

FIRST DIVISION

[G.R. NO. 169750, February 27, 2007]

**RURAL BANK OF CANTILAN, INC., AND WILLIAM HOTCHKISS III,
PETITIONERS, VS. ARJAY RONNEL H. JULVE, RESPONDENT.**

DECISION

SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant Petition for Review on Certiorari assailing the Decision^[1] of the Court of Appeals (Twenty Second Division, Cagayan de Oro City) dated September 23, 2004 in CA-G.R. SP No. 77206 and its Resolution of September 6, 2005.

The facts of this case as found by the Court of Appeals are:

On August 1, 1997, the Rural Bank of Cantilan, Inc., petitioner, hired respondent as a management trainee. Later, he was appointed as planning and marketing officer.

On June 18, 2001, William Hotchkiss III (also a petitioner), president of petitioner bank, issued a memorandum addressed to all its branch managers informing them of the abolition of the positions of planning and marketing officer and remedial officer; that this was undertaken in accordance with the bank's Personnel Streamlining Program; and that the operations officer shall absorb the functions of the abolished offices.

On July 18, 2001, Hotchkiss sent respondent a memorandum stating that he has been appointed bookkeeper I at the bank's branch in Madrid, Surigao del Sur effective immediately with the same salary corresponding to his old position. Initially, respondent agreed to accept the appointment, but eventually, he changed his mind and made the following notation on Hotchkiss' memorandum, thus:

I am withdrawing my signature on this appointment because I feel that this is a demotion (on the position itself and allowances) and not a lateral transfer as what the President told me yesterday. I believe I do not deserve a demotion.

Thank you.

On August 9, 2001, Hotchkiss appointed respondent as bookkeeper I and assistant branch head of the Madrid branch. However, he did not report for work.

On September 11, 2001, Hotchkiss directed respondent to explain why he should not be sanctioned for his failure to assume his new post at the Madrid branch.

The following day, respondent submitted his written explanation, which partly reads:

I regret to say that I am not accepting the position of Asst. Branch Head of RBCI-Madrid Branch for the very reason that the papers were not left with me by the Admin. Officer after she let me read them. Considering that Asst. Branch Head is a newly-created position, I requested her for a copy of the said papers first so I can thoroughly study them before making my decision. But she immediately took them back from me after I told her about this.

On September 14, 2001, respondent filed with the Regional Arbitration Branch No. XIII, National Labor Relations Commission (NLRC), Butuan City, a complaint for constructive dismissal against petitioners, docketed as NLRC Case No. RAB-13-09-00276-2001.

On January 14, 2002, the Labor Arbiter rendered a Decision, the dispositive portion of which is partly reproduced below:

WHEREFORE, premises considered, judgment is hereby entered:

1. Declaring complainant as constructively illegally dismissed;
2. Ordering respondents to reinstate complainant to his former or equivalent position without loss of seniority rights with full backwages from the time his salary was withheld from him up to the time he is actually reinstated;
3. To pay complainant his partial backwages in the amount of P57,165.33 computed up to the date of this decision as follows:

A. BACKWAGES FROM 16 Oct 2001 to 15 Jan 2002 (4 months)
(Partial)

$P12,192.50 + 1,000 \times 4 = P52,768.00$
Plus $P52,768/13$ (13th mo. Pay) = P4,397.33

TOTAL BACKWAGES P57,165.33

and

4. Ordering respondents to pay complainant moral and exemplary damages in the total amount of P100,000.00 plus P15,718.53, as attorney's fees which is equivalent to 10% of the total monetary award.

Complainant's other claims are dismissed for lack of merit.

On appeal by petitioners, the NLRC, in its Resolution dated November 19, 2002, set aside the Labor Arbiter's judgment, thus:

WHEREFORE, foregoing premises considered, the appealed decision is Vacated and Set Aside. In lieu thereof, a new judgment is rendered dismissing the above-entitled case for lack of merit.

SO ORDERED.