

## THIRD DIVISION

[ G.R. NO. 154002, August 19, 2005 ]

**PHILIPPINE SCOUT VETERANS SECURITY & INVESTIGATION  
AGENCY, INC. (PSVSIA), PETITIONER, VS. JOSE PASCUA,  
RESPONDENT.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

Before us is a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Amended Decision<sup>[1]</sup> dated January 11, 2002 and the Resolution<sup>[2]</sup> dated June 14, 2002 rendered by the Court of Appeals in CA-G.R. SP No. 50527, entitled "*Philippine Scout Veterans Security & Investigation Agency, Inc. vs. National Labor Relations Commission and Jose Pascua.*"

The instant controversy stemmed from a complaint for illegal dismissal from the service and non-payment of separation pay and other benefits filed with the Office of the Labor Arbiter by Jose C. Pascua, *respondent*, against Philippine Scout Veterans Security & Investigation Agency, Inc. (PSVSIA), *petitioner*, docketed as NLRC NCR Case No. 00-03-02632-94.

Respondent, in his complaint, alleged that on March 3, 1962, he was employed as a security guard by *petitioner* PSVSIA. At the time of his dismissal from the service, he was a duty sergeant assigned at the residence of Nancy Sy, receiving a monthly salary of P3,300.00. Sometime in January, 1994, Ms. Neneng Enverga, *petitioner's* personnel manager, proposed to change his employment from regular to retainer and to pay him his retirement benefits amounting to P15,000.00. Petitioner declined. Later or on March 16, 1994, when he reported for work, he was told that *petitioner* has terminated his employment.

In its answer to the complaint, *petitioner* denied the allegations therein and averred that on March 18, 1994, respondent was reassigned to the Makati Medical Center. But despite the issuance to him of his new uniform, still he refused to report for work.

On May 8, 1996, the Labor Arbiter rendered a Decision dismissing respondent's complaint.

Upon appeal, the National Labor Relations Commission (NLRC) issued a Resolution dated July 26, 1996 remanding the case to the Labor Arbiter "for further appropriate proceedings."

After the submission of the parties' supplemental position papers, the Labor Arbiter rendered a Decision dated December 15, 1996 finding that respondent was illegally dismissed from employment and ordering *petitioner* to pay him (1) his full

backwages, (2) separation pay, (3) unpaid portion of his 13<sup>th</sup> month pay and service incentive leave, (4) cash bond refund, and (5) attorney's fees. The dispositive portion of the Decision reads:

"WHEREFORE, premises considered, judgment is hereby rendered:

1. ORDERING respondent to pay complainant backwages from the time his compensation has been withheld from him up to the date of the promulgation of this decision inclusive of all other benefits such as salary increases, bonuses, 13th month pay and service incentive leave pay without qualification and deduction pursuant to the Supreme Court ruling in *Bustamante, et al. vs. NLRC* (G.R. No. 111651, 15 March 1996) in the amount of P265,494.84;
2. ORDERING respondent to pay complainant severance pay computed at the rate of P5,550.00 per month in the amount of P194,250.00;
3. ORDERING respondent to pay complainant the unpaid portion of his 13th month pay and service incentive leave pay in the amount of P1,908.00;
4. ORDERING respondent to refund complainant's cash bond in the amount of P4,955.00;
5. ORDERING respondent to pay complainant's counsel of record ten (10%) percent of the total monetary award as attorney's fees in the sum of P46,660.78.

All other claims are dismissed for lack of merit.

SO ORDERED."

On January 23, 1998, petitioner filed with the NLRC an appeal and motion to reduce the appeal bond.

However, in a Resolution dated March 31, 1998, the NLRC dismissed the appeal for petitioner's failure to post an appeal bond.

Petitioner then filed a motion for reconsideration but it was denied by the NLRC in a Resolution dated June 16, 1998.

Consequently, *petitioner* filed with the Court of Appeals a petition for *certiorari* alleging that the NLRC committed grave abuse of discretion in dismissing its appeal.

On June 16, 2000, the Court of Appeals promulgated a Decision reversing the assailed Resolutions and ordering the NLRC to take cognizance of *petitioner's* motion to reduce appeal bond.

Respondent then filed a motion for reconsideration which was granted by the Court of Appeals. In its Amended Decision dated January 11, 2002, the Appellate Court dismissed the petition for *certiorari*, holding that since *petitioner* failed to post an appeal bond within the ten-day reglementary period, the dismissal of its appeal by the NLRC "for non-perfection thereof, is proper," thus: