

FIRST DIVISION

[G.R. No. 241437, September 14, 2020]

**ALBAY ELECTRIC COOPERATIVE, INC. (ALECO), PETITIONER, VS.
ALECO LABOR EMPLOYEES ORGANIZATION (ALEO),
RESPONDENT.**

D E C I S I O N

CAGUIOA, J:

Through the present Petition for Review on *Certiorari*^[1] (Petition), petitioner Albay Electric Cooperative, Inc. (ALECO) assails both the Decision^[2] dated August 10, 2018 of the Court of Appeals, Special Sixteenth Division (CA), in CA-G.R. SP No. 149409, and the Resolution^[3] dated January 17, 2018 of the Secretary of the Department of Labor and Employment (Secretary of Labor) in OS-VA-2014-01.

Facts of the Case

The facts of the case, as narrated by the CA in its August 10, 2018 Decision, are as follows:

[ALECO] is an electric cooperative which holds a franchise for the retail distribution of electricity for the province of Albay, while [respondent ALECO Labor Employees Organization (ALEO)] is the collective bargaining agent of [ALECO] 's employees.

As reported by ALECO Finance Manager, Atty. Lynne Rose Baroga, during the Special General Membership Assembly held on March 24, 2012, [ALECO] was suffering from financial distress with its current payables to the Philippine Electricity Market Corporation (PEMC) already amounting to Php134 million. In addition, it has unpaid obligations to the National Grid Corporation of the Philippines (NGCP), Philippine Rural Electric Association (PHILRECA), other suppliers and contractors, as well as its retirees, in the aggregate amount of Php87 million. Overall, [ALECO] then had long term obligations to the foregoing creditors of Php3.1 billion.

Thus, efforts were undertaken to rehabilitate the struggling electric cooperative. [ALECO] was pushing for Private Sector Participation (PSP) as its appropriate rehabilitation strategy, while [ALEO] was insisting on the Cooperative-to-Cooperative (C2C) rehabilitation scheme. Under the PSP, the current employees of ALECO shall be required to tender their courtesy resignation to give flexibility to the incoming private sector concessionaire, but they shall receive separation pay based on the existing collective bargaining agreement (CBA) with ALEO, and shall have priority in rehiring based on the standards set by the concessionaire.

In a letter dated April 8, 2013 addressed to Atty. Veronica S. Briones ([National Electrification Administration (NEA)] Project Supervisor for ALECO), Bishop Joel Z. Baylon (Chair, Interim Board of Directors for ALECO) and Reynaldo B. Reverente (OIC GM for ALECO), ALEO President Dexter Brutus expressed grievance over the conditions set under the PSP.

Thus, on April 15, 2013, ALEO sought preventive mediation before the National Conciliation and Mediation Board (NCMB), Regional Branch No. 5, for unfair labor practices. The parties, however, failed to settle their differences which constrained [ALEO] to file a notice of strike on April 25, 2013. It conducted a strike vote on May 10, 17 and 20, 2013 with 217 out of 235 members voting for a strike.

Subsequently, in a referendum held on September 14, 2013 to determine the appropriate rehabilitation measure to be undertaken by [ALECO], the PSP was eventually chosen. In a public bidding held earlier, the San Miguel Power Holdings Corporation (San Miguel Power) emerged as the winning bidder and was awarded the concession under the PSP.

Still, ALEO went on strike on September 23, 2013.

Nonetheless, with the PSP adopted, *Notices of Retrenchment* were served on all of [ALECO]'s employees under *Office Memorandum No. 216* dated October 23, 2013.

As the labor dispute continued without any of the parties yielding, [ALECO,] [by virtue of an Interim Board Resolution No. 2014-003, Series of 2014, and] through a letter dated January 7, 2014 signed by Bishop Baylon, formally requested the Secretary of Labor to assume jurisdiction over the controversy. [ALEO] concurred with [ALECO].

The Secretary of Labor assumed jurisdiction on January 10, 2014 and correspondingly issued a *Return-to-Work Order* of even date.^[4]

Ruling of the Secretary of Labor

In a Resolution dated April 29, 2016, the Secretary of Labor upheld the validity of the retrenchment of ALECO's employees and ordered ALECO to pay them backwages and other benefits computed from January 10, 2014 until the finality of the said Resolution. The Secretary of Labor also ordered ALECO to pay the retrenched employees their separation benefits in accordance with the CBA.

The pertinent dispositive portion of Resolution dated April 29, 2016 reads as follows:

"**WHEREFORE**, premises considered, this Office finds the retrenchment of employees at ALECO **VALID**.

But by virtue of the Assumption of Jurisdiction Order dated 10 January 2014, ALECO is **ORDERED TO PAY** accrued backwages and other benefits reckoned from 10 January 2014, the date of the issuance of the Assumption Order of the Secretary of Labor and Employment directing

reinstatement of all ALEO members who have not accepted separation benefits on 25 December 2013, until the finality of this Resolution. Moreover, ALECO is **ORDERED TO PAY** separation benefits, computed pursuant to the Collective Bargaining Agreement (CBA), due them in view of the retrenchment.

[x x x x]

SO RESOLVED."^[5]

Both parties sought partial reconsideration of the above Resolution, but were denied in a Resolution^[6] dated December 2, 2016. With the denial of its Motion for Reconsideration, ALECO filed with the CA a petition for *certiorari*^[7] under Rule 65.

In the meantime, execution proceedings ensued below and the Secretary of Labor issued the Resolution^[8] dated January 17, 2018 (January 17, 2018 Resolution) which directed the execution of the Resolution dated April 29, 2016 with modification to the effect that the payment of backwages and other benefits shall only cover the period from January 10, 2014 until December 19, 2016, the date of the finality of the Resolution dated December 2, 2016. Accordingly, the Secretary of Labor approved the sheriff's computation of the monetary award covering 78 employees.

Ruling of the CA

In its August 10, 2018 Decision, the CA affirmed the April 29, 2016 and December 2, 2016 Resolutions of the Secretary of Labor with modification on the computation of the backwages. The decretal portion of which reads:

WHEREFORE, the Court resolves to **GRANT** the Petition in part. The period for computation of the backwages awarded in public respondent Secretary of Labor and Employment's *Resolutions* is hereby fixed to be from the date of the *Return-to-Work Order* on January 10, 2014 up to the issuance of Resolution dated April 29, 2016.

Additionally, ALECO is ordered to pay interest at the rate of six percent (6%) per annum on all monetary awards as modified[,], computed from the finality of this *Decision* until fully paid.

SO ORDERED.^[9]

Aggrieved, ALECO filed the present Petition.

With respect to the August 10, 2018 Decision, ALECO argues that the award of backwages is not proper in this case given the Court's pronouncement in *Mangagawa ng Komunikasyon sa Pilipinas v. PLDT*.^[10] Alternatively, ALECO argues that the computation of backwages should only be limited to the period when the striking employees actually reported back to work. Meanwhile, as regards the January 17, 2018 Resolution, ALECO, citing *Banco Filipino Savings and Mortgage Bank v. Lazaro*,^[11] maintains that the base amount for the computation of backwages and separation pay should correspond to the monthly compensation

prevailing before the strike and the one prevailing before the retrenchment took effect, respectively. In addition, ALECO questions the inclusion of three groups of employees in the award of backwages for being in excess of the Secretary of Labor's authority under Article 278 [263] of the Labor Code. Finally, ALECO argues that the Secretary of Labor usurped legislative authority when it disallowed all deductions to be made from the separation pay due to the employees.

In its Comment^[12] dated July 10, 2019, ALEO counters that the award of backwages is consistent with Section 278 [263](g) of the Labor Code which prescribes backwages, among others, as disciplinary action for non-compliance with any of the Secretary of Labor's orders. However, relying on *Bani Rural Bank, Inc., et al, v. De Guzman*,^[13] ALEO claims that the backwages should accrue until December 19,2016. With respect to ALECO's challenge on the January 17, 2018 Resolution, ALEO contends that the present Petition is not the proper remedy to do so. Lastly, ALEO challenges the August 10, 2018 Decision for affirming the validity of the retrenchment, as well as the denial of its claims for damages and attorney's fees.

ALECO reiterates its arguments in its Reply^[14] dated October 1, 2019, and adds that ALEO can no longer question the legality of the retrenchment and its non-entitlement to damages and attorney's fees since it did not raise these matters in a petition for *certiorari* before the CA.

Issues

The parties submit the following procedural and substantive issues for resolution of the Court:

1. Whether ALECO can assail the January 17, 2018 Resolution of the Secretary of Labor through the instant Petition, and if so:
 - a. Whether the computation of monetary award affirmed in the January 17, 2018 Resolution used the correct base amount;
 - b. Whether the January 17, 2018 Resolution was correct in including the three groups of employees in the award of backwages; and
 - c. Whether the January 17, 2018 Resolution was correct in disallowing deductions from the separation pay.
2. Whether ALEO can still challenge the validity of the retrenchment of ALECO's employees and raise anew its claims for damages and attorney's fees;
3. Whether the CA erred in sustaining the Secretary of Labor's award of backwages; and
4. Whether the CA erred in reducing the period for which ALECO

is liable for payment of backwages.

The Court's Ruling

On the procedural matters, the Court finds no merit in the arguments of both parties.

ALECO assails the January 17, 2018 Resolution of the Secretary of Labor for erroneously: (1) forbidding any deductions to be made from the separation pay due to employees/members of ALEO; (2) affirming the allegedly bloated computation of backwages and separation pay; and (3) including three groups of employees (*i.e.*, those terminated for cause before the strike, those deemed separated before the strike in accordance with NEA Guidelines for joining the 2013 Barangay Elections, and those who did not join the strike and reported for work until December 31, 2013) in the award of backwages.

However, it is a long-standing rule that decisions rendered by the Secretary of Labor under the Labor Code, such as the January 17, 2018 Resolution, must be challenged through a petition for *certiorari* under Rule 65 before the CA.^[15] Clearly, the present Petition is not the proper remedy to assail the January 17, 2018 Resolution.

Even so, inasmuch as the January 17, 2018 Resolution was issued relative to the execution of the Resolution dated April 29, 2016, which is the subject of the present appeal, the effectivity of the former depends on the disposition of the present Petition, *i.e.*, whether the Resolution dated April 29, 2016 will be reinstated. Otherwise, the January 17, 2018 Resolution will become moot.

Similarly, ALEO cannot assail the validity of the retrenchment of ALECO's employees, as well as the denial of its claims for damages and attorney's fees, through the present proceedings. As correctly held by the CA, the Resolution dated April 29, 2016, insofar as these matters are concerned, is already final.^[16] As such, and following the doctrine of finality of judgment, the Resolution dated April 29, 2016 may no longer be modified in these respects even by the Court.^[17] While there are exceptions to this doctrine, none of those obtain in this case.^[18]

Having addressed the procedural issues, the Court shall now decide the substantive issues regarding the award of backwages.

ALECO argues that the CA erred in sustaining the award of backwages in view of the pronouncement of the Court in *Manggagawa ng Komunikasyon sa Pilipinas v. PLDT* that "[t]he award of reinstatement, including backwages, is awarded by a Labor Arbiter to an illegally dismissed employee x x x."^[19] In addition, ALECO claims that it complied with the return-to-work order as early as January 14, 2014. As such, it was not only erroneous for the Secretary of Labor and the CA to conclude that it failed to comply with the Order dated January 10, 2014 (Assumption Order), but also to use such conclusion to justify the award of backwages. Alternatively, ALECO argues that backwages should accrue only until February 26, 2014, the date when the returning employees last reported for work. It laments the failure of the Secretary of Labor to resolve the controversy within 30 days as provided in the Labor Code which caused the backwages to accrue excessively, and stresses its inability to pay such allegedly excessive amount in view of the cessation of the