

FIRST DIVISION

[G.R. No. 178699, September 21, 2011]

**BPI EMPLOYEES UNION - METRO MANILA AND ZENAIDA UY,
PETITIONERS, VS. BANK OF THE PHILIPPINE ISLANDS,
RESPONDENT.**

[G.R. NO. 178735]

**BANK OF THE PHILIPPINE ISLANDS, PETITIONER, VS. BPI
EMPLOYEES UNION - METRO MANILA AND ZENAIDA UY,
RESPONDENTS.**

D E C I S I O N

DEL CASTILLO, J.:

The base figure in computing the award of back wages to an illegally dismissed employee is the employee's basic salary plus regular allowances and benefits received at the time of dismissal, unqualified by any wage and benefit increases granted in the interim.^[1]

By these consolidated Petitions for Review on *Certiorari*,^[2] the Bank of the Philippine Islands (BPI), BPI Employees Union-Metro Manila (the Union) and Zenaida Uy (Uy) seek modification of the Court of Appeals' (CA) Amended Decision^[3] dated July 4, 2007 in CA-G.R. SP No. 92631. Said Amended Decision computed Uy's back wages and other monetary awards pursuant to the final and executory Decision^[4] dated March 31, 2005 of this Court in G.R. No. 137863 based on her salary rate at the time of her dismissal and disregarded the salary increases granted in the interim as well as other benefits which were not proven to have been granted at the time of Uy's dismissal from the service.

Factual Antecedents

On December 14, 1995, Uy's services as a bank teller in BPI's Escolta Branch was terminated on grounds of gross disrespect/discourtesy towards an officer, insubordination and absence without leave. Uy, together with the Union, thus filed a case for illegal dismissal.

On December 31, 1997, the Voluntary Arbitrator^[5] rendered a Decision^[6] finding Uy's dismissal as illegal and ordering BPI to immediately reinstate Uy and to pay her full back wages, *including all her other benefits under the Collective Bargaining Agreement (CBA)* and attorney's fees.^[7]

On October 28, 1998, the CA affirmed with modification the Decision of the Voluntary Arbitrator. Instead of reinstatement, the CA ordered BPI to pay Uy her

separation pay. Further, instead of full back wages, the CA fixed Uy's back wages to three years.^[8]

The case eventually reached this Court when both parties separately filed petitions for review on *certiorari*. While BPI's petition which was docketed as G.R. No. 137856 was denied for failure to comply with the requirements of a valid certification of non-forum shopping,^[9] Uy's and the Union's petition which was docketed as G.R. No. 137863 was given due course.

On March 31, 2005, the Court rendered its Decision^[10] in G.R. No. 137863, the dispositive portion of which reads:

WHEREFORE, the instant petition is **GRANTED**. The assailed 28 October 1998 Decision and 8 March 1999 Resolution of the Court of Appeals are hereby **MODIFIED** as follows: 1) respondent BPI is **DIRECTED** to pay petitioner Uy backwages from the time of her illegal dismissal until her actual reinstatement; and 2) respondent BPI is **ORDERED** to reinstate petitioner Uy to her former position, or to a substantially equivalent one, without loss of seniority right and other benefits attendant to the position.

SO ORDERED.^[11]

Ruling of the Voluntary Arbitrator

After the Decision in G.R. No. 137863 became final and executory, Uy and the Union filed with the Office of the Voluntary Arbitrator a Motion for the Issuance of a Writ of Execution.^[12]

In Uy's computation, she based the amount of her back wages on the *current* wage level and included all the increases in wages and benefits under the CBA that were granted during the entire period of her illegal dismissal. These include the following: Cost of Living Allowance (COLA), Financial Assistance, Quarterly Bonus, CBA Signing Bonus, Uniform Allowance, Medicine Allowance, Dental Care, Medical and Doctor's Allowance, Teller's Functional Allowance, Vacation Leave, Sick Leave, Holiday Pay, Anniversary Bonus, Burial Assistance and Omega watch.^[13]

BPI disputed Uy's/Union's computation arguing that it contains items which are not included in the term "back wages" and that no proof was presented to show that Uy was receiving all the listed items therein before her termination. It claimed that the basis for the computation of back wages should be the employee's wage rate *at the time of dismissal*.^[14]

In an Order dated December 6, 2005,^[15] the Voluntary Arbitrator agreed with Uy's/Union's contention that full back wages should include all wage and benefit increases, including new benefits granted during the period of dismissal. The Voluntary Arbitrator opined that this Court's March 31, 2005 Decision in G.R. No. 137863 reinstated his December 31, 1997 Decision which ordered the payment of full back wages computed from the time of dismissal until actual reinstatement

including all benefits under the CBA. Nonetheless, the Voluntary Arbitrator excluded the claims for uniform allowance, anniversary bonus and Omega watch for want of basis for their grant.

The Voluntary Arbitrator thus granted the motion for issuance of writ of execution and computed Uy's back wages in the total amount of P3,897,197.89 as follows:

Basic Monthly Salary (BMS)	P
2,062, 087.50	
Cost of Living Allowance.....	
56, 100.00	
Financial	
Assistance.....	
39,000.00	
Total Quarterly Bonuses	
693, 820.00	
CBA	Signing
Bonus.....	32,
500.00	
Medicine	
Allowance.....	58,
400.00	
Dental	Care
.....	14,
120.00	
Medical and Doctor's Allowance.....	
58, 400.00	
Teller's	Functional
Allowance.....	25, 500.00
Vacation	
Leave.....	187,
085.50	
Sick	
Leave.....	
187, 085.50	
Holiday	
Pay.....	128,
808.65	
Attorney's	
Fee.....	354,
290.72	
Grand Total.....	P
3,897,197.89 ^[16]	

A Writ of Execution^[17] and a Notice of Garnishment^[18] were subsequently issued.

Ruling of the Court of Appeals

Imputing grave abuse of discretion on the part of the Voluntary Arbitrator, BPI filed with the CA a Petition for *Certiorari* with urgent Motion for the Issuance of a

Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction.^[19] BPI alleged that the Voluntary Arbitrator's erroneous computation of back wages amended and varied the terms of the March 31, 2005 final and executory Decision in G.R. No. 137863.

Specifically, it averred that the Voluntary Arbitrator erred in computing back wages based on the current rate and in including the wage increases or benefits given in the interim as well as attorney's fees. BPI further argued that there was no basis for the award of teller's functional allowance, cash conversion of vacation and sick leaves and dental care allowance.

In their Comment,^[20] Uy and the Union alleged that BPI's remedy is not a *certiorari* petition under Rule 65 of the Rules of Court but an appeal from judgments, final orders and resolutions of voluntary arbitrators under Rule 43 of the Rules of Court. They also contended that BPI's petition is wanting in substance.

Meanwhile, the CA issued a TRO^[21] restraining the implementation of the December 6, 2005 Order of the Voluntary Arbitrator and the corresponding Writ of Execution issued on December 12, 2005. Upon receipt of the TRO, Uy and the Union filed an Urgent Motion for Clarification^[22] on whether the TRO encompasses even the implementation of the reinstatement aspect of the March 31, 2005 Decision of this Court in G.R. No. 137863.

The CA initially rendered a Decision^[23] on May 24, 2006. In said Decision, the CA held that BPI's resort to *certiorari* was proper and that the award of CBA benefits and attorney's fees has legal basis. The CA however found that the Voluntary Arbitrator erroneously computed Uy's back wages based on the current rate. The CA also deleted the award of dental allowance since it was granted in 2002 or more than six years after Uy's dismissal.

Both parties thereafter filed their respective motions for reconsideration. Consequently, on July 4, 2007, the CA issued the herein assailed Amended Decision.

In its Amended Decision, the CA upheld the propriety of BPI's resort to *certiorari*. It also ruled that this Court's March 31, 2005 Decision in G.R. No. 137863 did not reinstate the December 31, 1997 Decision of the Voluntary Arbitrator awarding full back wages including CBA benefits. The CA ruled that the computation of Uy's full back wages, as defined under Republic Act No. 6715, should be based on the basic salary at the time of her dismissal plus the regular allowances that she had been receiving likewise at the time of her dismissal. It held that any increase in the basic salary occurring after Uy's dismissal as well as all benefits given after said dismissal should not be awarded to her in consonance with settled jurisprudence on the matter. Accordingly, the CA pronounced that Uy's basic salary, which amounted to P10,895.00 at the time of her dismissal on December 14, 1995, is to be used as the base figure in computing her back wages, exclusive of any increases and/or modifications. As Uy's entitlement to COLA, quarterly bonus and financial assistance are not disputed, the CA retained their award provided that, again, the base figure for the computation of these benefits should be the rate then prevailing at the time of Uy's dismissal.

The CA deleted the award of CBA signing bonus, medicine allowance, medical and

doctor's allowance and dental care allowance for lack of sufficient proof that these benefits were already being received and enjoyed by Uy at the time of her dismissal. However, it held that the teller's functional allowance should rightfully be given to Uy as a regular bank teller as well as the holiday pay and monetary equivalent of vacation and sick leave benefits. As for the attorney's fees, the CA ruled that Uy's right over the same has already been resolved and has attained finality when it was neither assailed nor raised as an issue after the Voluntary Arbitrator awarded it in favor of Uy.

Finally, the CA likewise ruled that Uy's reinstatement was effectively restrained by the TRO issued by it. Pertinent portions of the CA's Amended Decision read:

All told, We find Petitioner's Motion for Reconsideration to be partly meritorious and so hold that Private Respondent Uy is entitled to the following sums to be included in the computation:

1. Basic Monthly Salary, COLA and Quarterly Bonus, with P10,895.00 as the base figure, computed from the time of her dismissal up to her actual reinstatement;
2. Teller's Functional Allowance, based on the rate at the time of her dismissal;
3. Monetary Equivalent of Vacation and Sick Leaves, and Holiday Pay, based on the rate at the time of her dismissal;
4. Attorney's Fees, which is 10% of the total amount of the award.

Anent the Private Respondent's Urgent Motion for Clarification, Private Respondent asked whether the TRO issued by this Court on January 3, 2006 restrained the reinstatement of Private Respondent Uy.

We answer in the affirmative.

The wordings of the *Resolution* ordering the issuance of a temporary restraining order are clear. The TRO was issued to restrain the implementation and/or enforcement of the Public Respondent's Order dated December 6, 200^[5] and the Writ of Execution, dated December 12, 200^[5]. Considering that said Order and the ensuing Writ are for the reinstatement of Private Respondent Uy, hence, the TRO, indeed, effectively restrained Uy's reinstatement.

WHEREFORE, Private Respondents' Motion for Partial Reconsideration is **DENIED** and Petitioner's Motion for Partial Reconsideration is **GRANTED IN PART**. The Decision of this Court promulgated on May 24, 2006 is hereby **amended**, and the Public Respondent Voluntary Arbitrator is **ordered to recompute** the amount of backwages due to Private Respondent Uy consistent with the foregoing ruling.