



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE

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FIRST DIVISION

ANNA MAE B. MATEO,
 Petitioner,

G.R. No. 226064

Present:

- versus -

PERALTA, *CJ, Chairperson,*
 CAGUIOA, *Working Chairperson,*
 REYES, J. JR.,
 LAZARO-JAVIER, and
 LOPEZ, *JJ.*

**COCA-COLA
 PHILS. INC.,**

BOTTLERS
 Respondent.

Promulgated:

FEB 17 2020 *mtf/bnl*

X-----X

DECISION

REYES, J. JR., J.:

Through this Petition for Review¹ under Rule 45 of the Rules of Court, petitioner challenges the Court of Appeals (CA) Decision dated November 25, 2015 and Resolution dated June 13, 2016. The assailed CA Decision and Resolution reversed the rulings of the National Labor Relations Commission (NLRC) and the Labor Arbiter by dismissing petitioner’s complaint for illegal deductions, underpayment of separation pay, non-payment of salaries, and claims for damages.

Facts

Petitioner was previously employed by Philippine Beverage Partners, Inc., (PhilBev) as Sales Supervisor. In 2007, PhilBev ceased operations, and, as a result, petitioner was separated from service. Petitioner received the corresponding separation benefits from PhilBev.² Thereafter, petitioner was

¹ *Rollo*, pp. 34-59.

² *Id.* at 35.

hired by respondent, also as Sales Supervisor, and was eventually promoted as District Team Leader.

In February 2012, petitioner was informed by respondent that it is enhancing its Route to Market (RTM) strategy to improve sales force effectiveness, and, that due to such RTM strategy which requires different sales force competencies and capabilities, her position was considered redundant.³ She was also informed that her employment will be terminated effective March 31, 2012.⁴ Further, she was to receive an amount tentatively computed at ₱676,657.15, as a consequence of her separation from service.⁵

On April 21, 2012, respondent released to petitioner two checks for the total amount of ₱402,571.85. Upon verification, petitioner discovered that her outstanding loan balance and the amount of ₱134,064.95, representing withholding tax, were deducted from the originally computed amount.⁶

Petitioner sought clarification as regards said deductions and was informed that the retirement benefit she received is no longer tax exempt because she previously availed of such tax exemption upon her separation from service with PhilBev.⁷

Petitioner wrote a letter to the Bureau of Internal Revenue (BIR) as regards the propriety of the tax withheld. The Regional Director briefly quoted Section 32(B)(6)(b) of the National Internal Revenue Code (NIRC) of 1997, as amended, and referred the query to the Revenue District Officer for their appropriate action.⁸ Petitioner also referred to a BIR Ruling concerning respondent's former employee who was similarly terminated due to redundancy, to the effect that separation benefits received as a result of redundancy are exempt from income tax, and consequently, from withholding tax.⁹

Despite these, petitioner's claim for reimbursement of the deducted amount representing tax withheld was denied by respondent. This prompted petitioner to lodge her complaint before the Labor Arbiter.

The Labor Arbiter ruled in petitioner's favor and held that respondent erroneously deducted withholding tax from petitioner's separation pay. Respondent was ordered to complete petitioner's separation pay plus attorney's fees in the aggregate amount of ₱147,471.44. The Labor Arbiter disposed in his Decision dated July 25, 2013:

³ Id. at 37.

⁴ Id.

⁵ Id. at 39.

⁶ Id.

⁷ Id.

⁸ Id. at 88-89.

⁹ Id. at 40.

WHEREFORE, premises considered, We render judgment finding respondent Coca-Cola Bottlers, Philippines, Incorporated liable for underpayment of separation pay to complainant, as well as attorney's fee, in the aggregate amount of Php147,471.44, and direct said respondent to deposit the foregoing sum with the Cashier of this Branch within ten (10) days from receipt of this Decision.

All other claims are dismissed for lack of merit.

SO ORDERED.¹⁰

Dissatisfied, respondent appealed to the NLRC. In its Decision dated January 30, 2014, the NLRC affirmed the award of separation pay differentials but deleted the award of attorney's fees. Similar to the Labor Arbiter, the NLRC reasoned that petitioner was given separation benefits as a result of her termination from employment due to redundancy. Such separation benefits, according to the labor tribunals, are exempt from taxation pursuant to Section 32(B)(6)(b) of the NIRC.¹¹ In disposal, the NLRC ruled:

WHEREFORE, premises considered, respondent's appeal is partly **GRANTED**. The Labor Arbiter's Decision is **AFFIRMED WITH MODIFICATION** in that the award for attorney's fees is **DELETED**. Respondent is **DIRECTED** to pay the complainant the sum of Php134,064.95, representing the amount of tax withheld by respondent out of her severance pay.

SO ORDERED.¹²

Claiming that the NLRC gravely abused its discretion in so ruling, respondent filed a *certiorari* petition before the CA.

In its presently assailed Decision, the CA reversed the rulings of the labor tribunals and dismissed petitioner's complaint. The CA reasoned that under respondent's Retirement Plan, an involuntarily separated employee, such as petitioner, is entitled to either the amount prescribed in the retirement plan or to the termination benefit as provided by law, whichever is higher. Since the retirement plan is higher than the separation pay as mandated by law, petitioner is entitled to receive only the former.

The CA also held that tax exemption of retirement benefits under the NIRC requires, among others, that the taxpayer had been in the service of the same employer for at least 10 years and had not previously availed of such benefit.¹³ Since petitioner had been in respondent's employ for less than five years and that she already availed of the tax exemption benefit upon her separation from PhilBev, the retirement benefits she received from

¹⁰ Id. at 66.

¹¹ Id. at 41.

¹² Id. at 67.

¹³ Id. at 73.

respondent are not tax exempt.¹⁴ The CA held that since respondent correctly withheld tax from the retirement benefit received by petitioner, the former is not liable for illegal deduction.

Petitioner's motion for reconsideration met similar denial from the CA. Hence, this petition.

Issue

The pivotal issue is whether respondent is liable for illegal deduction when it withheld tax from the amount received by petitioner as a consequence of her involuntary separation from service.

Ruling of the Court

Petitioner's main contention is that the amount she received from respondent was her separation pay, and was not her retirement pay, which she received as a consequence of the termination of her employment due to redundancy. Because it was a separation pay, it should not have been subjected to income tax. We find this contention meritorious.

There is no dispute that petitioner was separated from service due to redundancy pursuant to Article 283 of the Labor Code:

Art. 283. Closure of establishment and reduction of personnel. The employer may also terminate the employment of any employee due to the installation of labor-saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. **In case of termination due to the installation of labor-saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher.** In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year. (Emphasis supplied)

As petitioner was dismissed due to redundancy, she is entitled to receive, under the law, a separation pay equivalent to at least one month pay for every year of her service.

It is likewise undisputed that petitioner was a member of respondent's Retirement Plan (Plan) duly approved by the BIR. The Plan expressly provides that a member who was involuntary separated from service for any

¹⁴ Id.

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cause beyond the member's control shall receive "in lieu of any other retirement benefits, a separation benefit computed in accordance with the retirement formula" or the termination benefit mandated by law, whichever is higher. Pertinent are Sections 1 and 3, Article V of the Plan which provide:

**ARTICLE V
PAYMENT OF BENEFITS**

Section 1. Retirement Benefit. A Member who retires on the retirement dates as defined in Article IV of this Plan shall be entitled to and shall be paid a retirement benefit equivalent to 100% of Final Pay for every year of Credited Service, plus commutation of his unused Sick Leave Credits, if any.

x x x x

Section 3. Involuntary Separation Benefit. Any Member who is involuntarily separated from service by the Company for any cause beyond his control shall be entitled to receive in lieu of any other retirement benefits, a separation benefit computed in accordance with the retirement benefit formula described in Section 1 of this Article or the applicable termination benefit under existing laws, whichever is greater, irrespective of his length of service with the Company.¹⁵

The Plan also expressly provides that a member's company liabilities shall be deducted from the benefit to be received and that the member shall not be entitled to any benefit other than that payable thereunder:

x x x x

Section 6. Obligations. Upon separation of a Member from the Company, any amount of benefit which he or his Beneficiary is entitled to receive under this Plan shall first be used to pay off all liabilities of the Member to the Company and to the Plan.

Section 7. No Other Benefits. No benefits other than what is provided in accordance with the foregoing Sections 1 to 5 of this Article V shall be payable under this Plan.

x x x x¹⁶

The Plan clearly indicates that an employee who was involuntarily separated from service, although not having reached the compulsory or optional retirement age nor having met the tenorial requirement, like herein petitioner, is entitled to receive an "involuntary separation benefit" to be computed using the retirement benefit formula, or the separation pay under the law, whichever is higher. Plainly, petitioner has the right to demand to be paid the separation benefit as computed under the Plan or separation pay in accordance with Article 283 of the Labor Code, and shall be entitled to receive the higher amount.

¹⁵ Id. at 176-177.

¹⁶ Id. at 177.

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Here, it is clear that petitioner received her separation pay computed under the formula used for determining retirement pay. The fact that petitioner's separation pay was computed in accordance with the formula for computing retirement pay does not thereby convert the character of the benefit received into a retirement benefit. The retirement formula was used because it was, in fact, more advantageous for the petitioner. Thus, there should be no confusion as regards the character of the benefit which petitioner received considering that Section 3 of the Plan unequivocally characterizes the benefit to be received due to involuntary separation from service as a separation benefit.

As such, it was erroneous on the part of the CA to have treated the benefit received by petitioner as a retirement pay. As aptly held by the NLRC:

We hold that even assuming, arguendo, that complainant's separation pay was computed in reference to respondent's retirement plan, it does not change the fact that complainant was separated on account of redundancy and not because she reached either the optional or compulsory retirement age. Thus, it is wrong to apply the provisions of the [NIRC] anent exemption of retirement benefits from income tax.¹⁷

Neither was there any showing that petitioner voluntarily opted to retire so as to treat the amount she received as her retirement pay. Not being a retirement pay, it was likewise plain error on the part of the CA to have applied the four conditions under Section 32(B)(6)(a) of the NIRC for tax exemption of retirement benefits. Since the amount received by petitioner was separation pay, such is exempt from income tax under Section 32(B)(6)(b) of the NIRC which provides:

Section 32. Gross Income. – x x x

(B) Exclusion from Gross Income. – The following items shall not be included in the gross income and shall be exempt from taxation under this Title:

x x x x

(6) Retirement Benefits, Pensions, Gratuities, etc. –

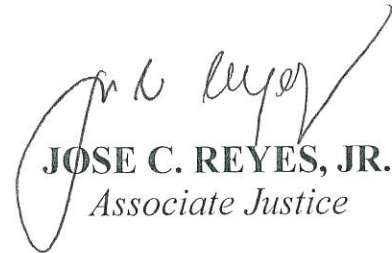
x x x x

(b) Any amount received by an official or employee or by his heirs from the employer as a consequence of separation of such official or employee from the service of the employer because of death, sickness, or other physical disability or **for any cause beyond the control of said official or employee.** x x x (Emphasis supplied)

¹⁷ Id. at 67.

WHEREFORE, the petition is **GRANTED**. The Decision dated November 25, 2015 and the Resolution dated June 13, 2016 of the Court of Appeals are **REVERSED and SET ASIDE**. The Decision dated January 30, 2014 of the National Labor Relations Commission is hereby **REINSTATED**.

SO ORDERED.

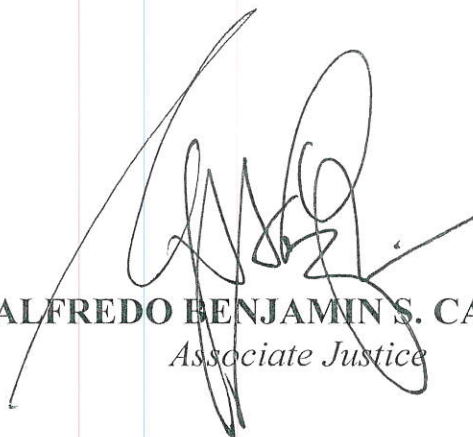


JOSE C. REYES, JR.
Associate Justice

WE CONCUR:



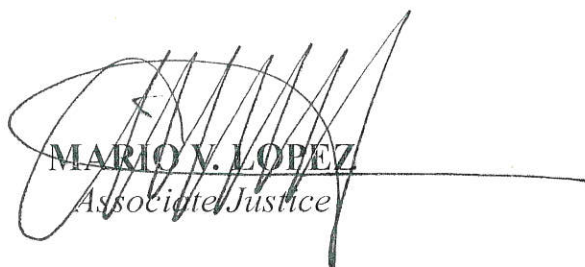
DIOSDADO M. PERALTA
Chief Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice

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