SUPREME COURT
SECOND DIVISION

CAPITAL GARMENT CORPORATION,
***Petitioner*,**

-versus-

G.R. No. L-53627
September 30, 1982

HON. BLAS OPLE, HON. FRANCISCO ESTRELLA, FLORITA SANTOS, ET AL.,
***Respondents*.**
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D E C I S I O N

DE CASTRO, *J.*:

This Petition for *Certiorari* with Preliminary Injunction seeks to Annul the Orders of August 7, 1979 and April 7, 1980 of the Minister of Labor Blas Ople which affirmed the order of April 5, 1979 of the Regional Director in Case No. R-4-STF-11-7292-78 directing petitioner Capital Garment Corporation to reinstate private respondents to their former positions with full backwages from the

time of their actual reinstatement without loss of seniority rights and other benefits.

Before the instant case arose, petitioner applied for clearance with the Ministry of Labor to dismiss forty-one (41) employees 128 of whom are now the private respondents in the instant case) for alleged inefficiency and tardiness, docketed as Case No. R04-STF-303-77. The application for clearance was denied, and petitioner was ordered to immediately reinstate the 41 employees to their former positions with full backwages and without loss of seniority rights and benefits.

On November 2, 1978, petitioner reinstated only 32 of the 41 employees. The rest either failed to report for work or tendered their resignation or went on maternity leave. After having worked for two days, or on November 4, 1978, 28 of the reinstated employees did not report for work.

On November 15, 1978, the petitioner filed with the Ministry of Labor a clearance application to terminate the herein 28 private respondents effective November 29, 1979 for violation of company rules and abandonment of work. On the same date, November 15, 1978, the employees through their lawyer informed the petitioner that their failure to work does not constitute abandonment "since their refusal is based on your unjustified conduct." In the same letter, the employees apprised the corporation that they are "preparing a complaint for unfair labor practice."

On November 25, 1978, private respondents filed their complaint for unfair labor practice, illegal dismissal and damages against the petitioner with the Ministry of Labor which resulted in the denial on April 5, 1979 by the Labor Arbiter of the application for clearance to terminate the services of private respondents.[1]

On August 7, 1979, the Minister of Labor dismissed petitioner's appeal for being pro-forma and ordered that execution be issued immediately.[2]

After petitioner's Motion for Reconsideration had been denied, petitioner filed the present Petition for *Certiorari* with preliminary injunction.

The main question for determination is whether or not there was grave abuse of discretion in ordering the reinstatement of private respondents to their former positions with full backwages.

It is petitioner's contention that private respondents left their work without prior notice or permission of petitioner which act therefore justifies petitioner to dismiss them. The contention is without merit, as may be seen from the order of the Regional Director quoted hereunder:

> "On the first issue, this Office is convinced and so holds that no abandonment of work exists. To constitute abandonment, there must be a clear and deliberate intent to discontinue one's employment without any intention of returning back. In the case at bar, such intent is absent in order to characterize the act of complainants as abandonment of work. Reason dictates that a group of workers aggrieved by lay-off for almost a year would not abandon their work immediately after their reinstatement. The only logical explanation why complainants left their work is respondent's ill motivated scheme of harassment in order to compel them to resign or abandon their work and cause final termination of their employment."

Petitioner now wants to impress this Court that the aforestated conclusion of the Regional Director was not supported by evidence. It should be pointed out that the Regional Director found that the reinstatement of petitioner on November 2, 1978 "was rendered a farce when their supervisors imparted a clear impression that their further stay in the company was unwanted" and that because of "their unbearable working conditions" they protested to the Company with warning that they would file a complaint against it. Notably, the Complaint[3] alleged:

> "14. However, as it turned out, complainants became the subject of harassment, ridicule and unfair treatment amounting to unfair labor practice. The supervisors mostly of them are chinese have always reprimanded and scolded complainants without any reason whatsoever. It is as if respondents making a hell out of complainants' place of

work, hopefully expecting that time will eventually come when complainants could no longer endure their sufferings and respondents' blandishments and scolding and would be resigning from their jobs.

"15. As a result of their unbearable sufferings, unfair treatment and undue discrimination, complainants sometime in the first week of November refused to work. Accordingly, complainants through their lawyer, sent to respondent a letter, xerox copy of which is hereto attached and marked as Annex 'G'."

In refuting the above allegation, petitioner alleges in its answer that "during their (private respondents) two days of work, they were treated fairly and equally like all the workers of the company numbering more than 1,000 workers."[4] Such allegation was, however, not substantiated during the hearing of the case.

Submitted as Annex "G" to the complaint is the letter protest dated November 15, 1978 justifying their continued absence:

"November 15, 1978

Capital Garment Corporation
399 E. De los Santos Avenue
Caloocan City

Gentlemen:

We would like to formally protest the way you are treating our clients, Florita Santos and the rest of the other 40 complainants n Case No. R4-SF-303-77 and who pursuant to said case have been reinstated per order of the Honorable Minister of Labor dated September 1, 1978.

While it is true that you have abide to said decision pertaining to reinstatement per notice of work which was given sometime in the first week of November, nevertheless the complainants have informed the undersigned that they are being unfairly

treated specially by your supervisors with the end in view for forcing them to resign.

My clients are mere human beings and inspite of the fact that in the decision of the Honorable Arbiter Bienvenido S. Hernandez dated May 19, 1976 in NLRC Case No. RV-IB-20221-78, you have been declared to be guilty of unfair labor practice, it seems that you are still exercising acts which are certainly contrary to the express provisions of the Labor Code and clearly oppressive to the rights of my clients.

Because of your malicious conduct which my clients could not endure, they refuse to work starting last Saturday, November 4, 1978. But do not have the impression that their failure to work constitutes abandonment since their refusal is base on your unjustified conduct. Furthermore your lawyer, Atty. Mel Salva has been making representations with undersigned to provide a way for the separation of these complainant by paying separation pay. However inspite of all the liberality and candor which undersigned counsel has accorded his favorable concurrence in accepting a partial payment of the amount fixed in the writ of execution still you failed to properly inform him of the progress of these proposals, always making excuses that the matter shall be taken up to your key officials.

In any event we wish to formally inform you of the reason why my clients refused to work. Right now we are preparing a complaint for unfair labor practice and also an action to annul the petition certification election where our clients were deprived of their constitutional rights to organize and effectively campaign for a union of their own choice.

Very truly yours,
AGUSTIN O. BENITEZ and ASSOCIATES
Lirag Textile Mills, Inc.
Bo. Acacia, Malabon
Metro Manila."[5]

Since there was no abandonment of work, private respondents are entitled to full backwages without deductions or qualifications.

Petitioner however, submits that since private respondents have found employment elsewhere, their earnings in the interim should be deducted, citing East Asiatic Company, Ltd. vs. CIR,[6] and Itogon Suyoc Mines, Inc. vs. Safigilo Itogon Workers' Union.[7]

The general principle is that an employee is entitled to receive as backwages all the amounts he may have lost starting from the date of his dismissal up to the time of his reinstatement. In Itogon Suyoc case, and the cases cited therein, this Court, in granting backwages with deductions of the earnings elsewhere was guided by the principle that no one should enrich himself at the expense of another. Consequently, where deductions are to be made from the backwages, the records of the cases are returned to the then existing Court of Industrial Relations to ascertain the amount of backwages due, but inevitably there was the attendant delay in the awarding of backwages because of the extended hearings to prove the earnings elsewhere of each and every employee. For this reason in Mercury Drug Co. Inc. vs. Court of Industrial Relations,[8] this Court adopted the new policy of fixing the amount of backwages to a just and reasonable level without qualification or deduction. The principle is justified "as a realistic, reasonable and mutually beneficial solution for it relieves the employees from proving their earnings during their lay-offs and the employer from submitting counterproofs, and thus obviates the twin evils of idleness on the part of the employees and attrition and undue delay in satisfying the award on the part of the employer.[9] The new formula was applied in subsequent cases, the latest of which is the case of Kapisanan ng Manggagawa sa Camara Shoes vs. Camara Shoes.[10]

Since this case has been pending for four (4) years, We find that a period of two years for purposes of fixing the backwages of petitioner is fair and reasonable.

WHEREFORE, in view of the foregoing, We hereby modify the questioned order insofar as the payment of backwages is concerned, and We order petitioner to pay the individual claimants the corresponding backwages for a period of two years to be computed on the basis of their respective rate of earnings as of November 2, 1978 without qualification and deduction.

SO ORDERED.

Barredo, *J.*, *(Chairman)*, Aquino, Concepcion Jr., Guerrero, Abad Santos and Escolin, *JJ.*, concur.

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[1] Annex "D", p. 27, Rollo.
[2] Annex "F", p. 36, Rollo.
[3] Annex "B", p. 19, Rollo.
[4] Annex "C", p. 22, Rollo.
[5] p. 116, Rollo.
[6] 71 SCRA 522.
[7] 24 SCRA 873.
[8] 56 SCRA 694.
[9] New Manila Candy Workers Union (Naconwa-Paflu) vs. CIR, citing the separate opinion of Justice Teehankee in the Mercury case, 86 SCRA 36.
[10] 11 SCRA 486.
