

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**PHILIPPINE JOURNALISTS, INC.,
*Petitioner,***

-versus-

**G.R. No. 141430
May 7, 2004**

**MICHAEL MOSQUEDA,
*Respondent.***

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DECISION

SANDOVAL-GUTIERREZ, J.:

For resolution is a Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision^[1] dated August 23, 1999 and the Resolution^[2] dated December 15, 1999 rendered by the Court of Appeals in CA-G.R. SP No. 50485, entitled “Journal Employees Union and Michael Mosqueda vs. National Labor Relations Commission and Philippine Journalist, Inc.”

The undisputed facts of this case are as follows:

After the 1986 EDSA revolution, Philippine Journalists, Inc. (PJI), petitioner, was sequestered by the Presidential Commission on Good Government (PCGG).^[3] By virtue of the writs of sequestration issued

by the Sandiganbayan, PJI was placed under the management of PCGG, through its nominees to the Board of Directors.

However, Rosario Olivares, who owns 20% or 1,000 common shares, attempted to regain control of the PJI management. During the stockholders' meeting on February 4, 1992, Olivares insisted on acting as presiding officer over the vehement objections of the PCGG representatives. As a consequence, the Olivares group and the PCGG group held separate stockholders' meetings, where each group elected its own members to the Board of Directors.

During that stockholders' meeting, the Olivares group passed Resolution No. 92-2 designating Michael Mosqueda, respondent, as Chairman of a Task Force, along with five (5) other members, to protect the properties, funds and assets of PJI and enforce or implement directives, instructions and orders of the Olivares group. Respondent was also tasked to post copies of the Resolution^[4] dated February 3, 1992 of the Sandiganbayan, "Notice to all PJI employees" of its elected board members and officers, and the Secretary's Certificate issued by Andrea de la Cueva.

On February 5, 1992, Abraham J. Buenaluz, Officer-in-charge of PJI's Administrative Services Division, issued a memorandum to respondent and the other members of the Task Force charging them with "serious misconduct prejudicial to the interest of the company and/or present management; willful breach of trust and confidence; conflict of interest; and disloyalty under the PJI Personnel Handbook" and directing them to submit their written explanation within 24 hours from notice.

Respondent submitted his explanation the next day, while the other members of the Task Force submitted their joint explanation on February 7, 1992.

Meanwhile, in a Memorandum dated February 8, 1992, petitioner's new management placed respondent and other members of the Task Force under preventive suspension pending the investigation of the formal charges against them.

On February 18, 1992, petitioner's new management served upon respondent and the other members of the Task Force the notices of the formal investigation set on February 27 and 28, 1992.

However, prior to the investigation, the Journal Employees Union (Union), for and in behalf of respondent and other members, filed with the Labor Arbiter a complaint for illegal suspension, unfair labor practice, and damages against petitioner.

Subsequently, petitioner conducted clarificatory hearings, but respondent and the other employees concerned failed to appear despite notice. Nonetheless, petitioner's investigating panel^[5] gave the employees an opportunity to present their evidence on March 4, 1992, but still they failed to do so.

Upon recommendation of Officer-in-charge Buenaluz, petitioner terminated the services of respondent and the other members of the Task Force on March 10, 1992.

This prompted the union to file, on March 25, 1992, with the Labor Arbiter an amended complaint for illegal dismissal, unfair labor practices and damages.

On June 10, 1993, the Labor Arbiter rendered a Decision holding that respondent and the other five employees were illegally dismissed from employment and ordering petitioner (1) to reinstate them to their former positions and (2) to pay their backwages and moral and exemplary damages amounting to P2,708,479.76; and attorney's fees equivalent to 10% of the monetary awards, thus:

“This Office after careful review and evaluation of the pleadings and documents the parties submitted, finds for the complainants.

Records of the case will show that the only reason for the dismissal of the complainants was following the instructions of the ‘crony group’. Even the pleadings and evidence submitted by respondents will bear this out. It is now for this Office to find out what kind of instruction is this. Is it against the interest of PJI, their employer?

X X X

A perusal of these instructions will reveal that the Task Force is only supposed to safeguard the assets of the corporation. There is nothing wrong with these instructions because even the PCGG is duty bound to safeguard the assets of the corporation (PJI). The only thing wrong with these instructions is that they were given out by the 'crony group.'

To punish the complainants with dismissal for following instructions to safeguard the assets of the corporation (PJI) just because it was given by the said group is the perfect example of illegal dismissal.

X X X

Complainants were victims of power play in the corporation.

X X X

WHEREFORE, premises above-considered, judgment is hereby rendered ordering respondents to:

- 1) Reinstate complainants to their former positions without loss of seniority rights and other benefits/privileges;
- 2) Pay backwages to complainants, as follows:

Mosqueda:

Backwages from February 1992 up to actual reinstatement which if computed as of May 31, 1993 amounts to
(P 6,068.67 x 16 months) -----P 97,088.00

Desunia:

Backwages from February 1992 up to actual reinstatement which if computed as of May 31, 1993 amounts to (P 6,083.61 x 16 months) -----P 97,347.76

Santos:

Backwages from February 1992 up to actual reinstatement which if computed as of May 31, 1993 amounts to (P 5,994.25 x 16 months) -----P 95,908.00

Masola:

Backwages from February 1992 up to actual reinstatement which if computed as of May 31, 1993 amounts to (P 6,517.00 x 16 months) -----P 104,272.00

Rivera:

Backwages from February 1992 up to actual reinstatement which if computed as of May 31, 1993 amounts to (P 7,069.25 x 16 months) -----P 113,108.00

Dalmacion:

Backwages from February 1992 up to actual reinstatement which if computed as of May 31, 1993 amounts to (P 6,297.25 x 16 months) -----P 100,758.00

3) Pay complainants three hundred thousand (P300,000.00) Pesos, each as moral damages and fifty thousand (P50,000.00) pesos, each as exemplary damages; and

- 4) Pay attorney's fees of 10% of the total monetary award of P2,708,479.76 or in the amount of P270,847.97.

The complaint for unfair labor practice is dismissed for lack of legal and factual basis.

SO ORDERED.”

Upon appeal by petitioner, the National Labor Relations Commission (NLRC) rendered a Decision dated March 20, 1996 affirming the Arbiter's Decision with modification in the sense that the award of backwages, damages and attorney's fees was deleted. Both parties filed their motions for reconsideration but were denied.

On July 4, 1996, respondent filed with the Court of Appeals a petition for certiorari assailing, as grave abuse of discretion, the NLRC's deletion of the award of backwages, damages and attorney's fees.

In a Decision dated August 23, 1999, the Court of Appeals granted the petition and reinstated the Arbiter's award of backwages, thus:

“In the case at bar, both the Labor Arbiter and then NLRC have the same findings that the petitioner and the other complainants were illegally dismissed. However, they differ as to: (1) the award of backwages, damages and attorney's fees; x x x; (3) NLRC deleted the award of backwages to petitioner Michael Mosqueda and likewise deleted the awards for damages and attorney's fees.

The public respondent considered the penalty imposed by respondent PJI as too harsh considering the fact that no damages has yet been incurred or done by the acts of petitioner Mosqueda & company because PJI immediately acted on the supposed unlawful act of the February 4, 1992 and PJI acted on the matter on February 5, 1992 when respondent Buenaluz issued a Memorandum requiring petitioner & company to explain within twenty four hours why no charges will be filed against them for doing acts inimical to the interests of respondent PJI. As correctly pointed out by the Labor Arbiter

and public respondent NLRC, the dismissal of the petitioner and his co-complainants is too harsh a penalty. x x x.

However, respondent NLRC erred in merely ordering private respondents to reinstate petitioner without loss of seniority rights and other privileges and benefits due him without payment of backwages. The non-payment of backwages was considered as a penalty for petitioner for obeying an order knowing that the same is unlawful or illegal.

x x x

WHEREFORE, IN VIEW OF THE FOREGOING PREMISES, the petition is hereby GRANTED. The Decision of respondent NLRC is hereby MODIFIED to read as follows:

‘WHEREFORE, premises considered, the impugned decision of the Labor Arbiter a quo is modified in the sense that Mr. Mosqueda should be reinstated with backwages from March 11, 1992 up to the time of his actual reinstatement without loss of seniority and other benefits and privileges, his preventive suspension pending investigation imposed by private respondents from February 10, 1992 up to March 10, 1992 being considered as a penalty for his action.

(2) All claims of the complainants of damages and attorney’s fees are dismissed for lack of merit;

(3) The dismissals of Dalmacion, Desunia, Masola, Rivera and Santos are affirmed to be illegal. PJI is directed to reinstate them with full backwages the backwages to be computed from their termination up to the time of their actual reinstatement.

No pronouncement as to cost.

SO ORDERED.”

On September 10, 1999, petitioner filed a motion for reconsideration, but was denied in a Resolution dated December 15, 1999.

Petitioner now comes to this Court via a petition for review on certiorari, ascribing to the Court of Appeals the lone error of reinstating the Arbiter's award of backwages in favor of respondent.

Respondent, in his comment, maintains that since his dismissal from the service is without justifiable cause, therefore, his reinstatement with payment of full backwages and other benefits and privileges is justified.

Time and again, this Court has the occasion to reiterate the well-established rule that findings of fact by the Court of Appeals are conclusive on the parties and are not reviewable by this Court. We find no compelling reason to disturb the factual findings of the Court of Appeals affirming those of the Labor Arbiter and the NLRC, being supported by substantial evidence. The rationale behind this doctrine is that review of the findings of fact by the Court of Appeals is not a function that the Supreme Court normally undertakes.^[6]

Here, the Court of Appeals unequivocally ruled that "both the Labor Arbiter and the NLRC have the same finding that the petitioner (herein private respondent) and the other complainants were illegally dismissed." Evidently, there is no cogent reason why we should not also accord deference and finality to such factual finding made by two independent labor tribunals. Indeed, they aptly concluded that following instructions to safeguard the assets of petitioner is not a ground for dismissal of an employee from the service, and that respondent is a victim of "power play in the corporation."

Thus, the sole issue for our determination is whether the award of backwages to respondent is proper.

Under Art. 279 of the Labor Code, an employee who is unjustly dismissed is entitled to reinstatement, without loss of seniority rights and other privileges, and to the payment of his full backwages, inclusive of allowances, and other benefits or their monetary equivalent, computed from the time his compensation was withheld

from him (which, as a rule, is from the time of his illegal dismissal) up to the time of his actual reinstatement.^[7]

Similarly, under R.A. 6715,^[8] employees who are illegally dismissed are entitled to full backwages, inclusive of allowances and other benefits or their monetary equivalent, computed from the time their actual compensation was withheld from them up to the time of their actual reinstatement. If reinstatement is no longer possible, the backwages shall be computed from the time of their illegal termination up to the finality of the decision.^[9]

This Court does not see any reason to depart from the foregoing rule in the case of herein respondent who, as held by three (3) independent bodies, was illegally dismissed, and thus, rightfully entitled to an award of full backwages, inclusive of allowances and other benefits or their monetary equivalent, computed from March 10, 1992, the date of his illegal dismissal (and not from March 11, 1992 as erroneously held by the Court of Appeals) up to the time of his actual reinstatement.

WHEREFORE, the Decision dated August 23, 1999 and Resolution dated December 15, 1999 of the Court of Appeals in CA-G.R. SP No. 50485 are **AFFIRMED** with **MODIFICATION** in the sense that respondent is awarded his full backwages, other privileges and benefits, or their monetary equivalent corresponding to the period of his dismissal from March 10, 1992 up to his actual reinstatement.

Costs against petitioner.

SO ORDERED.

Vitug, J., (Chairman), Corona, and Carpio-Morales, JJ., concur.

[1] Annex "A" of the Petition for Review, Rollo at 20-31.

[2] Annex "B", id. at 32-34.

[3] Since 1987, two government agencies took turns in controlling the management of PJI. In 1991, the writs of sequestration against PJI were lifted pursuant to our Decision in Republic vs. Sandiganbayan (250 SCRA

530 [1991]). Since then up to the present, the Asset Privatization Trust (APT), now the Privatization and Management Office, has managed PJI.

[4] The dispositive portion of which reads:

“WHEREFORE, finding the instant motion to be justified, meritorious and in order, We grant the relief prayed for therein. Accordingly, the 1992 Annual Stockholders’ meeting of PJI is ordered to be held on February 4, 1992 at 2:00 o’clock p.m., at the training room of the PJI Building at Railroad Street, Port Area, Manila, and the present PJI management, its officers, employees, security guards, agents and representatives are hereby enjoined from interfering, obstructing or preventing such meeting to be held or the stockholders from entering said building or premises and conducting said meeting in said building or any appropriate room thereat. Furthermore, the Development Bank of the Philippines/Asset Privatization Trust are hereby enjoined to send their representatives to said meeting and vote the 67% voting rights assigned to them and, in case of their refusal or failure to comply herewith, they shall be considered to have waived their right to vote said shares in favor of the assignors thereof. Finally, in the event that the representatives of PJI, DBP and APT fail to attend said meeting, defendant Rosario M.B. Olivares is hereby authorized to act as Presiding Officer and call the meeting to order and proceed with the conduct of business thereat as contemplated/mandated by the By-Laws.

SO ORDERED.”

[5] Composed of Atty. Jacinto Fajardo of the Legal Affairs Office and Mr. Antonio Mortel of the Publication Division.

[6] *Nokom vs. NLRC*, G.R. No. 140043, July 18, 2000, 336 SCRA 97.

[7] *Rodriguez, Jr. vs. NLRC*, G.R. No. 153947, December 5, 2002, 393 SCRA 511, 517, citing *Bustamante vs. NLRC*, 265 SCRA 61 (1996), also cited in *Prudential Bank and Trust Co. vs. Reyes*, 352 SCRA 316 (2001).

[8] RA 6715 is the “New Labor Relations Law” or the “Herrera-Veloso Law” which took effect on March 21, 1989.

[9] *Buenviaje et al. vs. CA*, G.R. No. 147806, November 12, 2002, 391 SCRA 440, 446, citing *Prudential Bank and Trust Co. vs. Reyes*, 352 SCRA 316 (2001); *Times Transit Credit Cooperative, Inc. vs. NLRC*, 304 SCRA 11 (1999).