

THIRD DIVISION

[G.R. NO. 147941, March 16, 2005]

NESTOR V. BLANCO, PETITIONER, VS. PHILIPPINE AUTOMOTIVE MFG. CORP., RESPONDENT.

[G.R. NO. 147981]

**PHILIPPINE AUTOMOTIVE MANUFACTURING CORP. (PAMCOR),
PETITIONER, VS. NESTOR BLANCO, RESPONDENT.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Before us are consolidated petitions for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, filed by both contending parties assailing the Decision^[1] dated November 14, 2000 and the Resolution^[2] dated April 26, 2001 rendered by the Court of Appeals in CA-G.R. SP No. 55323, entitled "*Nestor V. Blanco vs. Philippine Automotive Mfg. Corp. (PAMCOR) and the National Labor Relations Commission.*"

The controversy herein stemmed from a complaint for illegal dismissal filed with the Office of the Labor Arbiter by Nestor V. Blanco against the Philippine Automotive Manufacturing Corporation (PAMCOR), docketed as NLRC Case No. RB-IV-5-3804-91-RI. The Labor Arbiter rendered a Decision dated March 7, 1995 finding that Blanco was illegally dismissed from employment and ordering PAMCOR (1) to reinstate him to his former position and (2) to pay his full backwages of P24,398.40 and attorney's fee equivalent to 10% of the monetary awards. The dispositive portion of the Decision reads:

"WHEREFORE, respondent is hereby directed to reinstate complainant to his former position with six (6) months backwages computed at P19.55 per hour x 8 hours x 26 working days or a total of P24,398.40, plus 10% thereof by way of attorney's fees.

All other claims are dismissed for lack of merit.

SO ORDERED."

On appeal, the National Labor Relations Commission (NLRC) promulgated a Decision dated July 18, 1996 affirming with modification the Arbiter's Decision in the sense that the award of attorney's fee was deleted. PAMCOR filed a motion for reconsideration but was denied.

The NLRC Decision **became final and executory**. Thus, on May 15, 1997, the Labor Arbiter issued a writ of execution. On June 2, 1997, PAMCOR paid Blanco the monetary award of P24,398.40 representing his full backwages and reinstated

him to his former position as **probationary** machinist effective August 1, 1997.

Despite the finality of the NLRC Decision and its due execution, Blanco again filed with the Office of the Labor Arbiter a motion seeking a recomputation of his backwages covering the period from March 7, 1995 (promulgation of the Arbiter's Decision) to August 1, 1997 (his actual reinstatement).

Later, Blanco filed another motion praying for his reinstatement as a regular employee.

On June 23, 1998, the Labor Arbiter issued an Order granting both motions and directing PAMCOR (1) to pay Blanco his backwages of P99,995.04 and (2) to reinstate him as a regular machinist.

From this Order, PAMCOR interposed an appeal to the NLRC, docketed as NLRC CA No. 008740-95. On June 17, 1999, the NLRC promulgated a Decision reversing the Arbiter's assailed Order. Blanco then filed a motion for reconsideration but was denied, prompting him to file with the Court of Appeals a petition for *certiorari*.

On November 14, 2000, the Court of Appeals promulgated a Decision dismissing Blanco's petition. The Appellate Court ratiocinated as follows:

"Anent the second assigned error, it is petitioner's theory that he should be considered as a regular employee since he had already worked for more than one (1) year. Records show that other than the three (3) contracts he executed with private respondent for his employment as a contractual employee, no other evidence was presented by petitioner to prove that he had worked continuously for private respondent from 3 May 1989 to 3 May 1990. The evidence he presented reveals that he worked as a contractual employee for three (3) months and as a probationary employee for a little over three (3) months. Hence, Article 281 of the Labor Code of the Philippines, as amended, controls as the period of his employment as a contractual employee cannot be tacked to the period petitioner had been employed as a probationary employee.

As to the third assignment of error, suffice it to state that the 7 March Decision of Executive Labor Arbiter Aglibut has long become final and executory. Thus, the third assigned error has become moot and academic; and also because of petitioner's receipt of backwages in the amount of P24,398.40 on 2 June 1997.

WHEREFORE, for being moot and academic, the petition is DISMISSED; and that the respondent Commission's Decision dated 17 June 1999 and its 29 July 1999 Resolution are hereby declared NULL and VOID for lack of jurisdiction.

SO ORDERED."

Both parties filed their motions for reconsideration but were denied by the Court of Appeals in a Resolution dated April 26, 2001.

Consequently, Blanco filed a petition for review on *certiorari* with this Court,