

SECOND DIVISION

[G.R. No. 148738, June 29, 2004]

**MITSUBISHI MOTORS PHILIPPINES CORPORATION,
PETITIONER, VS. CHRYSLER PHILIPPINES LABOR UNION AND
NELSON PARAS, RESPONDENTS.**

DECISION

CALLEJO, SR., J.:

This is a petition for review on certiorari of the Decision^[1] of the Court of Appeals in CA-GR SP No. 46030 and the Resolution denying the motion for reconsideration filed by petitioner Mitsubishi Motors Philippines Corporation.

The Antecedents

Mitsubishi Motors Philippines Corporation (MMPC) is a domestic corporation engaged in the assembly and distribution of Mitsubishi motor vehicles. Chrysler Philippines Labor Union (CPLU) is a legitimate labor organization and the duly certified bargaining agent of the hourly-paid regular rank and file employees of MMPC. Nelson Paras was a member of CPLU. His wife, Cecille Paras, was the President of the Chrysler Philippines Salaried Employees Union (CPSU).

Nelson Paras was first employed by MMPC as a shuttle bus driver on March 19, 1976. He resigned on June 16, 1982. He applied for and was hired as a diesel mechanic and heavy equipment operator in Saudi Arabia from 1982 to 1993. When he returned to the Philippines, he was re-hired as a welder-fabricator at the MMPC tooling shop from October 3, 1994 to October 31, 1994.^[2] On October 29, 1994, his contract was renewed from November 1, 1994 up to March 3, 1995.^[3]

Sometime in May of 1996, Paras was re-hired on a probationary basis as a manufacturing trainee at the Plant Engineering Maintenance Department. He and the new and re-hired employees were given an orientation on May 15, 1996^[4] by Emma P. Aninipot, respecting the company's history, corporate philosophy, organizational structure, and company rules and regulations, including the company standards for regularization, code of conduct and company-provided benefits.^[5]

Paras started reporting for work on May 27, 1996. He was assigned at the paint ovens, air make-up and conveyors. As part of the MMPC's policy, Paras was evaluated by his immediate supervisors Lito R. Lacambacal^[6] and Wilfredo J. Lopez^[7] after six (6) months, and received an average rating. Later, Lacambacal informed Paras that based on his performance rating, he would be regularized.^[8]

However, the Department and Division Managers, A.C. Velando and H.T. Victoria,^[9]

including Mr. Dante Ong,^[10] reviewed the performance evaluation made on Paras. They unanimously agreed, along with Paras' immediate supervisors, that the performance of Paras was unsatisfactory.^[11] As a consequence, Paras was not considered for regularization. On November 26, 1996, he received a Notice of Termination dated November 25, 1996, informing him that his services were terminated effective the said date since he failed to meet the required company standards for regularization.^[12]

Utilizing the grievance machinery in the collective bargaining agreement, the CCLU demanded the settlement of the dispute which arose from Paras' termination.^[13] The dispute was thereafter submitted for voluntary arbitration, as the parties were unable to agree on a mutually acceptable solution. CCLU posited that Paras was dismissed on his one hundred eighty third (183rd) day of employment, or three (3) days after the expiration of the probationary period of six (6) months. It was contended that Paras was already a regular employee on the date of the termination of his "probationary employment."

According to CCLU and Paras, the latter's dismissal was an offshoot of the heated argument during the CBA negotiations between MMPC Labor Relations Manager, Atty. Carlos S. Cao, on the one hand, and Cecille Paras, the President of the Chrysler Philippines Salaried Employees Union (CPSU) and Paras' wife, on the other.

On November 3, 1997, the Voluntary Arbitrator (VA) rendered a decision finding the dismissal of Paras valid for his failure to pass the probationary standards of MMPC. The dispositive portion of the decision reads:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered finding the termination of Mr. Paras was valid for cause – his failure to pass the probationary period.^[14]

The VA declared that hiring an employee on a probationary basis to determine his or her fitness for regular employment was in accord with the MMPC's exercise of its management prerogative. The VA pointed out that MMPC had complied with the requirement of apprising Paras of the standards of performance evaluation and regularization at the inception of his probationary employment. The VA agreed with the MMPC that the termination of Paras' employment was effected prior to the expiration of the six-month probationary period. As to Paras' contention that he was already a regular employee before he was dismissed in 1994 considering that he had an accumulated service of eleven (11) months, the VA ruled that Paras' delay in filing a complaint for regularization only in 1996, for services rendered in October 1994 to March 1995, militated against him. The VA stated that Paras' dismissal was based on the unsatisfactory performance rating given to him by his direct supervisors Lito Lacambacal and Wilfredo Lopez. The VA also found that the alleged heated argument between Atty. Carlos S. Cao, the Labor Relations Manager of MMPC, and Cecille Paras, the President of CPSU, was irrelevant in the termination of Paras' services.^[15]

The Case Before the Court of Appeals

Aggrieved, Paras and CCLU filed a petition for review under Rule 43 of the Rules of Court before the Court of Appeals, docketed as C.A.-G.R. SP No. 46030. They

assigned the following errors:

I

THE VOLUNTARY ARBITRATOR COMMITTED A SERIOUS ERROR OF LAW IN FAILING TO HOLD THAT THE NOTICE OF TERMINATION WAS SERVED UPON PETITIONER NELSON PARAS AFTER HE HAS ALREADY BECOME A REGULAR EMPLOYEE, HIS PERIOD FOR PROBATION HAVING EXPIRED.

II

THE VOLUNTARY ARBITRATOR SERIOUSLY ERRED AND GRAVELY ABUSED HIS DISCRETION IN HOLDING THAT PETITIONER NELSON PARAS' SUPPOSED DELAY IN FILING THE ILLEGAL DISMISSAL CASE WORKED AGAINST HIM.

III

THE VOLUNTARY ARBITRATOR ACTED WITH GRAVE ABUSE OF DISCRETION AND COMMITTED SERIOUS ERRORS OF FACT AND LAW IN NOT HOLDING THAT THE PERFORMANCE OF NELSON PARAS WAS SATISFACTORY AND THAT HIS DISMISSAL WAS POLITICALLY MOTIVATED.^[16]

Therein, Paras and CPLU asserted that pursuant to Article 13 of the New Civil Code, the period of May 27, 1996 to November 26, 1996 consisted of one hundred eighty-three (183) days. They asserted that the maximum of the probationary period is six (6) months, which is equivalent to 180 days; as such, Paras, who continued to be employed even after the 180th day, had become a regular employee as provided for in Article 282 of the Labor Code. They averred that as a regular employee, Paras' employment could be terminated only for just or authorized causes as provided for under the Labor Code, and after due notice. They posited that in the Letter of Termination dated November 25, 1996, the ground for Paras' termination was not among those sanctioned by the Labor Code; hence, his dismissal was illegal.

Paras and CPLU also stressed that he had already been in the employ of MMPC from October 3, 1994 to March 3, 1995 as a welder-fabricator in the production of jigs and fixtures, a function necessary and desirable to the usual business of MMPC. Such period, in addition to the six-month probationary period, amounted to eleven (11) months of service, which is sufficient for him to be considered as a regular employee.

Paras and CPLU averred that the filing of an illegal dismissal complaint only after his termination in 1996 did not make Paras' claim for regularization specious, since an illegally dismissed employee, like him, has four (4) years within which to file a complaint.^[17]

They emphasized that Paras' performance evaluation was changed to unsatisfactory as an off-shoot of the arguments between the latter's wife, the President of the CPSU, and Atty. Carlos S. Cao, one of MMPC's negotiators, over the provisions in the CBA.^[18]

The MMPC, for its part, averred that under Article 13 of the New Civil Code, Paras' probationary employment which commenced on May 27, 1996 would expire on November 27, 1996. Since he received the notice of termination of his employment on November 25, 1996, the same should be considered to have been served within the six-month probationary period.

The MMPC asserted that the VA acted correctly in not considering the five-month period of Paras' contractual employment as a welder-fabricator to qualify him for regularization. It argued that his rating showed that his immediate supervisors, in tandem with his department head, found his performance unsatisfactory. Thus, his failure to meet a satisfactory performance rating justified the termination of his probationary employment.

For its part, the Office of the Solicitor General (OSG), in representation of Voluntary Arbitrator Danilo Lorredo, agreed that Paras and CPLU's allegation, that the notice of termination was served on Paras' 183rd day, was erroneous. The OSG opined that the six-month probationary period was to expire on November 27, 1996 and since Paras was served such notice on November 25, 1996, his employment was deemed terminated within the six-month probationary period. It posited that the failure of Paras to get a satisfactory performance rating justified the termination of his probationary employment, and that the inclusion of his five-month contractual employment as welder-fabricator did not qualify him for regular employment.

Finally, the OSG contended that the appointment of a probationary employee to a regular status is voluntary and discretionary on the part of the employer.

In a Decision promulgated on September 13, 2000, the CA reversed the ruling of the Voluntary Arbitrator, the dispositive portion of which is herein quoted:

WHEREFORE, the petition is GRANTED. The Decision of public respondent, dated November 3, 1997, is REVERSED and SET ASIDE. In lieu thereof, judgment is hereby entered declaring Mitsubishi Motors Phils. Corporation's dismissal of Nelson Paras as ILLEGAL and ORDERING the former to reinstate Paras to his former position without loss of seniority rights and other privileges. Conformably with the latest pronouncement of the Supreme Court on backwages, supra, Mitsubishi Motors Phils. Corporation is further ORDERED to pay Paras full backwages (without qualifications or deductions), inclusive of allowances, and his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. Petitioners' claims for attorney's fees, moral and exemplary damages are, nevertheless, DENIED for lack of sufficient basis. No costs.^[19]

The CA agreed with Paras and CPLU's interpretation that six (6) months is equivalent to one hundred eighty (180 days) and that computed from May 27, 1996, such period expired on November 23, 1996. Thus, when Paras received the letter of termination on November 26, 1996, the same was served on the 183rd day or after the expiration of the six-month probationary period. The CA stated that since he was allowed to work beyond the probationary period, Paras became a regular employee. Hence, his dismissal must be based on the just and authorized causes under the Labor Code, and in accordance with the two-notice requirement provided for in the

implementing rules. The appellate court concluded that for MMPC's failure to show that Paras was duly notified of the cause of his dismissal, the latter was illegally dismissed; hence, his actual reinstatement without loss of seniority rights and the payment of backwages up to the time of his reinstatement were in order.

Dissatisfied, the MMPC filed a motion for reconsideration of the decision, alleging that the CA erred in holding that the six-month probationary period which commenced on May 27, 1996, expired on November 23, 1996.

The MMPC contended that the reinstatement of Paras to his former position had become moot and academic because it had retrenched approximately seven hundred (700) employees as a result of its financial losses in 1997. It posited that the payment of full backwages should only be computed up to February 1998, the date when MMPC effected the first phase of its retrenchment program.

The CA denied the motion in a Resolution dated June 18, 2001.^[20]

The Present Petition

Undaunted, the MMPC, now the petitioner, filed this instant petition, alleging as follows:

A.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN REVERSING THE 3 NOVEMBER 1997 DECISION OF THE HONORABLE VA DANILO LORREDO, AND IN FINDING THAT RESPONDENT PARAS (WAS) ILLEGALLY DISMISSED AND ORDERING HIS REINSTATEMENT.

B.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN ORDERING THE REINSTATEMENT OF PARAS WITH FULL BACKWAGES DESPITE THE CHANGE IN THE FINANCIAL CIRCUMSTANCES OF THE COMPANY.

C.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT THE SIX-MONTH PROBATIONARY PERIOD OF PARAS WHICH STARTED ON 27 MAY 1996 HAD EXPIRED 23 NOVEMBER 1996.^[21]

The petitioner asserts that the CA erred in ruling that respondent Paras was already a regular employee when he was served the notice of termination. Citing Article 13 of the New Civil Code, the petitioner argued that the six-month probationary period should be computed as follows:

May 27-31	=	4 days
Jun(e) 1-30	=	1 month (30 days)
July 1-31	=	1 month (30 days)
Aug(.) 1-31	=	1 month (30 days)
Sept(.) 1-30	=	1 month (30 days)
Oct(.) 1-31	=	1 month (30 days)
Nov(.) 1-26	=	