

## **SECOND DIVISION**

**[ G.R. No. 104860, July 11, 1996 ]**

**CITYTRUST BANKING CORPORATION, PETITIONER, VS.  
NATIONAL LABOR RELATIONS COMMISSION, AND MARIA ANITA  
RUIZ, RESPONDENTS.**

### **D E C I S I O N**

**MENDOZA, J.:**

This is a petition for certiorari with prayer for preliminary injunction to annul two resolutions of the National Labor Relations Commission in NLRC INJ. Case No. 1826. The first resolution, dated September 5, 1991, denied a petition to stop implementation of the alias writ of execution, while the second one, dated January 15, 1992, denied petitioner's motion for reconsideration.

The facts are as follows:

Private respondent Ma. Anita Ruiz was the internal auditor of petitioner Citytrust Banking Corporation. On November 1, 1974, she was designated manager of the Quiapo branch of the bank, but she refused the appointment on the ground that it was a demotion. As a consequence, she was suspended and, upon clearance given by the Department of Labor, she was terminated on November 8, 1974.

Private respondent filed a complaint for illegal dismissal. She was ordered reinstated as branch manager, the NLRC urging her to accept the position, otherwise her refusal would be considered a ground for her loss of employment.

Private respondent appealed to the Minister of Labor (now Secretary of Labor and Employment) but again she lost. Both parties then appealed to the Office of the President, which on January 3, 1977, ordered petitioner to reinstate private respondent to her former position as internal auditor and to pay her backwages from the time her compensation was withheld up to the time of her reinstatement.

Petitioner moved for a reconsideration on the ground that the position of internal auditor had been abolished (although the position of resident inspector was created in its stead), and therefore in lieu of reinstatement, it should only be made to pay private respondent's separation pay. The Office of the President modified its decision and ordered petitioner to reinstate private respondent to a substantially equivalent position without loss of seniority rights and to grant her the benefits and privileges to which she would be entitled had she not been dismissed.

On August 14, 1978 petitioner reinstated private respondent as manager of the Auditing Department. Private respondent accepted the appointment but questioned her reinstatement to that position on the ground that it was not substantially equivalent to the position of resident inspector (the position created in place of

internal auditor). She also questioned the award of backwages as the report of the socio-economic analyst allegedly did not include backwages from April 1974 to June 1974 when she was on leave with pay and vacation and sick leave in 1974 and other fringe benefits to which she was entitled before her termination.

On February 26, 1979, Labor Arbiter Apolinario N. Lumabao issued an order holding that the position of manager of the Auditing Department was not substantially equivalent to that of resident inspector. The dispositive portion of his order read:

WHEREFORE, respondent is hereby ordered to reinstate complainant to the position of Resident Inspector and should this not be possible as it appears (that) the position is already filled up (,) to relocate complainant to a substantially equivalent position with all the emoluments and privileges of a Resident Inspector. Respondent is hereby further ordered to pay complainant P9,040.00 as transportation allowance from November 8, 1974 to August 13, 1978 and P1,150.00 mid-year bonus for 1974 in addition to the benefits embodied in the report.

On October 14, 1980, the NLRC affirmed the Labor Arbiter's order with modification by ordering the following to be added to the award:

(a) Her vacation and sick leave privilege during the period of her separation in accordance with the disposition hereinbefore stated in the body of this Resolution, and

(b) the normal increases which complainant would have received during the period of her separation.

Petitioner brought the matter to this Court, but its petition was dismissed.<sup>[1]</sup>

In connection with the computation of the award in her favor, private respondent sought the production of the bank's payrolls for 1974-1981. Her motion was opposed by petitioner which offered instead P74,344.00, the total amount of backwages as computed by the socio-economic analyst of the Department of Labor, plus P9,040.00 in transportation allowance and P1,050.00 mid-year bonus for 1974.

Private respondent refused the offer, hence the NLRC directed the analyst to compute the award on the basis of the payrolls from 1974 to 1981. Petitioner appealed to the NLRC en banc, but its petition was dismissed, on the ground that the order appealed from was interlocutory. Petitioner filed a petition for Certiorari and Prohibition with this Court, assailing the dismissal of its appeal. Again its petition was dismissed for lack of merit.<sup>[2]</sup>

On November 12, 1984, upon motion of private respondent, the NLRC issued a writ of execution of the award of P1,219,520.52. A notice of garnishment was also issued on November 19, 1984 against petitioner. But on petitioner's motion, the NLRC enjoined execution in its order on November 22, 1984, pending the reconstitution of records and recomputation of petitioner's liability.

On May 28, 1985, the socio-economic analyst of the DOLE submitted a computation of the monetary award due private respondent, consisting of (1) backwages from November 8, 1974 to August 13, 1978 and (2) salary differentials (erroneously referred to as backwages) for the period August 14, 1978 to October 31, 1984 and

transportation allowance and mid-year bonus. The total amount found due private respondent was P1,304,054.52, computed as follows:

**Backwages and other fringe benefits from August 14, 1978**

**up to October 31, 1984, per computation embodied in the** P1,219,520.52<sup>[3]</sup>

**Urgent Motion for Issuance of Writ of Execution . . .**

**Backwages and other fringe benefits from November 8, 1974**

74,344.00

**up to August 13, 1978, per report dated August 28, 1979 . . .**

**Transportation allowance from Nov. 8, 1974 up to Aug. 13, 1978**

**and Mid-year bonus for 1974 per Order dated Feb. 26, 1978** 10,190.00

**and affirmed by the NLRC in its Resolution dated Oct. 14, 1980 . . .**

**T o t a l . . .** P1,304,054.52

Petitioner moved to set aside the above computation and asked for the execution of P41,400.00, the amount equivalent to private respondent's three years backwages. On the other hand private respondent moved to lift the restraining order. Her motion was granted, prompting petitioner to file a petition for Certiorari, Mandamus and Prohibition, for the third time, in this Court. Petitioner asked that the Labor Arbiter be directed to award to private respondent backwages limited to three years without deduction, in accordance with the ruling in *Panay Railways v. NLRC*.<sup>[4]</sup>

The petition was at first dismissed by this Court for lack of merit. Petitioner's motion for reconsideration was also dismissed. On July 21, 1986 this Court modified its decision and petitioner was ordered to pay private respondent "backwages limited to three (3) years without qualification or deduction at the salary rate of private respondent at the time of dismissal."<sup>[5]</sup>

On February 23, 1987, the Labor Arbiter ordered a recomputation of private respondent's award. As recomputed, the award is as follows:

A. Total salary and other benefits of a Resident Auditor from August 14, 1978 to December 31, 1986, as per Urgent Motion for Issuance of Writ of Execution dated November 7, 1984:

Aug. 14, 1978 to Dec. 31, 1978	. . . P 47,468.75
Jan. 1, 1979 to Dec. 31, 1979	. . . 126,000.00
Jan. 1, 1980 to Dec. 31, 1980	. . . 141,750.00
Jan. 1, 1981 to Dec. 31, 1981	. . . 157,500.00
Jan. 1, 1982 to Dec. 31, 1982	. . . 177,187.50