

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**CITYTRUST BANKING CORPORATION,  
*Petitioner,***

***-versus-***

**G.R. No. 104860  
July 11, 1996**

**NATIONAL LABOR RELATIONS  
COMMISSION, and MARIA ANITA  
RUIZ,**

***Respondents.***

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**D E C I S I O N**

**MENDOZA, J.:**

This is a Petition for *Certiorari* with Prayer for Preliminary Injunction to Annul two Resolutions of the National Labor Relations Commission in NLRC INJ. Case No. 1826. The first resolution, dated September 5, 1991, denied a petition to stop implementation of the alias writ of execution, while the second one, dated January 15, 1992, denied petitioner's motion for reconsideration.

The facts are as follows:

Private respondent Ma. Anita Ruiz was internal auditor of petitioner Citytrust Banking Corporation. On November 1, 1974, she was

designated manager of the Quiapo branch of the bank, but she refused the appointment on the ground that it was a demotion. As a consequence, she was suspended and, upon clearance given by the Department of Labor, she was terminated on November 8, 1974.

Private respondent filed a complaint for illegal dismissal. She was ordered reinstated as branch manager, the NLRC urging her to accept the position, otherwise her refusal would be considered a ground for her loss of employment.

Private respondent appealed to the Minister of Labor (now Secretary of Labor and Employment) but again she lost. Both parties then appealed to the Office of the President, which on January 3, 1977, ordered petitioner to reinstate private respondent to her former position as internal auditor and to pay her backwages from the time her compensation was withheld up to the time of her reinstatement.

Petitioner moved for a reconsideration on the ground that the position of internal auditor had been abolished (although the position of resident inspector was created in its stead), and therefore in lieu of reinstatement, it should only be made to pay private respondent's separation pay. The Office of the President modified its decision and ordered petitioner to reinstate private respondent to a substantially equivalent position without loss of seniority rights and to grant her the benefits and privileges to which she would be entitled had she not been dismissed.

On August 14, 1978 petitioner reinstated private respondent as manager of the Auditing Department. Private respondent accepted the appointment but questioned her reinstatement to that position on the ground that it was not substantially equivalent to the position of resident inspector (the position created in place of internal auditor). She also questioned the award of backwages as the report of the socio-economic analyst allegedly did not include backwages from April 1974 to June 1974 when she was on leave with pay and vacation and sick leave in 1974 and other fringe benefits to which she was entitled before her termination.

On February 26, 1979, Labor Arbiter Apolinario N. Lumabao issued an order holding that the position of manager of the Auditing

Department was not substantially equivalent to that of resident inspector. The dispositive portion of his order read:

WHEREFORE, respondent is hereby ordered to reinstate complainant to the position of Resident Inspector and should this not be possible as it appears (that) the position is already filled up(,) to relocate complainant to a substantially equivalent position with all the emoluments and privileges of a Resident Inspector. Respondent is hereby further ordered to pay complainant P9,040.00 as transportation allowance from November 8, 1974 to August 13, 1978 and P1,150.00 mid-year bonus for 1974 in addition to the benefits embodied in the report.

On October 14, 1980, the NLRC affirmed the Labor Arbiter's order with modification by ordering the following to be added to the award:

- (a) Her vacation and sick leave privilege during the period of her separation in accordance with the disposition hereinbefore stated in the body of this Resolution; and
- (b) the normal increases which complainant would have received during the period of her separation.

Petitioner brought the matter to this Court, but its petition was dismissed.<sup>[1]</sup>

In connection with the computation of the award in her favor, private respondent sought the production of the bank's payrolls for 1974-1981. Her motion was opposed by petitioner which offered instead P74,344.00, the total amount of backwages as computed by the socio-economic analyst of the Department of Labor, plus P9,040.00 in transportation allowance and P1,050.00 mid-year bonus for 1974.

Private respondent refused the offer, hence the NLRC directed the analyst to compute the award on the basis of the payrolls from 1974 to 1981. Petitioner appealed to the NLRC en banc, but its petition was dismissed, on the ground that the order appealed from was

interlocutory. Petitioner filed a petition for Certiorari and Prohibition with this Court, assailing the dismissal of its appeal. Again its petition was dismissed for lack of merit.<sup>[2]</sup>

On November 12, 1984, upon motion of private respondent, the NLRC issued a writ of execution of the award of P1,219,520.52. A notice of garnishment was also issued on November 19, 1984 against petitioner. But on petitioner's motion, the NLRC enjoined execution in its order on November 22, 1984, pending the reconstitution of records and recomputation of petitioner's liability.

On May 28, 1985, the socio-economic analyst of the DOLE submitted a computation of the monetary award due private respondent, consisting of (1) backwages from November 8, 1974 to August 13, 1978 and (2) salary differentials (erroneously referred to as backwages) for the period August 14, 1978 to October 31, 1984 and transportation allowance and mid-year bonus. The total amount found due private respondent was P1,304,054.52, computed as follows:

Backwages and other fringe benefits from August 14, 1978 up to October 31, 1984, per computation embodied in the Urgent Motion for Issuance of Writ of Execution	P1,219,520.52 <sup>[3]</sup>
Backwages and other fringe benefits from November 8, 1974 up to August 13, 1978, per report dated August 28, 1979	74,344.00
Transportation allowance from Nov. 8, 1974 up to Aug. 13, 1978 and Mid-year bonus for 1974 per Order dated Feb. 26, 1978 and affirmed by the NLRC in its Resolution dated Oct. 14, 1980	<u>10,190.00</u>
Total	<u>P1,304,054.52</u> =====

Petitioner moved to set aside the above computation and asked for the execution of P41,400.00, the amount equivalent to private respondent's three years backwages. On the other hand private respondent moved to lift the restraining order. Her motion was granted, prompting petitioner to file a petition for Certiorari, Mandamus and Prohibition, for the third time, in this Court. Petitioner asked that the Labor Arbiter be directed to award to private

respondent backwages limited to three years without deduction, in accordance with the ruling in Panay Railways vs. NLRC.<sup>[4]</sup>

The petition was at first dismissed by this Court for lack of merit. Petitioner's motion for reconsideration was also dismissed. On July 21, 1986 this Court modified its decision and petitioner was ordered to pay private respondent "backwages limited three (3) years without qualification or deduction at the salary rate of private respondent at the time of dismissal."<sup>[5]</sup>

On February 23, 1987, the Labor Arbiter ordered a recomputation of private respondent's award. As recomputed, the award is as follows:

- A. Total salary and other benefits of a Resident Auditor from August 14, 1978 to December 31, 1986, as per Urgent Motion for Issuance of Writ of Execution dated November 7, 1984:

Aug. 14, 1978 to Dec. 31, 1978	P47,468.75
Jan. 1, 1979 to Dec. 31, 1979	126,000.00
Jan. 1, 1980 to Dec. 31, 1980	141,750.00
Jan. 1, 1981 to Dec. 31, 1981	157,500.00
Jan. 1, 1982 to Dec. 31, 1982	177,187.50
Jan. 1, 1983 to Dec. 31, 1983	196,875.00
Jan. 1, 1984 to Oct. 31, 1984	174,375.00
Nov. 1, 1984 to Dec. 31, 1984	61,875.00
Jan. 1, 1985 to Dec. 31, 1985	236,250.00
Jan. 1, 1986 to Dec. 31, 1986	<u>236,250.00</u>
Total	P1,555,531.25
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[LESS]

- B. Total salary and other benefits received by complainant from August 14, 1978 to December 31, 1986, as per Urgent Motion for Issuance of Writ of Execution dated November 7, 1984, and as per xerox copies of Certificate of Income Tax Withheld on Compensation:

Aug. 14, 1978 to Dec. 31, 1978	P 7,041.50
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Jan. 1, 1979 to Dec. 31, 1979	23,827.30
Jan. 1, 1980 to Dec. 31, 1980	21,216.74
Jan. 1, 1981 to Dec. 31, 1981	15,242.78
Jan. 1, 1982 to Dec. 31, 1982	23,036.66
Jan. 1, 1983 to Dec. 31, 1983	22,830.16
Jan. 1, 1984 to Dec. 31, 1984	35,757.97
Jan. 1, 1985 to Dec. 31, 1985	33,345.00
Jan. 1, 1986 to Dec. 31, 1986	<u>33,345.00</u>
Total	P215,843.20
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C. TOTAL COMPUTED DIFFERENTIALS **P1,339,888.05**  
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The Labor Arbiter issued an alias writ of execution on August 20, 1987, after finding that the amount corresponded to the amount found due private respondent in the October 14, 1980 decision of the NLRC and the resolution of this Court of July 21, 1986, consisting of salary differentials and other fringe benefits which were not paid to her from the time that she was reinstated on August 14, 1978 as manager of the Auditing Department.<sup>[6]</sup>

Petitioner moved to quash the alias writ of execution. As its motion was denied, it filed a petition for Injunction in the NLRC en banc to stop the implementation of the alias writ of execution and prayed for a recomputation of the monetary award pursuant to this Court's resolution of July 21, 1986. Its petition was, however, denied, as was its motion for reconsideration, in the resolutions dated September 5, 1991 and January 15, 1992 of the NLRC. Hence, this petition.

The preliminary question is whether petitioner should have appealed from the order dated August 20, 1987 of the Labor Arbiter to the NLRC, instead of filing a motion for injunction. The Solicitor General argues that because petitioner never interposed such an appeal, the order in question became final. The NLRC denied petitioner's petition on the ground that petitioner did not appeal the order granting the motion for the issuance of an alias writ of execution.

The order in question is an order of execution of a final and executory judgment. As such, it is not appealable, otherwise there would be no end to a case.<sup>[7]</sup> As petitioner's claim was that the writ of execution

varied the terms of the judgment, the petitioner correctly questioned the writ by filing a the petition for injunction with the NLRC pursuant to Rule XIV, §1 of the 1986 NLRC Rules of Procedure and Art. 218(e) of the Labor Code.

It is true that aside from seeking to enjoin implementation of the alias writ of execution, petitioner also sought before the Labor Arbiter the recomputation of the award to private respondent. However, petitioner did so only with a view to enforcing compliance with this Court's resolution in G.R. No. 72589 that the backwages should be limited only to three years without qualification. There is therefore no merit in the claim of the Solicitor General that because private respondent did not appeal from the order, it cannot any more question that order.

Now as to the merits of this petition. Petitioner alleges that the NLRC gravely abused its discretion in dismissing the petition for injunction because the writ of execution did not conform to the resolution of this Court on July 21, 1986, which limited the award of backwages to three years without qualification and deduction.

There is no merit in petitioner's contention that private respondent is entitled to only three years of backwages and no more. Private respondent is, in addition, entitled to reinstatement without loss of seniority rights. Art. 280<sup>[8]</sup> of the Labor Code provides:

ART. 280. Security of Tenure. — In cases of regular employment, an employer shall not terminate the services of an employee except for a just cause or when authorized by this title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and to his backwages computed from the time his compensation was withheld from him up to the time of his reinstatement. (Emphasis supplied)

Backwages are for earnings which a worker has lost due to his illegal dismissal.<sup>[9]</sup> Private respondent was illegally dismissed from November 8, 1974 to August 13, 1978. In its May 28, 1985 Report, the socio-economic analyst computed private respondent's backwages for this period but he erroneously considered as backwages private

respondent's salary differential from August 14, 1978 to October 31, 1984. On August 14, 1978, private respondent had already been reinstated, albeit to a lower paying position as manager of the Auditing Department. Hence the award of backwages should be up to August 13, 1978 only. What she was entitled to receive after that date was the difference between the salary of internal auditor (resident inspector) and that of manager of the Auditing Department to which she was actually appointed. This position, as already noted, was found to be not a substantially equivalent position to that of internal auditor or resident inspector.

The resolution of July 21, 1986 of this Court in G.R. No. 72589, which limited the award of backwages, referred to the backwages for the period November 8, 1974 to August 13, 1978 as component of the relief granted by law to those who are illegally dismissed. The Court at that time limited the award of backwages to three years without qualification and deduction to avoid delays incident to the determination of the earnings of the laid-off employees during the pendency of the case and of deducting them from the backwages later awarded.<sup>[10]</sup>

The second component of the relief granted under then Art. 280 of the Labor Code was reinstatement either to their former position or if, this was not possible, to a substantially equivalent position. Reinstatement contemplates a restoration to a position from which one has been removed or separated so that the employee concerned may resume the functions of the position he already held.<sup>[11]</sup> Private respondent was the internal auditor of petitioner at the time of her dismissal. Since this position had been replaced by the position of resident inspector, private respondent should have been appointed resident inspector. The position of manager of the Auditing Department to which she was appointed was not a substantially equivalent position, as found by the Labor Arbiter in his order of February 26, 1979 and later by the NLRC.

The order to reinstate an employee to a former position or to a substantially equivalent position is a positive mandate of the law with which strict compliance is required. This is an affirmation that those deprived of a recognized and protected interest should be made whole so that the employer will not profit from his misdeeds.<sup>[12]</sup>

In view of the fact that private respondent retired from the bank on March 1, 1991,<sup>[13]</sup> reinstatement is now academic. She should therefore be paid the difference in pay of a resident inspector and a manager of the Auditing Department from August 14, 1978 up to March 1, 1991. This is the portion of the award to private respondent that was the subject of recomputation made pursuant to the order of February 23, 1987 of the Labor Arbiter. It is in addition to the award for backwages granted to private respondent in the order of October 14, 1980 of the NLRC, as modified by the resolution of July 21, 1986 in G.R. No. 72589, limiting the award of backwages to three years. This award was not included in the alias writ of execution which is the subject of the present petition.

For the foregoing reasons, we find the petition for certiorari without merit. This petition is the fourth petition filed with this Court. It has no doubt, prolonged the granting of complete relief to private respondent. Litigation must come to an end. In labor cases, the cause of an illegally dismissed employee must always be a concern of everyone if we are to give effect to the constitutional policy of protecting labor and the duty of this Court to see to it that justice is served not only fairly but also swiftly.

**WHEREFORE**, the instant petition is **DISMISSED**. Let this case be remanded for the computation of the amount due private respondent, consisting of backwages for three years, conformably to the resolution of July 21, 1986 in G.R. No. 72589, and the salary differentials from August 14, 1978 to March 1, 1991.

**SO ORDERED.**

**Regalado, Romero, Puno and Torres, Jr., JJ., concur.**

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[1] Citytrust vs. Ruiz, G.R. No. 55604, July 20, 1981.

[2] Citytrust vs. Ruiz, G.R. No. 63112, August 15, 1983.

[3] Actually this item should be read "salary differential" for the period from the time (August 14, 1978) private respondent was reinstated as manager, Auditing Department, to October 31, 1984, when the report was made.

[4] 137 SCRA 480 (1985).

- [5] Citytrust vs. Lumabao, G.R. No. 72589, July 21, 1986.
- [6] Rollo, p. 41.
- [7] Paulino vs. Court of Appeals, 230 SCRA 469 (1994).
- [8] Now Art. 279 and amended by R.A. No. 6715.
- [9] Indophil Acrylic Manufacturing Corp. vs. NLRC, 226 SCRA 723 (1993).
- [10] PNOC-EDC vs. Leogardo, 175 SCRA 26 (1989); Mariners Polytechnic School vs. Leogardo, 171 SCRA 595 (1989); FEATI University Faculty Club vs. FEATI University, 58 SCRA 395 (1974); Mercury Drug Co., Inc. vs. CIR, 56 SCRA 694 (1974).
- [11] Union of Supervisors (RB) NATU vs. Secretary of Labor, 128 SCRA 443 (1984); Phil. Engineering Corp. vs. CIR, 41 SCRA 89 (1971); San Miguel Brewery, Inc. vs. CIR, 112 Phil. 979 (1961).
- [12] Union of Supervisor (RB) NATU vs. Secretary of Labor, Supra note 11.
- [13] Comment, Rollo, p. 119.