FIFTEENTH DIVISION

[CA-G.R. SP NO. 91256, August 09, 2006]

GEORGE A. ARRIOLA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (3RD DIVISION), PILIPINO STAR NGAYON, INC. AND/OR MIGUEL G. BELMONTE, RESPONDENTS.

D E C I S I O N

REYES, J.:

This is a Petition for Certiorari under Rule 65 of the 1997 Rules of Court which seeks to reverse and set aside the Decision dated 31 March 2005 and Resolution dated 30 June 2005 both rendered by public respondent National Labor Relations Commission which affirmed the Decision dated 16 July 2003 issued by the Labor Arbiter.

The antecedents leading to the present controversy:

Petitioner George Arriola "(Arriola" for brevity) alleged that he was employed by private respondent Pilipino Star Ngayon, Inc. ("PSN" for brevity) and/or by its President - Miguel G. Belmonte, a business entity duly organized and existing under and by virtue of the laws of the Philippines and has its principal office at Railroad corner Roberto S. Oca Streets, Port Area, Manila in July 1986 as a correspondent assigned in Olongapo City and Zambales area. During his employment from 1986 to 15 November 1999, he occupied several positions in the company, the latest of which was Editor and Columnist of private respondent PSN's *Tinig ng Pamilyang OFWS* Section with a salary of P12,500.00 plus P2,000.00 allowance per month. (***digested on p. 17, Rollo***)

On 15 November 1999, petitioner Arriola's services were illegally terminated. Hence, he filed a complaint for illegal dismissal, non-payment of salary and attorney's fees against private respondent PSN before the Labor Arbiter, docketed as NLRC NCR Case No. 00-1109986-02. (***Id., p. 17***)

On the other hand, private respondent PSN admits that petitioner Arriola was employed as a writer/editor in July 1986; however, sometime in the third week of November 1999, petitioner Arriola suddenly absented himself from work and since then, he had never reported for work again or even made a phone call to private respondent PSN; that the latter tried to contact petitioner Arriola through his beeper and asked him to report for work but he did not respond; that after a few months, private respondent PSN learned that petitioner Arriola got employed with another publication and after more than three years, he filed the instant case. (***digested on p. 17, Id.***)

Private respondent PSN further averred, that it tried to contact petitioner Arriola through his Jas Page Beeper (1441-248745) issued to him by the company but he never answered; it also sent communication through a former employee, Belinda

Punzalan requesting him to return to work but he remained silent and they found out latter that petitioner Arriola now regularly writes and has a column in a newspaper called Imbestigador. (***Id., pp. 17 to 18***)

On 16 July 2003, the Labor Arbiter rendered a Decision, the decretal text of which reads:

> "WHEREFORE, premises considered, the complaint is, as it is hereby ordered DISMISSED for lack of merit.
>
> SO ORDERED". (***Rollo, p. 27***)

From the aforequoted Decision, petitioner Arriola appealed the same before public respondent NLRC and thereafter, it rendered a Decision dated 31 March 2005, the dispositive portion of which reads:

> "WHEREFORE, premises considered, the Decision dated July 16, 2003 is AFFIRMED and the instant appeal therefrom DISMISSED for lack of merit.SO ORDERED". (***Id. at p. 20***)

Discontented, petitioner Arriola sought reconsideration thereof and the same was denied in public respondent NLRC's Resolution dated 30 June 2005, the *fallo* of which reads:

> "ACCORDINGLY, the instant Motion for Reconsideration is hereby DENIED for lack of merit.No further Motions for Reconsideration shall be entertainedSO ORDERED". (***Id. at pp. 21-22***)

Hence, this recourse wherein petitioner Arriola raised the following assigned errors, to wit:

> I.
>
> "WITH DUE RESPECT, THE HONORABLE THIRD DIVISION OF THE NLRC COMMITTED PALPABLE ERROR WHEN IT RULED THAT PETITIONER WAS NOT DISMISSED BY THE PRIVATE RESPONDENTS AND THAT PETITIONER ABANDONED HIS JOB IN THAT, PETITIONER JOINED ANOTHER PUBLICATION WHICH ALLEGATION WAS NOT EVIDENCE-BASED".
>
> II.
>
> "WITH DUE RESPECT, THE HONORABLE THIRD DIVISION OF THE NLRC COMMITTED PALPABLE ERROR WHEN IT UPHELD WITH ITS IMPLIED AFFIRMANCE OF THE HIGHLY ERRONEOUS DECISION OF THE HONORABLE LABOR ARBITER BELOW THAT WAS NOT EQUALLY BASED ON SUBSTANTIAL EVIDENCE, THE LAW AND JURISPRUDENCE APPLICABLE TO THE CASE AT BAR, WHEN IT RULED THAT PETITIONER'S MONEY CLAIMS HAD ALREADY PRESCRIBED".
>
> III.
>
> "ON QUESTIONS OF LAW AND JURISPRUDENCE". (***Id. at p. 7***)

The petition is not meritorious.

We shall jointly discuss all the assigned errors for being inter-related.

Prefatorily, petitioner Arriola is raising questions of fact, i.e. he did not abandon his work and that he did not join another publication based on the evidence on record but rather he was illegally dismissed by private respondent PSN which to us are factual issues which are beyond the province of certiorari to resolve. The sole office of a writ of certiorari is the correction of errors of jurisdiction and does not include a review of public respondent's evaluation of the evidence and factual findings. (***Oro vs. Diaz, 361 SCRA 108***). In the same breath, we emphasize that it is axiomatic that the findings of the Labor Arbiter, when affirmed by the NLRC, are generally binding on this court, unless patently and grossly erroneous. It is not the function of this court to analyze or weigh all over again the evidence already considered in the proceedings below; or re-evaluate the credibility of witnesses; or substitute the findings of fact of an administrative tribunal which has expertise in its special field (***Urbanes vs. Court of Appeals, et al., 444 SCRA 84; German Machineries vs. Endaya, 444 SCRA 329***). Such is the situation in the instant case as the public respondent NLRC had affirmed the findings of fact of the Labor Arbiter and in fact, affirmed the latter's decision ***in toto***.

With more reason, this petition for certiorari is a special civil action where our review is limited to the consideration of whether the judge acted outside of or in excess of its jurisdiction by violating jurisdictional parameters or through grave abuse of discretion amounting to lack or excess of jurisdiction. Grave abuse of discretion implies such capricious and whimsical exercise of jurisdiction or, the exercise of power in an arbitrary or despotic manner because of passion or personal hostility or in a manner so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law. (***Esquerra vs. Court of Appeals, 267 SCRA 380, 399 to 400***).

Be that as it may, in the interest of substantial justice, we deem it wise to resolve the issues in the case at bar.

Petitioner Arriola contends that he was illegally dismissed when private respondent Belmonte told him on 15 November 1999 that his column would be removed and that he would be given separation pay.

We are not persuaded.

The removal of his column from private respondent PSN's column is not tantamount to a termination of his employment as his job is not dependent on the existence of the column "Tinig ng Pamilyang OFWs'. Further, it is a management prerogative of private respondent PSN to decide on what sections should and would appear in the newspaper publication taking into consideration the business viability and profitability of each section. Respondent PSN decided to replace the *"Pamilyang OFWs"* section with another which it ought would better sell to the reading public. Every business enterprise endeavors to increase its profits. In the process, it may adopt or devise means designed towards that goal. Even as the law is solicitous of the welfare of the employees, it must also protect the right of an employer to exercise what are clearly management prerogatives. The free will of management