SPECIAL SEVENTH DIVISION

[CA-G.R. SP. NO. 129142, May 14, 2014]

CHONA ESTACIO AND LEOPOLDO MANLICLIC, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, PAMPANGA I, ELECTRIC COOPERATIVE INC. AND LOLIANO E. ALLAS, RESPONDENTS.

D E C I S I O N

BALTAZAR-PADILLA, J.:

This is a petition for for certiorari assailing the Decision[1] of the National Labor Relations Commission (NLRC), Fourth Division, dated May 28, 2012, and its Resolution[2] dated December 28, 2012 denying petitioners' motion for reconsideration.

FACTS

Chona Estacio and Leopoldo Manlilic (petitioners) filed a complaint for illegal dismissal, non-payment of salaries and wages, service incentive leave pay, 13th month pay, and damages against **Pampanga I, Electric Cooperative Inc.,** and **Loliano E. Elias,** the cooperative's manager, **(private respondents)** before the Regional Arbitration Branch of the NLRC docketed as NLRC Case No. RAB-III-03-5517-03. On April 30, 2004, a decision was rendered by the Labor Arbiter, the fallo of which states:

> "WHEREFORE, premises considered, judgment is hereby rendered dismissing the instant complaint for illegal dismissal for lack of merit.
>
> However, respondents are held liable and ordered to pay complainants the following:

	Service Incentive Leave Pay	13th Month Pay
1. Chona Estacio	P5,765.19	P5,074.03
2. Leopoldo Manlilic	P8,294.19	P6,596.25

> All other claims are hereby dismissed for utter lack of merit.
>
> SO ORDERED."

Petitioners appealed to the NLRC which reversed the Labor Arbiter's decision and ordered the reinstatement of petitioners with payment of backwages in a Decision[3]

dated June 30, 2005, the dispositive part of which states:

> "WHEREFORE, premises considered, the decision appealed from is hereby MODIFIED.
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> The findings (sic) a quo dismissing the complaint for illegal dismissal is REVERSED AND SET ASIDE and a new one entered finding complainants to have been illegally dismissed by respondents. Accordingly, respondents are hereby ordered to reinstate complainants and pay them backwages pursuant to Article 279 of the Labor Code. The rest of the assailed decision is AFFIRMED.
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> Let the Arbitration Branch of origin render the appropriate computations of complainants' backwages.
>
> SO ORDERED."

Private respondents filed a motion for reconsideration but the same denied was in a Resolution dated January 24, 2006.

Aggrieved, private respondents filed a petition for certiorari before this Court assailing the NLRC Decision and Resolution and the same was docketed as CA-GR. SP. No. 93971 raffled off to the Fourteenth Division. On May 29, 2008, the Fourteenth Division of this Court rendered its Decision annulling the NLRC's Decision and Resolution and reinstating the April 30, 2004 Decision of the Labor Arbiter.[4]

Petitioners elevated the case to the Supreme Court via a petition for review on certiorari where it was docketed as GR. No. 183196. On August 19, 2009, the Supreme Court rendered its Decision affirming this Court's May 29, 2008 ruling.[5] The decision became final and executory and an Entry of Judgment was issued by the High Court on February 25, 2010.

On June 25, 2010, petitioners filed before the NLRC-RAB a pleading entitled "Motion for Recomputation and Issuance of a Writ of Execution".[6] The motion was praying for the computation of petitioners' salaries from June 25, 2005[*] which is the date of the NLRC decision finding them to have been illegally dismissed until May 28, 2008, the rendition of this Court's decision reinstating the April 30, 2004 decision of the Labor Arbiter. Petitioners cited the case of Roquero vs. Philippine Airlines, Inc., (G.R. No. 1523298, April 22, 2003) in support of their prayer. In said case, the Labor Arbiter found Roquero's dismissal to have been valid but on appeal, the NLRC reversed the decision and ordered Roquero's reinstatement. When the case reached this Court, WE set aside the NLRC decision and upheld the validity of Roquero's dismissal. The Supreme Court also upheld the dismissal of Roquero but it ordered PAL, Roquero's employer, "to pay Roquero the salary he is entitled to, as if he was reinstated, from the time of the decision of the NLRC until the finality of the decision of this Court [Supreme Court]."

On December 2, 2011, the Labor Arbiter issued an Order[7] granting petitioners' motion and ordering the computation of their salaries during the period of reinstatement.

Pending the recomputation of petitioners' salaries, the Labor Arbiter issued a writ of execution on December 8, 2011[8] but only insofar as the payment of unpaid service

incentive leave pay and 13th month pay are concerned.

On January 11, 2012, Labor Arbitration Associate Diosdada D. de Vega submitted a computation of petitioners' reinstatement salaries.[9]

On January 13, 2012, the Labor Arbiter issued an Order directing petitioners and private respondents to file their respective comments regarding the computation submitted by Labor Arbitration Associate de Vega.

On January 27, 2012, private respondents filed a petition[10] before the NLRC docketed as LER Case No. 01-013-12 praying for the annulment of December 2, 2011 and January 13, 2012 Orders of the Labor Arbiter. Private respondents contend that the Roquero case is not applicable to the present case as no motion for execution was filed by the petitioners unlike in the Roquero case where a writ of execution pending appeal was applied for and subsequently issued by the Labor Arbiter.

In a Decision dated May 28, 2012, the NLRC granted private respondents' petition and annulled the Orders of the Labor Arbiter dated December 2, 2011 and January 13, 2012.[11] The NLRC based its decision on the Supreme Court's pronouncements made in the cases of Mt. Carmel College vs. Resuena and Panuncillo vs. CAP Philippines Inc. wherein it was ruled that a writ of execution is needed for an order of reinstatement when it is the NLRC which issued the order. The order of reinstatement is self-executory only when the same is issued by the Labor Arbiter. The pertinent portions of the NLRC Decision read, viz ---

> "Unlike in Article 223 where the execution of an order of reinstatement issues as a matter of course – without need of any positive action to effect the same – the execution of a similar order emanating from the Commission, on appeal, lies not in favor of a dismissed employee as a matter of right. Article 224 of the Labor Code could not be any more categorical when it prescribes the issuance of a Writ of Execution as a condition sine qua non for the execution of an order of reinstatement issued by the Commission on appeal. As such, the option to reinstate a dismissed employee is granted exclusively to the employer. The event that gives rise for its exercise is not the reinstatement decree of [the Commission], but the writ for its execution commanding the employer to reinstate the employee, while the final act which compels the employer to exercise the option is the service upon it of the writ of execution when, instead of admitting the employee back to his work, the employer chooses to reinstate the employee in the payroll only."[12]

Petitioners filed a motion for reconsideration of the May 28, 2012 Decision but the same was denied on December 28, 2012.[13]

Hence, this petition.

ISSUES

Petitioners raise the following grounds for the allowance of their petition, to wit:

> I. THE HONORABLE PUBLIC RESPONDENT NLRC GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN

ISSUING THE QUESTIONED DECISION AND RESOLUTION, BY DISREGARDING OR IGNORING THAT THE TWO CASES RELIED UPON NAMELY MT. CARMEL COLLEGE V. RESUENA GR. NO. 173076 OCTOBER 6, 2007 AND PANUNCILLO V. CAP PHILIPPINES INC., GR. NO. 16[1]305 FEBRUARY 9, 2007 CAN NOT BE APPLIED RETROACTIVELY AS THE DECISION OF THE NLRC SOUGHT TO BE ENFORCED WAS ISSUED ON JUNE 30, 2005.

II. THE HONORABLE PUBLIC RESPONDENT NLRC GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR (SIC) IN DISREGARDING OR IGNORING THE SETTLED RULE THAT ALL DOUBTS IN THE IMPLEMENTATION AND INTERPRETATION OF THE PROVISIONS OF LABOR CODE INCLUDING ITS IMPLEMENTING RULES AND REGULATIONS SHALL BE RESOLVED IN FAVOR OF LABOR.

RULING

Stated differently, the pivotal issue presented before US is whether or not a writ of execution should have been issued first by the Labor Arbiter for the enforcement of the reinstatement order of the NLRC Decision.

The petition is without merit.

There is no question that the order for reinstatement was issued by the NLRC and not by the Labor Arbiter. In this sense, the execution of said order of reinstatement is governed by Article 224 of the Labor Code and not Article 223.

This was discussed by the High Court in the case of **Pioneer Texturizing Corporation vs. NLRC,**[14] to wit:

"We note that prior to the enactment of R.A. No. 6715, Article 223 of the Labor Code contains no provision dealing with the reinstatement of an illegally dismissed employee. The amendment introduced by R.A. No. 6715 is an innovation and a far departure from the old law indicating thereby the legislature's unequivocal intent to insert a new rule that will govern the reinstatement aspect of a decision or resolution in any given labor dispute. In fact, the law as now worded employs the phrase "shall immediately be executory" without qualification emphasizing the need for prompt compliance. As a rule, "shall" in a statute commonly denotes an imperative obligation and is inconsistent with the idea of discretion and that the presumption is that the word "shall", when used in a statute, is mandatory. An appeal or posting of bond, by plain mandate of the law, could not even forestall nor stay the executory nature of an order of reinstatement. The law, moreover, is unambiguous and clear. Thus, it must be applied according to its plain and obvious meaning, according to its express terms. xxx

xxx

And in conformity with the executory nature of the reinstatement order, Rule V, Section 16 (3) of the New Rules of Procedure of the NLRC strictly requires the Labor Arbiter to direct the employer to immediately reinstate the dismissed employee. Thus:

> "In case the decision includes an order of reinstatement, the Labor Arbiter shall direct the employer to immediately reinstate the dismissed or separated employee even pending appeal. The order of reinstatement shall indicate that the employee shall either be admitted back to work under the same terms and conditions prevailing prior to his dismissal or separation or, at the option of the employer, merely reinstated in the payroll."

In declaring that reinstatement order is not self-executory and needs a writ of execution, the Court, in Maranaw, adverted to the rule provided under Article 224. We said:

> "It must be stressed, however, that although the reinstatement aspect of the decision is immediately executory, it does not follow that it is self-executory. There must be a writ of execution which may be issued motu proprio or on motion of an interested party. Article 224 of the Labor Code provides:
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> Art. 224. Execution of decision, orders or awards. — (a) The Secretary of Labor and Employment or any Regional Director, the Commission or any Labor Arbiter, or med-arbiter or voluntary arbitrator may, motu proprio or on motion of any interested party, issue a writ of execution on a judgment within five (5) years from the date it becomes final and executory . . .
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> The second paragraph of Section 1, Rule VIII of the New Rules of Procedure of the NLRC also provides:
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> The Labor Arbiter, POEA Administrator, or the Regional Director, or his duly authorized hearing officer of origin shall, motu proprio or on motion of any interested party, issue a writ of execution on a judgment only within five (5) years from the date it becomes final and executory . . . . No motion for execution shall be entertained nor a writ be issued unless the Labor Arbiter is in possession of the records of the case which shall include an entry of judgment.
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> xxx xxx xxx
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> In the absence then of an order for the issuance of a writ of execution on the reinstatement aspect of the decision of the Labor Arbiter, the petitioner was under no legal obligation to admit back to work the private respondent under the terms and conditions prevailing prior to her dismissal or, at the petitioner's option, to merely reinstate her in the payroll. An option is a right of election to exercise a privilege, and the option in Article 223 of the Labor Code is exclusively granted to the employer. The event that gives rise for its exercise is not the reinstatement decree of a Labor Arbiter, but the writ for its execution commanding the employer to reinstate the employee, while the final act which compels the employer to