was contrary to law and jurisprudence; that our ruling in *Gonzales v. National Labor Relations Commission*, to wit: *"Only when the factual findings and conclusion of the Labor Arbiter and NLRC are clearly in conflict with each other is this Court behooved to give utmost attention to and thoroughly scrutinize the records of the case, more particularly the evidence presented, to arrive at a correct decision,"* is not absolute; that the aforecited ruling is only a general rule and is only binding if the factual findings of the Labor Arbiter and the NLRC are supported by substantial evidence; and that in the case of *Maya Farms Employees Organization v. National Labor Relations Commission*,[27] this Court held that findings of fact of the NLRC, even though these do not conflict with the findings of the Labor Arbiter, may be reviewed on *certiorari* when these findings are made in disregard of the evidence on record.[28]

We reject these contentions.

As a general rule, in *certiorari* proceedings under Rule 65 of the Rules of Court, the appellate court does not assess and weigh the sufficiency of evidence upon which the Labor Arbiter and the NLRC based their conclusion. The query in this proceeding is limited to the determination of whether or not the NLRC acted without or in excess of its jurisdiction or with grave abuse of discretion in rendering its decision. However, as an exception, the appellate court may examine and measure the factual findings of the NLRC if the same are not supported by substantial evidence.[29]

In the case at bar, the Court of Appeals was correct in limiting its determination to the issue of whether there was grave abuse of discretion on the part of the NLRC, and in refusing to review the factual findings of the said administrative body, since its factual findings and conclusions are anchored on substantial evidence.

The Labor Arbiter, the NLRC, and the Court of Appeals all found that substantial evidence supports the absence of illegal dismissal in the present case.

Article 283 of the Labor Code provides that an employer may dismiss from work an