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THIRD DIVISION

[G.R. NO. 164820, March 28, 2007]

VICTORY LINER, INC., PETITIONER, VS. PABLO M. RACE, RESPONDENT.

D E C I S I O N

CHICO-NAZARIO, J.:

In this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court,[1] petitioner Victory Liner Inc. seeks to set aside the Decision of the Court of Appeals dated 26 April 2004 in CA-G.R. SP No. 74010,[2] affirming the Decision and Resolution of the National Labor Relations Commission (NLRC) dated 30 July 2002 and 30 August 2002, respectively, in NLRC-CA-029327-01.[3] In its Decision and Resolution, the NLRC vacated the Decision[4] of Labor Arbiter Salimathar V. Nambi (Labor Arbiter Nambi) dated 31 July 2001 in NLRC-NCR-00-09-08922-99 and ordered the petitioner to reinstate respondent Pablo M. Race to his former position as a bus driver without loss of seniority rights and other privileges and benefits with full backwages computed from the time of his illegal dismissal in January 1998 up to his actual reinstatement.

Culled from the records are the following facts:

In June 1993, respondent was employed by the petitioner as a bus driver. As a requisite for his hiring, the respondent deposited a cash bond in the amount of P10,000.00 to the petitioner. Respondent was assigned to the Alaminos, Pangasinan - Cubao, Quezon City, route on the evening schedule.[5]

On the night of 24 August 1994, respondent drove his assigned bus from Alaminos, Pangasinan, destined to Cubao, Quezon City. While traversing Moncada, Tarlac, the bus he was driving was bumped by a Dagupan-bound bus. As a consequence thereof, respondent suffered a fractured left leg and was rushed to the Country Medical and Trauma Center in Tarlac City where he was operated on and confined from 24 August 1994 up to 10 October 1994. One month after his release from the said hospital, the respondent was confined again for further treatment of his fractured left leg at the Specialist Group Hospital in Dagupan City. His confinement therein lasted a month. Petitioner shouldered the doctor's professional fee and the operation, medication and hospital expenses of the respondent in the aforestated hospitals.[6]

In January 1998, the respondent, still limping heavily, went to the petitioner's office to report for work. He was, however, informed by the petitioner that he was considered resigned from his job. Respondent refused to accede and insisted on having a dialogue with the petitioner's officer named Yolanda Montes (Montes). During their meeting, Montes told him that he was deemed to have resigned from

his work and to accept a consideration of P50,000.00. Respondent rejected the explanation and offer. Thereafter, before Christmas of 1998, he again conversed with Montes who reiterated to him that he was regarded as resigned but raised the consideration therein to P100,000.00. Respondent rebuffed the increased offer.[7]

On 30 June 1999, respondent, through his counsel, sent a letter to the petitioner demanding employment-related money claims. There being no response from the petitioner, the respondent filed before the Labor Arbiter on 1 September 1999 a complaint for (1) unfair labor practice; (2) illegal dismissal; (3) underpayment of wages; (4) nonpayment of overtime and holiday premium, service incentive leave pay, vacation and sick leave benefits, 13th month pay; (5) excessive deduction of withholding tax and SSS premium; and (6) moral and exemplary damages and attorney's fees. This was docketed as NLRC-NCR-00-09-08922-99.[8]

In its Position Paper dated 27 March 2000, petitioner claimed that respondent was paid strictly on commission basis; that respondent was a mere field personnel who performed his duties and functions outside the petitioner's premises and whose time of work cannot be determined with reasonable certainty; that petitioner, therefore, was exempted from paying the respondent overtime compensation, night shift differential, holiday pay and service incentive leave; that notwithstanding the specific exemptions provided for in the Labor Code, the petitioner gave the respondent benefits better than those received by the other bus drivers of the petitioner; that during his employment, respondent was charged with and found guilty of numerous offenses which were sufficient bases for his dismissal; that the prescriptive period for the filing of an action or claim for reinstatement and payment of labor standard benefits is four years from the time the cause of action accrued; and that the respondent's cause of action against petitioner had already prescribed because when the former instituted the aforesaid complaint on 1 September 1999, more than five years had already lapsed from the accrual of his cause of action on 24 August 1994.[9]

In his Reply dated 30 June 2000, respondent explained that when he stated in his complaint that he was illegally dismissed on 24 August 1994, what he meant and referred to was the date when he was no longer in a position to drive since he was hospitalized from 24 August 1994 up to 10 October 1994. Respondent also admitted that it was only in January 1998 that he informed the petitioner of his intent to report back for work.[10]

On 31 July 2001, Labor Arbiter Nambi rendered his Decision dismissing the complaint of respondent for lack of merit. He stated that the prescriptive period for filing an illegal dismissal case is four years from the dismissal of the employee concerned. Since the respondent stated in his complaint that he was dismissed from work on 24 August 1994 and he filed the complaint only on 1 September 1999, Labor Arbiter Nambi concluded that respondent's cause of action against petitioner had already prescribed. He also noted that respondent committed several labor-related offenses against the petitioner which may be considered as just causes for the termination of his employment under Article 282 of the Labor Code.

Further, Labor Arbiter Nambi opined that respondent was not a regular employee but a mere field personnel and, therefore, not entitled to service incentive leave, holiday pay, overtime pay and 13th month pay. He also ruled that respondent failed to

present evidence showing that the latter was entitled to the abovestated money claims. The *fallo* of the said decision reads:

> **WHEREFORE,** considering that the causes of action in this case rooted from the purported illegal dismissal of Pablo M. Race on August 24, 1994 when he figured in a vehicular accident, or on October 10, 1994 when he was released from the hospital, and he filed his complaint only on September 1, 1999 after a lapse of more than five (5) years, the action has long prescribed, aside from the fact that there is absolutely no evidence that respondent Victory Liner, Inc. is guilty of unfair labor practice and unjust dismissal, in addition to its specific exemptions from the letters of Article 82 of the Labor Code, as amended, the complaint and money claims are hereby **DISMISSED** by reason of prescription and for utter lack of merit and total absence of legal and factual basis in support thereof.[11]

Respondent appealed to the NLRC. On 30 July 2002, the NLRC promulgated its Decision reversing the decision of Labor Arbiter Nambi. It ordered the reinstatement of the respondent to his former position without loss of seniority rights and other privileges and benefits with full back-wages computed from the time of his illegal dismissal in January 1998 up to his actual reinstatement. It held that the respondent's cause of action accrued, not on 24 August 1994, but in January 1998, when the respondent reported for work but was rejected by the petitioner. Thus, the respondent's filing of complaint on 1 September 1999 was well-within the four-year prescriptive period. It also ruled that respondent was illegally dismissed by the petitioner as the latter failed to accord him due process. It found that the petitioner did not give the respondent a written notice apprising him of acts or omissions being complained of and a written notice informing him of the termination of his employment. In conclusion, the NLRC stated:

> WHEREFORE, in view of all the foregoing, respondent-appellee's company is hereby ordered to reinstate complainant-appellant to his former position without loss of seniority rights and other privileges and benefits with full backwages computed from the time of his illegal dismissal on (sic) January 1988 up to his actual reinstatement. Except for this modification, the appealed decision is hereby AFFIRMED.[12]

Petitioner filed a Motion for Reconsideration of the NLRC Decision alleging, among other things, that the award of backwages to the respondent computed from January 19***88*** up to the promulgation of the NLRC Decision on 30 July 2002 was unlawful and unjust considering that respondent was employed only in June 19***93.*** The NLRC, however, denied the same for lack of merit in its Resolution dated 30 August 2002.

Petitioner assailed the NLRC Decision and Resolution, dated 30 July 2002 and 30 August 2002, respectively, *via* a Petition for *Certiorari* to the Court of Appeals. On 26 April 2004, the Court of Appeals dismissed the Petition, and found no grave abuse of discretion on the part of the NLRC. It ruled that the NLRC committed a simple typographical error when it stated in the *fallo* that the backwages of respondent shall be computed from January 19***88*** instead of January 19***98*** because in the paragraph prior to the dispositive portion, the NLRC categorically declared that the full backwages of the respondent was to be computed from January19***98***. In addition, the NLRC has indicated in its Statement of Facts that respondent was hired

by the petitioner sometime in June 19***93***. It also held that the respondent's filing of complaint on 1 September 1999 was within the four-year prescriptive period since the cause of action accrued when the respondent reported for work in January 1998 and was informed that he was considered resigned. It ratiocinated that respondent did not abandon his work and, instead, continued to be an employee of petitioner after he was discharged from the hospital, *viz:*

> Race did not abandon his work and continued to be an employee of Victory Liner, and their contemporaneous conduct show this. He has his pay slip covering the period of August 1-15, 1998 (p. 114, record), he was consulting the company physician who issued him receipts dated October 28, 1996 and July 21 1997 (p. 115, record), and he wrote a letter dated March 18, 1996 addressed to Gerarda Villa, Vice-President for Victory Liner, signifying his intention to be a dispatcher or conductor due to his injured leg (p. 116, Record). Further, annexed to Victory Liner's Consolidated Supplemental Position Paper and Formal Offer of Evidence with Erratum is Exhibit "6-A-Race" (p. 56, record) submitted before the Labor Arbiter, where Race stated before the investigator that after his release from the hospital he reported to Victory Liner twice a month. He also said that he filed for a sick leave which was approved for the maximum of 120 days. After his sick leave, he filed for disability leave, and this was also approved and ran until sometime in May 1997. [13]

It also found that the petitioner failed to comply with the requirements of due process in terminating the employment of respondent. The decretal portion of the said decision reads:

> WHEREFORE, the petition is DENIED DUE COURSE and DISMISSED.[14]

Petitioner filed the instant petition on the following grounds:

> THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED CONTRARY TO LAW AND JURISPRUDENCE WHEN IT HELD IN THE ASSAILED DECISION THAT:
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> A.
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> THE CAUSE OF ACTION OF RESPONDENT FOR ILLEGAL DISMISSAL HAS NOT YET PRESCRIBED DESPITE HAVING BEEN FILED AFTER FOUR (4) YEARS AND NINE (9) MONTHS FROM THE ACCRUAL OF THE ALLEGED ACTIONABLE WRONG;
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> B.
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> RESPONDENT IS ENTITLED TO REINSTATEMENT WITH FULL BACKWAGES AND OTHER BENEFITS CONSIDERING THAT THE TERMINATION OF HIS EMPLOYMENT BY PETITIONER WAS LEGAL AND JUSTIFIED.[15]

Anent the first issue, petitioner insisted that respondent had already abandoned his work and ceased to be its employee since November 1994; that the alleged "pay slip" for the period August 1-15, 1998 was not actually a pay slip but a mere cash advance/monetary aid extended to the respondent as the large amount of

P65,000.00 stated therein was clearly inconsistent and disproportionate to the respondent's low salary of P192.00 a day; that the petitioner merely accommodated the respondent as its former employee when the latter consulted the petitioner's physician on 28 October 1996 and 21 July 1997; that the respondent's letter dated 18 March 1996 to the petitioner's Vice-President Gerarda Villa was only an application for the position of dispatcher or conductor and that such application was not granted; and that the foregoing circumstances cannot be considered as an indication of employer-employee relationship between the petitioner and respondent.[16]

Moreover, petitioner asserted that although the respondent reported for work twice a month after he was discharged from the hospital, it does not imply that the respondent was still considered as an employee at that time by the petitioner; that it allowed the respondent to have a 120-day sick leave because the latter was a former employee; and that it granted disability leave to the respondent since the latter was a former employee and that respondent's application for disability leave implied an admission on the part of the respondent that he was no longer fit to work as a bus driver.[17]

Petitioner also asseverated that, based on the four-fold tests in determining the employer-employee relationship which includes the payment of wages and power to control the conduct of the employees, the respondent was no longer its employee upon the latter's discharge from the hospital in November 1994 because at such time, the respondent was no longer fit to work as a bus driver and respondent did not render services to the petitioner. Thus, petitioner reasoned that it had no more power to control the conduct of, and it no longer paid any wages to, the respondent. [18]

Petitioner also argued that the cause of action of respondent had accrued on 10 November 1994; that from 10 November 1994 up to November 1998, the respondent did not render any services to nor filed a case or action against the petitioner; that the respondent's filing of a complaint against petitioner on 1 September 1999 was clearly beyond the four-year prescriptive period allowed by law; that if the reckoning period of the accrual of a cause of action would be the time when the written demand was made by the respondent on the petitioner, then the four-year prescriptive period would be interminable as it could be extended to one or more years; that this is not the spirit or intent of the law; that otherwise there is no more need to provide the four-year prescriptive period as any complainant may simply allow the lapse of four years and file the action thereafter and that it would be considered as a compliance by simply making a purported demand for reinstatement after more than four years.[19]

These contentions are devoid of merit.

It should be emphasized at the outset that as a rule, this Court is not a trier of facts and this applies with greater force in labor cases. Hence, factual findings of quasi-judicial bodies like the NLRC, particularly when they coincide with those of the Labor Arbiter and if supported by substantial evidence, are accorded respect and even finality by this Court. But where the findings of the NLRC and the Labor Arbiter are contradictory, as in the present case, this Court may delve into the records and examine for itself the questioned findings.[20]