

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**PHILIPPINE RABBIT BUS LINES, INC.,
*Petitioner,***

-versus-

**G.R. No. 122078
April 21, 1999**

**NATIONAL LABOR RELATIONS
COMMISSION AND PROCOPIO
EVANGELISTA,
*Respondents.***

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D E C I S I O N

BELLOSILLO, J.:

PHILIPPINE RABBIT BUS LINES, INC., through this Special Civil Action of *Certiorari* under Rule 65 of the Rules of Court as amended, seeks to reverse and set aside the decision of respondent National Labor Relations Commission ordering petitioner to pay private respondent Procopio Evangelista back wages and separation pay equivalent to one (1) month pay for every year of service.

Procopio Evangelista, private respondent, was employed by petitioner on 6 May 1962, first as a bus conductor and later as a dispatcher. On 26 October 1975 petitioner terminated the services of respondent Evangelista; hence, respondent sued petitioner for illegal dismissal.

On 14 April 1976 Labor Arbiter Julio F. Andres, Jr., declared the dismissal of Evangelista as illegal and ordered his reinstatement with payment of back wages. Petitioner appealed to respondent National Labor Relations Commission (NLRC); however, the appeal was dismissed for failure to file the same within the reglementary period.

Petitioner appealed to the Office of the President which, on 10 May 1978, held through Presidential Assistant for Legal Affairs Ronaldo B. Zamora that although there was just cause for terminating the employment of Evangelista the dismissal was nonetheless illegal due to the failure of petitioner to observe the mandatory procedural requirements for termination of employment under the rules implementing the Labor Code. The Office of the President also directed petitioner to reinstate Evangelista and pay him six (6) months back wages.

Petitioner filed a motion for reconsideration; it was denied. Petitioner filed a second motion for reconsideration; it was likewise denied under Executive Order No. 19, series of 1966, which allows only one motion for reconsideration.

On 17 November 1978, the Labor Arbiter issued a writ of execution directing petitioner to reinstate Evangelista and to pay him six (6) months back wages.

In a manifestation dated 10 September 1979 respondent Evangelista informed the Labor Arbiter that the monetary award in his favor had already been fully satisfied, although he had not yet been reinstated by petitioner.

On 16 December 1985 respondent Evangelista moved for the issuance of a second alias writ of execution for his reinstatement and payment of additional back wages from 4 September 1979, the day he presented himself for reinstatement, until he could be actually reinstated.

On 8 January 1986 petitioner opposed the motion asserting that the inaction of private respondent Evangelista for seven (7) years to

pursue his reinstatement had rendered that portion of the decision dormant and therefore could no longer be executed by mere motion.

On 26 April 1986 Labor Arbiter Antonio Tria Tirona issued an alias writ of execution of the 10 May 1978 decision of the Office of the President for the reinstatement of respondent Evangelista. The order did not grant the prayer of private respondent for additional back wages from 4 September 1979 to actual reinstatement as the same was not provided in the dispositive portion of the decision.

Petitioner appealed to respondent NLRC reiterating among others its opposition that the 10 May 1978 order had indeed become dormant hence could not be enforced by mere motion.

On 30 August 1988 respondent NLRC affirmed the order of the Labor Arbiter directing reinstatement of Evangelista without any award of additional back wages. Petitioner filed a motion for reconsideration alleging that reinstatement was inconsistent with the finding of the Office of the President that the dismissal of Evangelista was for a just cause. Respondent Evangelista also filed a motion for reconsideration reiterating his prayer for additional back wages from 4 September 1979 up to actual reinstatement. On 29 November 1988 respondent NLRC denied both motions for reconsideration.

On 5 April 1989 respondent Evangelista submitted a manifestation inviting the attention of respondent NLRC to the reluctance of petitioner to comply with the order to reinstate him and that he was willing to accept separation pay equivalent to one (1) month salary for every year of service. On 16 November 1989 Labor Arbiter Arthur L. Amansec granted Evangelista's request for payment of separation pay in lieu of reinstatement. For its part, petitioner manifested its willingness to grant separation pay to private respondent computed at the wage rate prevailing at the time of his dismissal in 1975.

On 10 January 1990 Labor Arbiter Amansec issued an order directing that the separation pay of Evangelista, which was equivalent to thirty (30) days salary for every year of service, should be based on the minimum wage rate prevailing in April 1989.

Petitioner appealed to respondent NLRC which ruled on 20 July 1995 that respondent Evangelista should be awarded back wages from 26 April 1986, the date of the issuance of the second writ of execution directing his reinstatement, up to April 1989 when he manifested his willingness to accept separation pay in lieu of reinstatement, and back wages based on the statutory minimum wage prevailing in April 1989 computed from the date of hiring up to April 1989, excluding the period 23 August 1979 to 16 December 1985.

This petition was filed by petitioner alleging that respondent NLRC in its decision of 20 July 1995 committed grave abuse of discretion in modifying and amending the final and executory judgment of the Office of the President; and, in enforcing by mere motion the final judgment of the Office of the President despite the lapse of seven (7) years. Petitioner also assailed the 20 May 1978 decision of the Office of the President for having been issued with grave abuse of discretion because it ordered the reinstatement of private respondent despite its own finding that there was just cause in terminating his employment.

We cannot find any jurisdictional error committed by respondent NLRC.

The decision of 10 May 1978 of the Office of the President, which has long been final and executory, declared that private respondent was illegally dismissed; hence, he was entitled to reinstatement and six (6) months back wages. Although the monetary award to private respondent had been fully satisfied by petitioner, respondent Evangelista had not been reinstated despite the issuance of a writ of execution to enforce the decision.

Neither can we perceive any grave abuse of discretion in the issuance of the NLRC decision of 20 July 1995 which ordered petitioner to pay separation pay plus back wages for its refusal to reinstate the latter, for the period commencing 26 April 1986 when the second alias writ of execution was issued directing reinstatement, to April 1989, the date when private respondent manifested his preference for separation pay instead of reinstatement. It must be emphasized that respondent NLRC, in the enforcement of the final decision of the Office of the President, had the authority to look into the correctness

of the execution of the decision and to modify or make a recomputation of the monetary award to conform with the Decision.^[1]

The award of separation pay in lieu of reinstatement is an equitable recourse that has been sanctioned by this Court in a number of cases.^[2] Moreover, the order of reinstatement is immediately executory. The unjustified refusal of the employer to reinstate an illegally dismissed employee entitles him to payment of his salaries effective from the time the employer failed to reinstate him despite the issuance of a writ of execution.^[3] Therefore, the payment of back wages by petitioner to respondent Evangelista for the period he was not reinstated despite the alias writ of execution up to the time he opted for separation pay in lieu of reinstatement is equitable and justified under the law.

Petitioner cannot legally invoke in this case the strict application of the rule limiting execution of judgment by mere motion within a period of five (5) years only. There have been cases where on meritorious grounds this Court allowed execution by mere motion even after the lapse of five (5) years. Their common denominator in those instances was the delay caused or occasioned by actions of the judgment debtor and/or incurred for his benefit or advantage.^[4] Here, petitioner had unduly delayed the full implementation of the final decision of the Office of the President since 1978 by filing numerous dilatory appeals and persistently failing and refusing to immediately reinstate private respondent. Technicalities have no room in labor cases where the Rules of Court are applied only in a suppletory manner and only to effectuate the objectives of the Labor Code, and not to defeat them.^[5] The law bends over backwards, under the policy of social justice, to accommodate the interests of the working class on the humane justification that those with less privileges in life should have more in law.^[6]

Finally, petitioner can no longer assail the propriety of the final decision of the Office of the President issued way back on 10 May 1978. The finality of a decision is a jurisdictional event which cannot be made to depend on the convenience of a party.^[7] Once a decision attains finality, it becomes the law of the case whether or not the decision is erroneous.^[8]

WHEREFORE, the decision of respondent National Labor Relations Commission dated 20 July 1995 directing petitioner Philippine Rabbit Bus Line, Inc., to pay private respondent Procopio Evangelista separation pay plus back wages from 26 April 1986 to April 1989 is **AFFIRMED**. This decision is immediately executory. The Labor Arbiter is directed to ensure the speedy implementation of this decision which has long been unduly delayed.

SO ORDERED.

Puno, Mendoza, Quisumbing and Buena, JJ., concur.

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- [1] Bliss Development Corp. vs. NLRC, G.R. No. 111017, 31 August 1995, 247 SCRA 800.
 - [2] Philtread Tire and Rubber Corp. vs. NLRC, G.R. No. 102185, 15 February 1993, 218 SCRA 805.
 - [3] Medina vs. Consolidated Broadcasting System, G.R. Nos. 99054-56, 28 May 1993, 222 SCRA 707.
 - [4] Republic of the Philippines vs. Court of Appeals, G.R. No. 91885, 7 August 1996, 260 SCRA 344.
 - [5] General Baptist Bible College vs. NLRC, G.R. No. 85534, 5 March 1993, 219 SCRA 549.
 - [6] PAL vs. Santos, G.R. No. 77875, 4 February 1993, 218 SCRA 415.
 - [7] NIA Consult Inc. vs. NLRC, G.R. No. 108278, 2 January 1997, 266 SCRA 17.
 - [8] Asuncion vs. NLRC, G.R. No. 109311, 17 June 1997, 273 SCRA 498.