

THIRD DIVISION

[G.R. No. 201622, October 04, 2017]

ANGELITO L. CRISTOBAL, PETITIONER, VS. PHILIPPINE AIRLINES, INC., AND LUCIO TAN, RESPONDENTS.

DECISION

LEONEN, J.:

Where a tribunal renders a decision substantially reversing itself on a matter, a motion for reconsideration seeking reconsideration of this reversal, for the first time, is not a prohibited second motion for reconsideration.

This is a Petition for Review on Certiorari,^[1] assailing the Court of Appeals Resolutions dated January 10, 2012^[2] and April 18, 2012^[3] in CA-G.R. SP No. 122034 dismissing petitioner Angelita L. Cristobal's (Cristobal) Petition for Certiorari for having been filed out of time.

Cristobal became a pilot for respondent Philippine Airlines, Inc. (PAL) on October 16, 1971.^[4] In May 1998, in line with a downsizing program of PAL,^[5] Cristobal applied for leave without pay from PAL to enter into a four (4)-year contract with EVA Air.^[6] PAL approved the application and advised him that he would continue to accrue seniority during his leave and that he could opt to retire from PAL during this period.^[7] In a letter dated March 10, 1999, Cristobal advised PAL of his intent to retire.^[8] In response, PAL advised him that he was deemed to have lost his employment status on June 9, 1998.^[9] Thus, on May 12, 1999, Cristobal filed a complaint with the National Labor Relations Commission.^[10]

In a Decision^[11] dated December 1, 1999, the Labor Arbiter found Cristobal's dismissal illegal. On the matter of retirement benefits, the Labor Arbiter noted PAL's claim that Cristobal could only be entitled to a retirement pay of P5,000.00 per year, pursuant to the Philippine Airlines, Inc.-Airline Pilots Association of the Philippines (PAL-ALPAP) Retirement Plan of 1967. However, he found that Cristobal's retirement benefits should not be less than the amount provided under the law. Thus, the Labor Arbiter found him entitled to an amount computed pursuant to Article 287 of the Labor Code.^[12] The dispositive portion of the Labor Arbiter Decision read:

WHEREFORE, judgment is hereby rendered finding the dismissal of the complainant illegal.

The respondent is further ordered to pay the complainant:

1. Retirement pay in the amount of P1,575,964.30;
2. Moral damages in the amount of P500,000.00;
3. Exemplary damages in the amount of P500,000.00;

4. Attorney's fees in an amount equivalent to ten percent (10%) of the total award in favor of the complainant

Respondent is likewise ordered to give and grant to complainant all other benefits he is entitled to under the law and existing Collective Bargaining Agreement.

SO ORDERED.^[13]

In a Decision^[14] dated September 30, 2010, the National Labor Relations Commission affirmed the Labor Arbiter Decision but reduced the award of moral and exemplary damages to P100,000.00 each.^[15] On Cristobal's retirement pay, it noted PAL's argument that any retirement benefits should be pursuant to the terms of the Collective Bargaining Agreement and affirmed the Labor Arbiter's computation. The dispositive portion of the National Labor Relations Commission Decision read:

WHEREFORE, the assailed Decision is, hereby, AFFIRMED with MODIFICATION to the effect that the award for moral and exemplary damages is hereby reduced to P100,000.00 each.

SO ORDERED.^[16]

Cristobal filed a Motion for Partial Reconsideration^[17] on November 12, 2010, raising the following assignment of errors:

1. Since the Honorable Commission found that Respondents-Appellants acted in bad faith, the award of Php 500,000.00 each for Moral and Exemplary Damages should be reinstated, instead of the reduced amount of Php 100,000.00
2. The monetary award should include a legal interest considering the long delay.
3. Respondents-Appellants should be jointly and severally be (sic) liable in view of the bad faith, as per findings of this Honorable Commission.^[18]

PAL also filed a motion for reconsideration, claiming that it was error to find that Cristobal was illegally dismissed and to base his retirement benefits on Article 287 of the Labor Code.^[19]

The National Labor Relations Commission resolved both motions in its Decision^[20] dated May 31, 2011, deleting the award of moral and exemplary damages and reducing the amount of Cristobal's retirement benefits. It agreed that Cristobal's retirement benefits should not be computed in accordance with Article 287 of the Labor Code as Cristobal was not yet 60 years old when he retired on March 10, 1999.^[21] The National Labor Relations Commission cited *Philippine Airlines, Inc. vs. Airline Pilots Association of the Philippines*^[22] to support this position and held that Cristobal was entitled to receive only P5,000.00 per year of service, under the 1967 PAL-ALPAP Retirement Plan:

Nevertheless, the contention of respondents that complainant's retirement benefits should not be computed in accordance with Article 287 of the Labor Code, as amended by Republic Act No. 7641, the New Retirement Law, is meritorious. In their motion, the respondents cite the Supreme Court's decision in *Philippine Airlines, Inc. vs. Airline Pilots Association of the Philippines* (G.R. No. 143686, 15 January 2002). In said case, the Supreme Court categorically sustained respondent PAL's position and ruled that Article 287 of the Labor Code does not apply to PAL pilots who, without reaching the age of sixty (60), retire pursuant to the provisions of the 1967 PAL-ALPAP Retirement Plan. We have noted that complainant never refuted respondents' allegation that he has not reached the age of sixty (60) years when he opted to retire on 10 March 1999.

. . . .

Hence, PAL pilots who retire without reaching the age of 60 are entitled to claim retirement benefits from two (2) retirement plans: a) 1967 PAL-ALPAP Retirement Plan of 1967, and b) PAL Pilot[s'] Retirement Benefit Plan. The amount of P5,000.00 for every year of service provided under the 1967 PAL-ALPAP Retirement Plan would be in addition to the retirement benefits provided by the PAL Pilot[s'] Retirement Benefit Plan.

In their supplement to motion for reconsideration, respondents submit copies of the acknowledgment receipt for P5,530,214.67 signed by Ma. Pilar M. Cristobal on 29 June 1999 as well as Cashier's Checks issued by Metrobank all dated 28 June 1999 to complainant Angelito L. Cristobal in the amount of P5,346,085.23, P93,579.68 and P90,549.76. These amounts were acknowledged to have been paid by and received from the PAL PILOT[S'] RETIREMENT BOARD.

Accordingly, complainant is only entitled to receive retirement benefits from the 1967 PAL ALPAP Retirement Plan in an amount equal to P5,000.00 for every year of service. In this connection, the moral and exemplary damages awarded to complainant has (sic) no legal and factual basis and must be deleted.^[23]

The dispositive portion of this May 31, 2011 Decision read:

CONSIDERING THE FOREGOING, the motion for partial reconsideration filed by complainant is DENIED. The motion for reconsideration filed by respondents is partially GRANTED.

The award of moral and exemplary damages is DELETED.

The respondents are directed to pay complainant the retirement benefits pursuant only to the 1967 PAL-ALPAP Retirement Plan in the amount of one hundred forty thousand pesos (P140,000.00).

The other findings are reiterated.

SO ORDERED.^[24]

On June 24, 2011, Cristobal tiled his Motion for Reconsideration,^[25] seeking reconsideration of the reduction of retirement benefits. He pointed out that the PAL Pilots Retirement Benefit Plan is different from the PAL-ALPAP Retirement Plan, and that it is an investment plan:

It would appear that in reaching its Decision, the Honorable Commission took into consideration the fact that the complainant already received P5,530,214,67 paid for and received from the PAL PILOTS RETIREMENT BENEFIT PLAN. Complainant begs [to] submit that this Honorable Commission committed serious error in taking into consideration in reducing the retirement benefits from the PAL-ALPAP Retirement Plan. The PAL PILOTS RETIREMENT BENEFIT PLAN is totally different from the PAL-ALPAP Retirement Plan.

Moreover, the PAL PILOTS RETIREMENT BENEFIT PLAN is a misnomer. It is not really a retirement plan but rather it[']s an investment plan where the funds come from the contributions of each pilot deducted from their monthly gross pay and upon retirement the pilot receives the full amount of his contribution. Thus, it is a mistake [to] reduce the retirement benefits of the complainant from the PAL-ALPAP Retirement Plan because the complainant already received his supposed retirement benefits (which should be investment) from the PAL PILOTS RETIREMENT BENEFIT PLAN.^[26]

In its Resolution^[27] dated August 24, 2011, the National Labor Relations Commission denied Cristobal's Motion for Reconsideration, deeming it a second motion for reconsideration of its May 31, 2011 Decision.^[28] The dispositive portion of this Resolution read:

PREMISES CONSIDERED, complainant's motion for reconsideration which we treat as a second motion for reconsideration is hereby DISMISSED. Let this case be dropped from the calendar of the Commission.

SO ORDERED.^[29]

On November 14, 2011, Cristobal filed his Petition for Certiorari before the Court of Appeals, which was dismissed in the Court of Appeals January 10, 2012 Resolution.^[30] The Court of Appeals accepted the National Labor Relations Commission's premise that petitioner's June 24, 2011 Motion for Reconsideration was a second motion for reconsideration. Thus, it did not toll petitioner's period to file a petition for certiorari assailing the May 31, 2011 Decision. Consequently, the petition for certiorari was filed out of time. The Court of Appeals also held that the petition did not contain copies of the pertinent supporting documents. The dispositive portion of this Resolution read:

IN VIEW of all the foregoing patent infirmities, the petition is **DISMISSED**.

SO ORDERED.^[31]

Thus, on June 13, 2012, petitioner filed his Petition for Review on Certiorari^[32] before this Court. Thereafter, there was an exchange of pleadings.^[33]

Petitioner points out that his November 12, 2010 Partial Motion for Reconsideration only assailed the National Labor Relations Commission May 31, 2011 Decision, which reduced the award of moral and exemplary damages. On the other hand, his June 24, 2011 Motion for Reconsideration assailed the reduction of his retirement benefits.^[34] Moreover, the filing of a motion for reconsideration to afford the National Labor Relations Commission an opportunity to correct itself on the matter of retirement benefits was a condition *sine qua non* in instituting a petition for certiorari before the Court of Appeals.^[35] As for the attachment of relevant records, petitioner argues that the main issue in his petition was whether or not the National Labor Relations Commission committed grave abuse of discretion in treating his motion for reconsideration as a prohibited second motion for reconsideration. Likewise, he adds that the Court of Appeals should have been more liberal and should have ordered him to submit documents, instead of dismissing his motion out right. Petitioner further discussed how the National Labor Relations Commission committed grave abuse of discretion in reducing his retirement benefits.^[36]

Respondents insist that petitioner's June 24, 2011 Motion for Reconsideration is a prohibited second motion for reconsideration, which did not toll his period to question the May 31, 2011 Decision. Thus, petitioner's petition for certiorari with the Court of Appeals was filed out of time. Respondents call attention to the fact that the National Labor Relations Commission already rejected petitioner's arguments against the reduction of retirement benefits and claim that petitioner's June 24, 2011 Motion for Reconsideration repeated his arguments in his Opposition.^[37]

The sole issue for this Court's resolution is whether or not the June 24, 2011 Motion for Reconsideration filed by petitioner Angelito L. Cristobal assailing the National Labor Relations Commission May 31, 2011 Decision was a prohibited second motion for reconsideration.

This Court grants the petition.

Rule VII, Section 15 of the National Labor Relations Commission Rules of Procedure provides:

Section 15. Motions for Reconsideration. - Motion for reconsideration of any decision, resolution or order of the Commission shall not be entertained except when based on palpable or patent errors; provided that the motion is under oath and filed within ten (10) calendar days from receipt of decision, resolution or order, with proof of service that a copy of the same has been furnished, within the reglementary period, the adverse party; and provided further, that only one such motion from the same party shall be entertained.

The National Labor Relations Commission Rules of Procedure prohibits a party from questioning a decision, resolution, or order, twice. In other words, this rule prohibits the same party from assailing the same judgment. However, a decision substantially reversing a determination in a prior decision is a discrete decision from the earlier one. Thus, in *Poliand Industrial Ltd. v. National Development Co.*,^[38] this Court held: