

SIXTEENTH DIVISION

[CA-G.R. SP No. 127824, December 09, 2014]

PPB MESSENGERIAL SERVICES, INC. AND PASTOR B. BENAVIDES, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND RONALD M. PESCUELA, RESPONDENTS.

D E C I S I O N

BATO, JR., J.:

In this Petition for Certiorari^[1] under Rule 65 of the Rules of Court, petitioners seek to set aside the Decision^[2] dated 31 July 2012 and Resolution^[3] dated 28 September 2012 of the National Labor Relations Commission (NLRC) in NLRC LAC No. 05-001499-12.

Petitioner PPB Messengerial Services, Inc. (hereinafter referred to as "PPB"), is a domestic corporation engaged in the business of providing messengerial services to its clients. Petitioner Pastor B. Benavides (hereinafter referred to as "Benavides") is the President of PPB. (PPB and Benavides are hereinafter collectively referred to as "petitioners").

On 04 July 2011, private respondent Ronald M. Pescuela (hereinafter referred to as "Ronald"), along with Eduardo Berdin (hereinafter referred to as "Eduardo") and Exequiel Pescuela, Jr. (hereinafter referred to as "Exequiel"), filed their respective Complaints^[4] for illegal dismissal with money claims against the petitioners before the Labor Arbiter, Sub-Regional Arbitration Branch No. IV, Calamba City. They stated in their respective Complaints that PPB dismissed them on 10 June 2011.

In their joint Position Paper,^[5] Ronald, Eduardo and Exequiel alleged that sometime in January 2000, PPB hired Ronald as a messenger assigned in Sta. Rosa, Laguna. Because of the increased volume of deliveries, petitioner Benavides instructed Ronald to hire additional messengers. Thus, Eduardo and Exequiel were hired by PPB through Ronald on 18 June 2004. The three (3) of them reported to petitioner Benavides every 3rd and 4th day of the week to get the documents that they were to deliver. Their salaries, on the other hand, were paid every Saturday. However, on 30 June 2011, petitioner Benavides told them not to report for work anymore.

For their part, petitioners denied that Eduardo and Exequiel were employees of PPB. Anent the complaint of Ronald, petitioners countered that it never dismissed Ronald on 10 June 2011. It was Ronald who refused to make further deliveries. As a matter of fact, Ronald returned several hundreds of undelivered Globe billing statements on 18 June 2011. They further pointed out that Ronald gave contradicting statements on the actual date that he was allegedly dismissed. In his complaint, he stated that he was dismissed on 10 June 2011. However, in his position paper, he alleged that it was on 30 June 2011 when Benavides told him not to return to work anymore.

In her Decision^[6] dated February 23, 2012, the Labor Arbiter ruled that Ronald, Eduardo and Exequiel were regular employees of PPB. Nonetheless, they were not illegally dismissed but merely placed on floating status because there were no available deliveries for them. The dispositive portion of the Labor Arbiter's Decision reads:

"WHEREFORE, premises considered the complaint filed by complainants against respondent PPB Messengerial Services and/or Pastor Benavide[s] is hereby dismissed for lack of merit.

All other claims are dismissed for lack of merit.

SO ORDERED."

Ronald, Eduardo and Exequiel filed their joint appeal with the NLRC. They questioned therein the Labor Arbiter's pronouncement that they were not dismissed from employment but merely placed on floating status.

In its 31 July 2012 Decision, the NLRC ruled that no employer-employee relationship existed between Eduardo and Exequiel on one hand and PPB on the other hand. Only herein private respondent Ronald was an employee of PPB. The NLRC further ruled that Ronald was constructively dismissed on 25 June 2011, ratiocinating as follows:

"We find no factual basis for the Labor Arbiter's conclusion that the complainant Ronald was merely placed on floating status. x x x. The records are bereft of any evidence that there was a suspension of operation of the respondent company, or that there was a reduction in the number of clients requiring messengerial services, that would have justified placing the complainant on floating status. Instead, the records show that prior to June 10, 2011, complainant Ronald would pick-up from the respondent company the billing statements for delivery on a regular basis, which is, every other day as required by the respondent company based on the memorandum dated September 28, 2007 (Rollo, p. 49) issued by respondent Benavides as company President. However, starting June 10, 2011, respondents stopped giving documents to the complainant Ronald but allowed him to deliver the remaining documents in their custody up to June 25, 2011. We note that the respondents never denied or refuted complainant's allegation that respondent Benavides stopped giving documents to the complainant on 10 June 2011. Considering that complainant Ronald continued to deliver documents after June 10, 2011 and was able to complete the delivery of the remaining documents in his custody on June 25, 2011 when he last reported to the respondent company to submit proof of delivery but still, was not given billing statements for delivery and thus was left without any work to do, he is deemed to have been unlawfully constructively dismissed on June 25, 2011. Having been illegally dismissed, he is entitled to reinstatement and backwages computed from June 25, 2011

up to the finality of this decision. Based on the weekly income of the complainant for June 11, 13, 16, 2011 said complainant received an average of P11,008.91 per week or P44,035.64 per month as salary.

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WHEREFORE, the Labor Arbiter's Decision dated February 23, 2012 is hereby MODIFIED. Respondents P.B.B. Messengerial Services, Inc. and Pastor P. Benavides are ordered to reinstate Ronald Pescuela immediately and to pay jointly and severally his backwages from June 25, 2011 up to the finality of this decision, which is tentatively computed up to the date of this decision in the following amounts:

1. Ronald Pescuela

P44,035.64 per month as salary
June 25, 2011 to June 24, 2012 (cut-off date)
P44,035.64/mo. X 12 months = P528,427.68

SO ORDERED.”^[7]

Petitioners filed a Partial Motion for Reconsideration^[8] of the above-quoted NLRC Decision, contending that the NLRC erred in concluding that Ronald was constructively dismissed on 25 June 2011. They likewise contended that the NLRC's computation of the award of backwages equivalent to Php11,008.91 per week or Php44,035.64 per month as salary is without basis.

In its Resolution dated 28 September 2012, the NLRC stood firm on its ruling that Ronald was constructively dismissed. However, it modified the amount of backwages to be awarded to Ronald in this wise:

“The finding that complainant earns P11,008.91 per week or P44,035.64 per month as salary was based on complainant's averments.

For respondents' Motion for Reconsideration claims the improbability of delivering 489.28 documents/billings per day. As proof thereof, they attached a summary of deliveries made by the complainant Ronald Pescuela from January to June 2011 (Annex 1, Rollo 243) showing a variance of deliveries made for said period. While our finding prior to the presentation of the summary was based on a constant No. 489.28, the summary showed divergent numbers of delivery per day.

Based on the summary, complainant was earning from P25,497.00 to as high as P27,150.00 a month.

Considering the discrepancies, We have to reconsider our award of backwages amounting to P528,427.00 for one year to P264,213.00.