

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**TIMES TRANSIT CREDIT COOP. INC.,
*Petitioner,***

-versus-

**G.R. No. 117105
March 2, 1999**

**NATIONAL LABOR RELATIONS
COMMISSION and MARGARITA
CARIÑO,
*Respondents.***

X-----X

D E C I S I O N

QUISUMBING, J.:

This Special Civil Action for *Certiorari* seeks to set aside the Decision^[1] of the National Labor Relations Commission (NLRC) promulgated on June 28, 1994, and its Resolution dated August 16, 1994, which denied petitioner's motion for reconsideration.

Petitioner is a duly registered cooperative of the employees of Times Transportation Incorporated, while private respondent Margarita Cariño was employed as clerk by petitioner from July 10, 1985 until June 16, 1990 when her services was terminated.

On June 5, 1990, in the course of his inspection, Mr. Charlie Las Marias, as labor inspector, interviewed private respondent about the operations of Times Cooperative canteen. After the interview, private respondent signed the labor inspection reports and the application for registration provided by the labor official. She likewise received papers intended for petitioner which she, however, delivered to petitioner's governing board only on June 13, 1990. Admittedly, private respondent acted without authority from petitioner. Thus, on June 16, 1990, private respondent was dismissed from the service on the ground of serious misconduct.

Feeling aggrieved, private respondent filed a complaint for illegal dismissal, underpayment of wages, non-payment of wages and thirteenth month pay. But, in the meantime, she sought employment at the University of Northern Philippines Multi-Purpose Cooperative, Inc. (UNP Cooperative hereafter). She started working there on January 1, 1991.

On September 30, 1992, the labor arbiter issued the following verdict:

“PREMISES CONSIDERED, judgment is hereby rendered:

- (1) Declaring the complainant's dismissal as illegal;
- (2) Ordering respondent Times Transit Credit Cooperative, Inc. (TTCCI) to pay complainant's backwages amounting to P53,900.00 (covering the period from June 16, 1990 to September 30, 1992);
- (3) Ordering that instead of reinstatement, the respondent should pay her separation pay amounting to P13,720.00, and 13th month differential pay amounting to P4,325.81;
- (4) Dismissing her claims for underpayment of salaries, non-payment of rest day premiums, as well as her claim for moral damages for lack of merit.”^[2]

On June 9, 1993, the NLRC affirmed the aforequoted decision of the labor arbiter. Subsequently, petitioner moved for reconsideration of

public respondent's resolution arguing that the income earned by private respondent from UNP Cooperative during the pendency of the action for illegal dismissal should be deducted from the total amount of backwages and other benefits awarded. On September 10, 1993, petitioner's motion for reconsideration was denied for having failed to establish the amount private respondent earned elsewhere during the pendency of the case by not presenting the payrolls and other evidence to prove the amount of income earned. Public respondent likewise invoked the established rule of fixing backwages without qualification and deduction of earnings elsewhere.

Subsequently, petitioner filed with the NLRC a "Motion for Clarification and for Recomputation" dated September 29, 1993 praying that it be allowed to present evidence as to the amount received by private respondent during her employment with UNP Cooperative, or that the records be remanded to the labor arbiter for the reception of evidence for the above purpose and recomputation of the monetary award due private respondent. On October 28, 1993, public respondent denied the motion for clarification and recomputation on the ground that it was tantamount to a second motion for reconsideration which is not allowed under the NLRC Rules. Consequently, an entry of judgment was issued on February 16, 1994, and the records of the case were remanded to the arbitration branch of origin.

Remaining hopeful, petitioner, during the pre-execution conference on April 6, 1994, filed before Executive Labor Arbiter Norma Olegario, a motion praying, inter alia, to require private respondent to declare the income she received from UNP cooperative from January 1, 1991 up to September 30, 1992, and that said amount be deducted from the monetary awards. It stressed that the pre-execution proceedings is the appropriate time to make such deduction.

In an Order dated April 18, 1994, Executive Labor Arbiter Olegario denied petitioner's motion holding that she does not possess the power to affirm, reverse, modify or in any manner alter the decision of NLRC. Not satisfied, petitioner again appealed to public respondent praying for the reversal of the aforesaid order and reiterated the reliefs earlier prayed for in its motion.

In a Decision dated June 28, 1994, public respondent affirmed the labor arbiter's order. The decision reads:

“We need not emphasize that the Decision had become final and executory upon the issuance of Entry of Judgment. Moreover, respondent did not raise the issue to the Supreme Court. It has been held that:

‘A final and executory judgment can no longer be altered. The judgment may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land. Moreover, a final and executory judgment cannot be negotiated.’ (Manning International Co. vs. NLRC, 195 SCRA [155]).

WHEREFORE, in view of the foregoing, respondent's appeal is hereby DENIED for lack of merit and the questioned Order is thus AFFIRMED.

SO ORDERED.”^[3]

Petitioner's motion for reconsideration dated August 16, 1994 was likewise denied. Hence, this petition.

The sole issue to be resolved is whether or not public respondent committed grave abuse of discretion in affirming the labor arbiter's order on the ground that the judgment in the main case had become final and executory.

Petitioner contends that in computing the amount of backwages, the income earned elsewhere by private respondent from the date of her dismissal up to the date of reinstatement should be deducted. It further avers that the computation and presentation of proof of income earned elsewhere should be ventilated in the execution proceedings before the labor arbiter.^[4] On the other hand, private respondent maintains that the deduction cannot be allowed as the

actual earnings were not established. But more importantly, private respondent submits that the decision in the illegal dismissal case cannot be modified anymore as it had become final and executory.^[5]

We rule in favor of private respondent's submission.

In the case at bar, private respondent's illegal dismissal is no longer disputed. Petitioner, however, impugns the computation of monetary awards done by the labor arbiter and affirmed by public respondent. But petitioner's stance that private respondent's earnings elsewhere, if any, be deducted from the backwages awarded to him, has now completely lost legal and doctrinal support. As held in *Bustamante vs. NLRC*, conformably with the evident legislative intent as expressed in Rep. Act No. 6715, "backwages to be awarded to an illegally dismissed employee, should not, as a general rule, be diminished or reduced by the earnings derived by him elsewhere during the period of his illegal dismissal. The underlying reason for this ruling is that the employee, while litigating the legality (illegality) of his dismissal, must still earn a living to support himself and family, while full backwages have to be paid by the employer as part of the price or penalty he has to pay for illegally dismissing his employee."^[6]

It would seem, moreover, that the petition seeks the reversal of the decision of public respondent dated June 28, 1994, which denied the appeal for the recomputation of the monetary awards granted to private respondent, only on the surface. But, in reality, the attack is aimed at the decision of the labor arbiter in the illegal dismissal case rendered on September 30, 1992, which ordered petitioner to pay private respondent backwages, separation pay and 13th month pay differential. The said decision of the labor arbiter became final and executory upon the lapse of ten (10) days from receipt by the parties of the denial of the motion for clarification and recomputation. On record, petitioner received its notice of denial on November 22, 1993,^[7] hence, insofar as petitioner is concerned, the labor arbiter's decision is deemed final and executory as of December 2, 1993.

Verily, the instant petition appears to be a mere stratagem to modify a final judgment in the illegal dismissal case, even if focused (wrongly now) on reviewing the monetary awards. If allowed such stratagem would make a farce of a duly promulgated decision that has become

final and executory. This, we cannot permit. It is fundamental that a final and executory decision cannot be amended or corrected except for clerical errors or mistakes. Such a definitive judgment is no longer subject to change, revision, amendment, or reversal, and the court loses jurisdiction over it, except to order its execution.^[8] In this case where no error nor grave abuse of discretion has been shown, a review thereof could only be purely dilatory, and prejudicial to the dismissed employee. Litigation must at some time be terminated, for public policy dictates that once a judgment becomes final, executory and unappealable, the prevailing party should not be denied the fruits of his victory by some subterfuge devised by the losing party.^[9]

WHEREFORE, the instant petition is hereby **DENIED**. The assailed decision of NLRC is hereby **AFFIRMED**. Double costs against petitioner.

SO ORDERED.

Bellosillo, Puno, Mendoza and Buena, JJ., concur.

[1] Penned by Presiding Commissioner Lourdes C. Javier, and concurred in by Commissioners Ireneo B. Bernardo and Joaquin A. Tanodra.

[2] Labor Arbiter Decision, quoted in NLRC Decision dated June 28, 1994; Rollo, pp. 46-47.

[3] NLRC Decision, p. 5; Rollo, p. 50.

[4] Petition, p. 8; Rollo, p. 9.

[5] Private Respondent's Comment, p. 2; Rollo, p. 65.

[6] 265 SCRA 61, 70 (1996).

[7] Petition, p. 6; Rollo, p. 7.

[8] Yu vs. NLRC, 245 SCRA 134, 142 (1995).

[9] Nasser vs. Court of Appeals, 245 SCRA 20, 29 (1995).