

SPECIAL TWENTIETH DIVISION

[CA-G.R. SP NO. 07883, July 17, 2014]

**ABBOTT LABORATORIES, PHILS., INC., PETITIONER, VS.
NATIONAL LABOR RELATIONS COMMISSION AND GEORGE D.
JONES, RESPONDENTS.**

DECISION

QUIJANO-PADILLA, J.:

This is a Petition for Certiorari,^[1] with an urgent prayer for Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction, under Rule 65 of the Rules of Court assailing, on the ground of grave abuse of discretion amounting to lack or in excess of jurisdiction, the April 10, 2013 Joint Resolution^[2] and May 20, 2013 Joint Resolution^[3] of the National Labor Relations Commission (NLRC), 7th Division, Cebu City in NLRC Case Nos. VER-02-000004-13, VER-03-000008-13 (NLRC Case No. RAB-VI-12-10510-89).

The challenged Resolutions relates to the execution proceedings conducted by Labor Arbiter Jessie G. Sullano (Sullano) which started on January 2013. The main case, however, started way back in December 1989 which involved an illegal dismissal complaint filed by herein private respondent George D. Jones (Jones), who was previously employed with herein petitioner Abbott Laboratories, Phils., Inc. (Abbott), and culminated with the Supreme Court's Decision dated December 6, 1995 declaring Jones as illegally dismissed and ordering his immediate reinstatement to his former position with backwages and without loss of seniority rights.

The first assailed Resolution reversed and set aside the Orders of Labor Arbiter Sullano dated January 23, 2013^[4] and March 4, 2013^[5] and pursuant to the SC Resolution dated October 24, 2012,^[6] ordered Abbott to reinstate Jones to his former position immediately and to pay him the total amount of P 2,704,890.00 as accrued reinstatement wages or backwages computed from March 1996 until April 2013. On the other hand, the second assailed Resolution denied Abbott's motion for reconsideration.

The Antecedents

This case stemmed from a complaint for illegal dismissal filed by Jones against Abbott which has been previously resolved with finality by the SC in *GEORGE D. JONES v. NLRC, 4th Division, Cebu City; ABBOTT LABORATORIES (PHILS.), INC., AUBREY BOUT, and ELENITO P. TUAZON*, docketed as G.R. No. 107729, in a Decision dated December 6, 1995 (1995 SC Decision).^[7] The SC ruled that Jones had been illegally dismissed and was thus ordered to be reinstated and paid his backwages from the date of his dismissal up to the date of his reinstatement.

The factual background in the 1995 SC Decision is summarized as follows:^[8]

"George D. Jones started working with Abbott Laboratories (Phils.), Inc. (ABBOTT) as a medical representative sometime in February 1971. In 1973 he was promoted as District Sales Manager for Western Visayas. At the time he was dismissed on 27 October 1989 he was receiving a monthly salary of P10,000.00 plus mid-year and Christmas bonuses equivalent to one month salary. Starting his eleventh year he was given, aside from the free use of a company car, six and a half (6-1/2) days vacation leave for every year of service. During his employment he was the recipient of various awards and commendations for his loyalty and exemplary performance.

On 3 August 1989 petitioner applied for and was granted a vacation leave which he availed of on 11 to 28 September 1989. Shortly before his leave expired he applied for sick leave to take effect 29 September 1989. The reason he gave was that he was hypertensive as shown in his medical certificate issued by Dr. Wilfredo Salvador on 29 August 1989 attached to his application. On 10 October 1989 ABBOTT disapproved his application for sick leave and directed him instead to report to its Director of Administration within five (5) days.

When petitioner failed to appear for work ABBOTT again wrote him on 25 October 1989 directing him to report on 27 October 1989, or two (2) days after, otherwise he would be dismissed for abandonment. Receiving no reply from petitioner, ABBOTT finally terminated his services on the day he was required to report. In the meantime, on 20 October 1989 petitioner wrote from Canada informing his employer that he would be reporting in the first week of December 1989 as he had been advised by his physician to rest and to undergo further medical examination.

When he returned to the Philippines he was informed that he was already dismissed. Consequently, he filed a complaint for illegal dismissal with damages. Upon issues being joined, petitioner opted to rely on his position paper instead of adducing testimonial evidence. Private respondents, on the other hand, presented Dr. Mel Bacabac and private respondent Elenito P. Tuazon, Administrator of ABBOTT. After trial the Labor Arbiter decided in favor of private respondents by sustaining the dismissal of petitioner.

On appeal by petitioner, the National Labor Relations Commission (NLRC) reversed the Labor Arbiter. The NLRC found that notwithstanding the scheme of petitioner in extending his stay in Canada through vacation and sick leaves it could not sustain the conclusion that petitioner abandoned his employment.

Private respondents moved for reconsideration claiming that petitioner was not sick at the time of his application for sick leave; that at the time he was dismissed he had already been absent without leave for several months showing lack of interest in his work; and, that there was no dispute regarding his refusal to work despite company directives for him

to report.

Upon acting on the motion NLRC flip-flopped; it reversed itself. It ruled that petitioner was guilty of abandonment for going on sick leave without justifiable reasons.

Petitioner moved for reconsideration. It was denied; hence, this petition."

In its 1995 Decision, the SC reversed the ruling of the NLRC and ruled in favor of Jones, more specifically, declaring Jones to have been illegally dismissed and is thus entitled to payment of backwages and reinstatement. The dispositive portion^[9] of the 1995 SC Decision reads as follows:

WHEREFORE, the resolutions of the National Labor Relations Commission promulgated 20 August and 12 October 1992 are REVERSED and SET ASIDE. Consequently, private respondents are directed to REINSTATE petitioner GEORGE D. JONES to his former position immediately with back wages and without loss of seniority rights and other benefits to which he is entitled under the law.

On February 21, 1996, the SC, through a Resolution, denied Abbott's motion for reconsideration with finality. On March 11, 1996, the 1995 SC Decision became final and executory and was recorded in the Book of Entries of Judgment.^[10]

Thereafter, execution proceedings eventually commenced. On January 24, 1997, a Motion for Execution was filed by Jones praying for the issuance of a writ of execution to enforce the 1995 SC Decision.^[11] The said Motion was opposed by Abbott arguing that reinstatement of Jones had become legally impossible and impracticable.^[12]

On February 7, 1997, a Motion for Immediate Reinstatement and a Motion for Computation were subsequently filed by Jones.^[13] On February 19, 1997, Abbott filed a Satisfaction of Money Award with Motion submitting its computation of the backwages and separation pay due to Jones in the amount of P 1,259,933.30.^[14] On March 31, 1997, Jones filed a Consolidated Comment with Motion for Partial Execution stating that the January 24, 1997 Motion for Execution which he filed refers solely to that portion of the judgment awarding him his undisputed basic fixed monthly wage of P 10,900.00 and that the amount of P 47,341.95 computed as his sick leave credits is substantially accurate as far as he is concerned subject however to further verification from the records. On October 7, 1997, Jones filed a Supplemental Motion for Partial Execution with Reservation reiterating basically the same allegations contained in its March 31, 1997 Motion for Partial Execution.^[15]

On October 21, 1997, Labor Arbiter Jesus N. Rodriguez, Jr. (Rodriguez) issued an Order^[16] directing the parties to file their comments/objections why a partial writ of execution involving the undisputed benefits due to Jones should not be issued pending final determination of the other benefits accruing to the latter.

On October 14, 1998, Labor Arbiter Rodriguez issued another Order^[17] directing the issuance of a Partial Writ of Execution for the satisfaction of the amount of P 1,033,358.90 representing the undisputed benefits due to Jones (P 986,017.04 as

backwages plus P 47,341.95 as sick leave credits) computed from the date when Jones was illegally dismissed or on October 27, 1989 until the date of entry of judgment of the 1995 SC Decision or on March 11, 1996. In the same Order, the reinstatement aspect, seniority rights and other privileges, inclusive of allowances, other benefits or their monetary value were set for hearing.

From the aforesaid Order, Abbott filed a Motion for Correction citing error in the mathematical computation as reflected therein. Abbott claimed that the aggregate amount should only be P 1,022,458.90. In addition, Abbott prayed that their payment of P 1,022,458.90 be deemed as full and complete satisfaction of all backwages due to Jones pursuant to the 1995 SC Decision. By way of Manifestation, Jones conceded that P 1,022,458.90 was the right computation but took exception to Abbott's position that the said amount constituted his full and total backwages because, according to Jones, the same should be computed from the time his compensation was withheld up to the time of his actual reinstatement which has not yet been accomplished. Consequently, Jones filed a "Reiteration of Motion for Immediate Reinstatement dated February 7, 1997" dated November 25, 1998 praying for his actual/physical or payroll reinstatement.^[18]

On December 8, 1998, Abbott submitted a check amounting to P 1,022,458.90 and on same date, Gaspar D. Jones, armed with a Special Power of Attorney, received the check. The same was acknowledged in Jones' Motion to Resolve and Set for Hearing with Manifestation which nevertheless contained a qualification that the said amount cannot represent the full and complete satisfaction of his backwages because he had not yet been reinstated. Thus, he prayed for the computation and payment of his backwages from March 12, 1996 onwards pending his actual/physical or payroll reinstatement. In its Comment, Abbott reiterated that the parties already agreed, pursuant to the Minutes of the Hearing on November 24, 1998, that the only issue for further negotiations is the reinstatement of Jones or in lieu thereof, the payment of separation pay.^[19]

In his Counter Comment, Jones argued that Abbott misinterpreted the minutes and that his backwages and other benefits from March 12, 1996 onwards and his reinstatement were still matters for negotiation. On March 12, 1998, Jones then filed a Motion for Immediate Execution. For its part, Abbott filed its Memorandum embodying their arguments as to the implication of the said minutes and the legal impossibility of Jones' reinstatement. Jones, on the other hand, filed his Comments on Abbott's Memorandum.^[20]

On September 12, 2005, Labor Arbiter Romulo P. Sumalinog (Sumalinog) issued an Order^[21] ruling that Jones' receipt of the amount of P 1,022,458.90 constituted as the full and complete settlement of the latter's backwages and that Jones' reinstatement is neither prudent nor feasible in view of his continued and long absence, instead Jones should be compensated with separation pay equivalent to one month's salary for every year of service. The dispositive portion^[22] thereof reads:

WHEREFORE, premises considered, the amount of ONE MILLION TWENTY TWO THOUSAND FOUR HUNDRED FIFTY EIGHT and 90/100 PESOS (P 1,022,458.90) received by complainant GEORGE D. JONES is hereby DECLARED as full and complete satisfaction of the award of backwages.

However, respondent ABBOTT LABORATORIES (PHILS.), INC. is nevertheless DIRECTED to pay complainant GEORGE D. JONES his separation pay, in lieu of reinstatement, equivalent to one month's salary for every year of service, or the sum of TWO HUNDRED SEVENTY TWO THOUSAND FIVE HUNDRED PESOS (Php 272,500.00).

Aggrieved, Jones appealed the aforesaid Order to the NLRC.^[23] On October 18, 2006, the NLRC issued its Resolution^[24] dismissing the appeal on the ground of non-perfection. Jones' Motion for Reconsideration was likewise denied by the NLRC in its Resolution^[25] dated February 26, 2007.

On June 5, 2007, Jones filed a Petition for Certiorari^[26] before this Court, docketed as CA-GR SP. No. 02766, assailing the October 18, 2006 and February 26, 2007 Resolutions of the NLRC. However, Jones filed a Motion to Withdraw Petition which was granted by this Court in its Resolution^[27] dated December 9, 2008.

On February 8, 2008, Jones filed before the SC a motion for issuance of a writ of execution praying that he be reinstated in accordance with the 1995 SC Decision. Jones argued that Labor Arbiter Sumalinog altered the final judgment of the SC in ordering the payment of separation pay in lieu of reinstatement, and that the doctrine of inviolability and unalterability of final judgments must be upheld. Acting upon the said motion, the SC in its Resolution dated March 24, 2008 referred Jones' motion for issuance of a writ of execution to the NLRC. Thereafter, the SC issued another Resolution dated February 23, 2009 which referred Jones' appointment of a special sheriff to the NLRC.^[28]

On December 20, 2010, Jones filed a motion for issuance of an order directing the NLRC to issue a writ of execution and to report to the SC the action taken. Jones alleged that despite the SC's previous referrals of his motions, no action had yet been taken by the NLRC. Thus, in its Resolution dated February 28, 2011, the SC required the NLRC to file its comment on the said motion.^[29]

In its Resolution dated November 23, 2011, the SC noted Jones' manifestation with omnibus motion to: 1) to reiterate motion for issuance of an order directing NLRC to issue a writ of execution and to report to the SC the action taken; and 2) to cite in contempt the Labor Arbiter for failing to file a comment. The SC likewise ordered the NLRC and the Labor Arbiter to show cause and comply.^[30]

On February 17, 2012, Labor Arbiter Sumalinog filed his comment, where he argued that the principle of unalterability of final judgment admits of exceptions, namely, where facts transpire which would render its execution impossible or unjust, and it becomes necessary in the interest of justice to direct its modification in order to harmonize the disposition with the prevailing circumstances. He also averred that he could not be held in contempt because he never received the February 28, 2011 SC Resolution requiring him to file a comment. In his Reply on March 1, 2012, Jones argued that contrary to Labor Arbiter Sumalinog's findings, the records showed that petitioner had actively sought reinstatement and it has been held that the doctrine of strained relations was only applicable in cases where the employee decided not to be reinstated and demanded for separation pay. Jones, therefore, prayed that the