

# FIRST DIVISION

[ G.R. No. 226064, February 17, 2020 ]

**ANNA MAE B. MATEO, PETITIONER, VS. COCA-COLA BOTTLERS  
PHILS. INC., RESPONDENT.**

## DECISION

**REYES, J. JR., J.:**

Through this Petition for Review<sup>[1]</sup> under Rule 45 of the Rules of Court, petitioner challenges the Court of Appeals (CA) Decision dated November 25, 2015 and Resolution dated June 13, 2016. The assailed CA Decision and Resolution reversed the rulings of the National Labor Relations Commission (NLRC) and the Labor Arbiter by dismissing petitioner's complaint for illegal deductions, underpayment of separation pay, non-payment of salaries, and claims for damages.

### Facts

Petitioner was previously employed by Philippine Beverage Partners, Inc., (PhilBev) as Sales Supervisor. In 2007, PhilBev ceased operations, and, as a result, petitioner was separated from service. Petitioner received the corresponding separation benefits from PhilBev.<sup>[2]</sup> Thereafter, petitioner was hired by respondent, also as Sales Supervisor, and was eventually promoted as District Team Leader.

In February 2012, petitioner was informed by respondent that it is enhancing its Route to Market (RTM) strategy to improve sales force effectiveness, and, that due to such RTM strategy which requires different sales force competencies and capabilities, her position was considered redundant.<sup>[3]</sup> She was also informed that her employment will be terminated effective March 31, 2012.<sup>[4]</sup> Further, she was to receive an amount tentatively computed at P676,657.15, as a consequence of her separation from service.<sup>[5]</sup>

On April 21, 2012, respondent released to petitioner two checks for the total amount of P402,571.85. Upon verification, petitioner discovered that her outstanding loan balance and the amount of P134,064.95, representing withholding tax, were deducted from the originally computed amount.<sup>[6]</sup>

Petitioner sought clarification as regards said deductions and was informed that the retirement benefit she received is no longer tax exempt because she previously availed of such tax exemption upon her separation from service with PhilBev.<sup>[7]</sup>

Petitioner wrote a letter to the Bureau of Internal Revenue (BIR) as regards the propriety of the tax withheld. The Regional Director briefly quoted Section 32(B)(6) (b) of the National Internal Revenue Code (NIRC) of 1997, as amended, and referred the query to the Revenue District Officer for their appropriate action.<sup>[8]</sup> Petitioner also referred to a BIR Ruling concerning respondent's former employee

who was similarly terminated due to redundancy, to the effect that separation benefits received as a result of redundancy are exempt from income tax, and consequently, from withholding tax.<sup>[9]</sup>

Despite these, petitioner's claim for reimbursement of the deducted amount representing tax withheld was denied by respondent. This prompted petitioner to lodge her complaint before the Labor Arbiter.

The Labor Arbiter ruled in petitioner's favor and held that respondent erroneously deducted withholding tax from petitioner's separation pay. Respondent was ordered to complete petitioner's separation pay plus attorney's fees in the aggregate amount of P147,471.44. The Labor Arbiter disposed in his Decision dated July 25, 2013:

WHEREFORE, premises considered, We render judgment finding respondent Coca-Cola Bottlers, Philippines, Incorporated liable for underpayment of separation pay to complainant, as well as attorney's fee, in the aggregate amount of Php147,471.44, and direct said respondent to deposit the foregoing sum with the Cashier of this Branch within ten (10) days from receipt of this Decision.

All other claims are dismissed for lack of merit.

**SO ORDERED.**<sup>[10]</sup>

Dissatisfied, respondent appealed to the NLRC. In its Decision dated January 30, 2014, the NLRC affirmed the award of separation pay differentials but deleted the award of attorney's fees. Similar to the Labor Arbiter, the NLRC reasoned that petitioner was given separation benefits as a result of her termination from employment due to redundancy. Such separation benefits, according to the labor tribunals, are exempt from taxation pursuant to Section 32(B)(6)(b) of the NIRC.

<sup>[11]</sup> In disposal, the NLRC ruled:

**WHEREFORE**, premises considered, respondent's appeal is partly **GRANTED**. The Labor Arbiter's Decision is **AFFIRMED WITH MODIFICATION** in that the award for attorney's fees is **DELETED**. Respondent is **DIRECTED** to pay the complainant the sum of Php134,064.95, representing the amount of tax withheld by respondent out of her severance pay.

**SO ORDERED.** <sup>[12]</sup>

Claiming that the NLRC gravely abused its discretion in so ruling, respondent filed a *certiorari* petition before the CA.

In its presently assailed Decision, the CA reversed the rulings of the labor tribunals and dismissed petitioner's complaint. The CA reasoned that under respondent's Retirement Plan, an involuntarily separated employee, such as petitioner, is entitled to either the amount prescribed in the retirement plan or to the termination benefit as provided by law, whichever is higher. Since the retirement plan is higher than the separation pay as mandated by law, petitioner is entitled to receive only the former.

The CA also held that tax exemption of retirement benefits under the NIRC requires, among others, that the taxpayer had been in the service of the same employer for at least 10 years and had not previously availed of such benefit.<sup>[13]</sup> Since petitioner

had been in respondent's employ for less than five years and that she already availed of the tax exemption benefit upon her separation from PhilBev, the retirement benefits she received from respondent are not tax exempt.<sup>[14]</sup> The CA held that since respondent correctly withheld tax from the retirement benefit received by petitioner, the former is not liable for illegal deduction.

Petitioner's motion for reconsideration met similar denial from the CA. Hence, this petition.

### **Issue**

The pivotal issue is whether respondent is liable for illegal deduction when it withheld tax from the amount received by petitioner as a consequence of her involuntary separation from service.

### **Ruling of the Court**

Petitioner's main contention is that the amount she received from respondent was her separation pay, and was not her retirement pay, which she received as a consequence of the termination of her employment due to redundancy. Because it was a separation pay, it should not have been subjected to income tax. We find this contention meritorious.

There is no dispute that petitioner was separated from service due to redundancy pursuant to Article 283 of the Labor Code:

**Art. 283. Closure of establishment and reduction of personnel.** The employer may also terminate the employment of any employee due to the installation of labor-saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. **In case of termination due to the installation of labor-saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher.** In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year. (Emphasis supplied)

As petitioner was dismissed due to redundancy, she is entitled to receive, under the law, a separation pay equivalent to at least one month pay for every year of her service.

It is likewise undisputed that petitioner was a member of respondent's Retirement Plan (Plan) duly approved by the BIR. The Plan expressly provides that a member who was involuntarily separated from service for any cause beyond the member's control shall receive "in lieu of any other retirement benefits, a separation benefit computed in accordance with the retirement formula" or the termination benefit