

SECOND DIVISION

[G.R. No. 174833, December 15, 2010]

MYRNA P. MAGANA, PETITIONER, VS. MEDICARD PHILIPPINES, INC., AND COURT OF APPEALS, RESPONDENTS.

DECISION

CARPIO, J.:

The Case

This resolves the petition for review^[1] of the rulings^[2] of the Court of Appeals absolving respondent Medicard Philippines, Inc. from liability for reinstatement wages in an illegal dismissal suit.

The Facts

In June 1990, respondent Medicard Philippines, Inc. (respondent), a health maintenance organization, hired petitioner Myrna P. Magana (petitioner) as company nurse whom respondent detailed to its corporate client, the Manila Pavilion Hotel (Hotel). Although respondent initially hired petitioner on probation, respondent converted petitioner's employment status to permanent in February 1993.

In October 1994, respondent was summarily replaced with another nurse. In lieu of a nursing-related position, respondent offered petitioner the position of liaison officer. Finding the offer unacceptable and with her continued non-assignment, petitioner sued respondent and the Hotel in the National Labor Relations Commission (NLRC) for illegal dismissal and payment of benefits and damages.

The Ruling of the Labor Arbiter

The labor arbiter^[3] ruled for petitioner.^[4] The arbiter found respondent to be a mere labor contractor for the Hotel which exercised control and termination powers over petitioner. The arbiter considered the Hotel's summary replacement of petitioner indicative of lack of cause for her dismissal and of bad faith. Consequently, the arbiter ordered the Hotel to reinstate petitioner and, with respondent, jointly and severally pay petitioner backwages, 13th month pay, damages and attorney's fees.^[5]

Respondent and the Hotel appealed to the NLRC.

The Ruling of the NLRC

The NLRC affirmed the arbiter's ruling with modification.^[6] It found respondent, not the Hotel, as petitioner's employer and held respondent liable for constructive illegal

dismissal, and hence, for the payment of separation pay, 13th month pay, attorney's fees, and reinstatement wages.^[7] The NLRC grounded its ruling on uncontroverted documentary evidence showing petitioner as respondent's regular employee whom respondent detailed to the Hotel under a health maintenance contract. The NLRC considered respondent's failure to assign petitioner to a suitable position within six months as basis for its liability for constructive illegal dismissal. The NLRC also awarded reinstatement wages to petitioner for respondent's failure to reinstate her pending appeal as required under the second paragraph of Article 223 of the Labor Code. However, for lack of basis, the NLRC deleted the award of damages.

Respondent appealed to the Court of Appeals (CA) in a petition for certiorari, alleging grave abuse of discretion on the part of the NLRC.

Ruling of the Court of Appeals

The CA partially granted respondent's appeal by deleting the award of reinstatement wages. The CA found petitioner's dismissal with cause, noting that respondent's failure to assign petitioner to a suitable position within six months after her replacement is "analogous to a suspension of operations of an enterprise" entitling the employee to payment only of separation pay.^[8]

In this petition, petitioner concedes the legality of her constructive dismissal. She grounds her case on the narrow contention that the Court of Appeals erred in deleting the reinstatement wages the NLRC awarded in her favor.

Respondent seeks the petition's denial, noting that the CA's finding that petitioner's dismissal was for cause precludes other remedies other than the payment of separation pay.

The Issue

The question is whether an employee is entitled to draw wages under an arbiter's ruling ordering her reinstatement even though such order is subsequently reversed on appeal.

The Ruling of the Court

We hold in the affirmative and thus, grant the petition.

Article 223, Paragraph 2 of the Labor Code, a Police Power Measure, is Mandatory and Immediately Executory

The requirement for employers to pay wages to employees obtaining favorable rulings in illegal dismissal suits pending appeal is statutorily mandated under the second paragraph of Article 223 of the Labor Code, as amended:

Article 223. Appeal. - x x x x

In any event, the decision of the Labor Arbiter reinstating a dismissed or separated employee, insofar as the reinstatement aspect is concerned,

shall immediately be executory, even pending appeal The employee shall either be admitted back to work under the same terms and conditions prevailing prior to his dismissal or separation or, at the option of the employer, merely reinstated in the payroll. The posting of a bond by the employer shall not stay the execution for reinstatement provided herein. (Emphasis supplied)

Article 223 gives employers two options, namely, to (1) actually reinstate the dismissed employees or, (2) constructively reinstate them in the payroll. Either way, this must be done immediately upon the filing of their appeal, without need of any executory writ.

This unusual, mandatory order by law to execute reinstatement orders pending appeal, unheard of in ordinary civil proceedings,^[9] is a police power measure, grounded on the theory -

[t]hat the preservation of the lives of the citizens is a basic duty of the State, that is more vital than the preservation of corporate profits. Then, by and pursuant to the same power, the State may authorize an immediate implementation, pending appeal, of a decision reinstating a dismissed or separated employee since that saving act *is designed to stop, although temporarily since the appeal may be decided in favor of the appellant, a continuing threat or danger to the survival or even the life of the dismissed or separated employee and its family.*^[10] (Emphasis supplied)

Reversal of Reinstatement Order Does not Preclude its Execution

The issue at bar explores an aspect of Article 223's implementation: if the arbiter's order of reinstatement remains unexecuted, should its subsequent reversal on appeal preclude execution? Respondent expectedly holds the negative view, arguing that "there can be no reinstatement by virtue of the fact that there is no illegal dismissal to speak of."^[11] A cursory search of this Court's jurisprudence belies the cogency of this claim.

More than five years ago, the Court in *Roquero v. Philippine Airlines, Inc.*^[12] was confronted with the same question now posed and, as respondent prays, was there asked to refuse payment of reinstatement wages of the dismissed employee because of the reversal on appeal of the reinstatement order. Speaking through Justice, later Chief Justice, Reynato S. Puno, we rejected this contention, holding that -

[t]echnicalities 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. ***Hence, even if the order of reinstatement of the Labor Arbiter is reversed on appeal, it is obligatory on the part of the employer to reinstate and pay the***