

SECOND DIVISION

[G.R. No. 116066, January 24, 2000]

NUEVA ECIJA I ELECTRIC COOPERATIVE, INC., (NEECO I) EMPLOYEES ASSOCIATION, PRESIDENT RODOLFO JIMENEZ, AND MEMBERS, REYNALDO FAJARDO, ERNESTO MARIN, EVER GUEVARRA, PETRONILO BAGUISA, VICTORINO CARILLO, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, NUEVA ECIJA I ELECTRIC COOPERATIVE, INC., (NEECO I) AND PATRICIO DELA PEÑA, RESPONDENTS.

D E C I S I O N

QUISUMBING, J.:

Petitioners assail the decision^[1] of the National Labor Relations Commission in NLRC RAB-III-03-2673-92, which modified the ruling of the Labor Arbiter, by deleting the award of moral and exemplary damages, as well as attorneys' fees and costs of litigation.

The facts, as found *a quo*, are as follows:

Petitioners Reynaldo Fajardo, Ernesto Marin, Ever Guevarra, Petronilo Baguisa, Victorino Carillo, and Erdie Javate were permanent employees of respondent Nueva Ecija I Electric Cooperative (NEECO I). They were members of petitioner NEECO I Employees Association, a labor organization established for the mutual aid and protection of its members. Petitioner Rodolfo Jimenez was the president of the association.

Respondent NEECO I is an electric cooperative under the general supervision and control of the National Electrification Administration (NEA). The management of NEECO I is vested on the Board of Directors. Respondent Patricio dela Peña was NEECO's general manager on detail from NEA.

On February 7, 1987, the Board of Directors adopted Policy No. 3-33, which set the guidelines for NEECO I's retirement benefits. On October 28, 1987, all regular employees were ordered by NEECO I to accomplish Form 87, which were applications for either retirement, resignation, or separation from service.

On October 5, 1991 and February 28, 1992, the applications of Petronilo Baguisa and Ever Guevarra, respectively, were approved. They were paid the appropriate separation pay.

These successive events, followed by the promotion of certain union officers to supervisory rank, caused apprehension in the labor association. They were considered as harassment threatening the union members, and circumventing the employees' security of tenure. On February 29, 1992, to strengthen and neutralize

management's arbitrary moves, the union held a "snap election" of officers.^[2] Reynaldo Fajardo was elected Treasurer, while Evaristo Guevarra, Victorino Carillo and Ernesto Marin were elected Public Relations Officers for Jaen, Gapan A and Gapan B, respectively.

On March 3, 1992, petitioner labor association passed a resolution withdrawing the applications for retirement of all its members, thus:

"Upon popular request of all members and officers of the association their manifestation of willingness to retire on optional basis is hereby WITHDRAWN by the ASSOCIATION for and in behalf of all its members, EXCEPT those who are willing to avail their retirement benefits with all their hearts and mind. To avoid what had happened to EVARISTO GUEVARRA. The union officers and its members, claimed their right to be protected under the security of tenure clause under the Labor Code of the Philippines. No employee shall be retired without his/her consent or approval of the union.

On motion and duly seconded. Approved unanimously. Let copies of the resolution be furnished NEECO I PS/AGM Patricio S. dela Peña, for his information and appropriate action."^[3]

On March 4, March 17, and April 7, 1992, petitioners Ernesto Marin, Reynaldo Fajardo and Victorino Carillo were compulsorily retired by management. They received their separation pay under protest on March 16, March 18, and April 15, 1992, respectively.

On August 21, 1991, Erdie Javate was terminated from employment allegedly due to misappropriation of funds and dishonesty. He was not paid separation or retirement benefits.

On March 29, 1992, petitioners and Erdie Javate instituted a complaint for illegal dismissal and damages with the NLRC Regional Arbitration Branch in San Fernando. They alleged they were purposely singled out for retirement from a listing of employees who were made to submit retirement forms, even if they were not on top of the list because they were union officers, past officers or active members of the association. Further, petitioners claimed that their acceptance of the money offered by NEECO I did not constitute estoppel nor waiver, since their acceptances were with vehement objections and without prejudice to all their rights resulting from an illegal dismissal.

Additionally, Javate averred he was framed up and dismissed without due process.

On December 21, 1992, the labor arbiter decided the case as follows:

"WHEREFORE, in view of all the foregoing considerations, judgment is hereby rendered, as follows:

1. Declaring respondents NEECO I and PS/AGM Engr. Patricio dela Peña guilty of illegal dismissal and unfair labor practice act, as charged;

2. Ordering respondents to reinstate individual complainants Reynaldo Fajardo, Ernesto Marin, Ever Guevarra, Petronilo Baguisa, Victorino Carillo, and Erdie Javate of their former positions under the same terms and conditions of work obtaining at the time of dismissal, without loss of seniority rights and other privileges, either physically or in the payroll, at the option of the respondents, with payment of full backwages, including all benefits and privileges that they should have received if they were not illegally dismissed, computed as follows:

1. Reynaldo Fajardo-

a.) Backwages as of Dec. 31, 1992	₱ 36,306.55
b.) Bonus	1,000.00
c.) Medical Allowance	1,000.00
d.) Clothing Allowance	750.00
e.) Hospitalization allowance since 1988	<u>2,000.00</u>
Total	<u>₱ 41,056.55</u>

2. Ernesto Marin -

a.) Backwages as of Dec. 31, 1992	₱ 37,783.60
b.) Bonus	1,000.00
c.) Medical Allowance	1,000.00
d.) Clothing Allowance	750.00
e.) Hospitalization allowance since 1988	<u>2,000.00</u>
Total	<u>₱ 42,533.60</u>

3. Ever Guevarra -

a.) Backwages as of Dec. 31, 1992	₱ 37,783.60
b.) Bonus	1,000.00
c.) Medical Allowance	1,000.00
d.) Clothing Allowance	750.00
e.) Hospitalization allowance since 1988	<u>2,000.00</u>
Total	<u>₱ 42,533.60</u>

4. Petronilo Baguisa -

a.) Backwages as of Dec. 31, 1992	₱ 56,675.40
b.) Bonus	1,000.00
c.) Medical Allowance	1,000.00
d.) Clothing Allowance	750.00
e.) Hospitalization allowance since 1988	<u>2,000.00</u>
Total	<u>₱ 61,425.40</u>

5. Victorino Carillo -

a.) Backwages as of Dec. 31, 1992	₱ 32,162.78
b.) Bonus	1,000.00
c.) Medical Allowance	1,000.00
d.) Clothing Allowance	750.00
e.) Hospitalization allowance since 1988	<u>2,000.00</u>
Total	<u>₱ 36,912.78</u>

6. Erdie Javate -

a.) Backwages as of Dec. 31, 1992	₱ 15,680.00
b.) Bonus	1,000.00
c.) Medical Allowance	1,000.00
d.) Clothing Allowance	750.00
e.) Hospitalization allowance since 1988	<u>2,000.00</u>
Total	<u>₱ 20,430.00</u>

GRAND TOTAL ₱244,891.93

3. Ordering respondents to pay complainants moral damages in the amount of ₱30,000.00 each or in the total amount of ₱180,000.00 and exemplary damages in the amount of ₱120,000.00;

4. Ordering respondents to pay complainants their attorney's fees equivalent to ten (10%) percent of their monetary claims in the sum of ₱54,489.20;

5. Ordering respondents to pay complainants their cost of litigation in the amount of ₱30,000.00

SO ORDERED."^[4]

Thereafter, herein private respondents elevated the case to respondent NLRC. They filed their appeal on December 28, 1992, and posted a surety bond on January 5, 1993, in the amount of two hundred forty-four thousand, eight hundred ninety one pesos and ninety three centavos (₱244,891.93). But herein petitioners filed an omnibus motion to dismiss on the ground of late appeal, claiming that insufficient bond was filed by NEECO I only on January 5, 1993. The bond excluded the award of moral and exemplary damages, attorneys' fees and costs of litigation.

Respondent NLRC denied the motion and instead gave due course to the appeal. On July 16, 1993, the NLRC modified the decision, as follows:

"WHEREFORE, premises considered, the appealed Decision is modified by deleting the awards of moral and exemplary damages, attorney's fees and cost of litigation. The amounts of retirement benefits received by the individual complainants are to be applied to the backwages that may be due to the herein complainants. All other dispositions stand.

SO ORDERED."^[5]

Meanwhile, on March 16, 1993, petitioners were reinstated by NEECO I pending appeal.

On April 22, 1993, Erdie Javate withdrew his complaint and opted to receive his retirement benefits amounting to forty-two thousand, one hundred fourteen pesos and nine centavos (P42,114.09).

Herein petitioners filed a motion for reconsideration, which the NLRC denied on August 31, 1993. Likewise, herein private respondents filed a motion for reconsideration but the same was also denied on September 28, 1993.

Petitioners are now before us, *via* this special civil action under Rule 65 of the Revised Rules of Court, raising three issues:

- "I. WHETHER OR NOT THE APPEAL TAKEN BY THE RESPONDENT NEECO I FROM THE DECISION OF NLRC-RAB-III DOLE TO NLRC THIRD DIVISION, MANILA, WAS NOT PERFECTED WITHIN THE TEN (10) CALENDAR DAYS REGLEMENTARY PERIOD; HENCE THE APPEAL SHOULD NOT BE GIVEN DUE COURSE;
- II. WHETHER OR NOT PUBLIC RESPONDENT NLRC ACTED WITHOUT OR IN EXCESS OF JURISDICTION WHEN IT RESOLVED TO DELETE EN TOTO MORAL DAMAGES, EXEMPLARY DAMAGES, ATTORNEY'S FEES AND COSTS OF LITIGATION. FACTUAL BASIS OF WHICH WERE ASCERTAINED BY THE HONORABLE LABOR ARBITER BELOW;
- III. WHETHER OR NOT THE ORDER TO APPLY AND DEDUCT RECEIVABLE BACKWAGES FROM RECEIVED BENEFITS MAY BE REASONABLE BUT UNREALISTIC AND ARBITRARY."

Petitioners contend that although respondent NEECO I filed its appeal on December 28, 1992, such appeal was not completed for failure to file the necessary supersedeas bond, during the period prescribed by law, or until January 4, 1993. Hence, no appeal was perfected.

Indisputable is the legal doctrine that the appeal of a decision involving a monetary award in labor cases may be perfected "only upon the posting of a cash or surety bond."^[6]

The Labor Code, as amended by Republic Act No. 6715, clearly provides:

"Art. 223. Appeal - Decisions, awards or orders of the Labor Arbiter are final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards, or orders. . .

x x x

In case of a judgment involving a monetary award, an appeal by the employer may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the