Supreme Court E-Library

WHEREFORE, the decision of the Court of Appeals sustaining petitioner's conviction by the lower court of the crime of simple illegal possession of firearm is AFFIRMED, with the MODIFICATION that the penalty is reduced to "four (4) years and two (2) months, as minimum, to six (6) years, as maximum."

Since the petitioner has already served nine (9) years, nine (9) months and twenty-three (23) days, which is well beyond the maximum principal penalty imposed for his offense, as well as the subsidiary penalty for the unpaid fine, he is hereby ordered RELEASED immediately, unless he is being held for some other lawful cause.

SO ORDERED.

Regalado (Chairman), Puno, Mendoza, and *Torres, Jr., JJ.,* concur.

FIRST DIVISION

[G.R. No. 98107. August 18, 1997]

BENJAMIN C. JUCO, *petitioner, vs.* **NATIONAL LABOR RELATIONS COMMISSION and NATIONAL HOUSING CORPORATION**, *respondents.*

SYNOPSIS

Petitioner was hired as a project engineer of respondent National Housing Corporation (NHC) from November 16, 1970 to May 14, 1975. He was separated from the service for having

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1. If the principal penalty imposed be *prision correccional* or arresto and fine, he shall remain under confinement until his fine referred in the preceding paragraph is satisfied, but his subsidiary imprisonment shall not exceed one-third of the term of the sentence, and in no case shall it continue for more than one year, and no fraction or part of a day shall be counted against the prisoner.

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been implicated in a crime of theft and/or malversation of public funds. On March 25, 1977, petitioner filed a complaint for illegal dismissal against the NHC with the Department of Labor. The Labor Arbiter dismissed the complaint on the ground that the NLRC had no jurisdiction over the case. Petitioner then elevated the case to the NLRC, which rendered a decision reversing the decision of the Labor Arbiter. Dissatisfied with the decision of the NLRC, respondent NHC appealed to the Supreme Court on January 17, 1985. The Court granted respondent's petition and set aside the decision for illegal dismissal, with preliminary injunction. Respondent moved for dismissal on the ground that the CSC has no jurisdiction over the case. The CSC dismissed the complaint against NHC. Respondent NLRC through Labor Arbiter Manuel L. Caday this time ruled that petitioner was illegally dismissed from his employment. Respondent NHC filed its appeal before the NLRC. The latter reversed the decision on the ground of lack of jurisdiction. Hence, the instant petition.

The Supreme Court ruled that the NLRC erred in dismissing petitioner's complaint for lack of jurisdiction because under the 1987 Constitution (Article IX-B, Section 2 [1]) the Civil Service now covers only government-owned or controlled corporations with original charters. Having been incorporated under the Corporation Law, NHC's relations with its personnel are governed by the Labor Code and come under the jurisdiction of the National Labor Relations Commission.

Petition granted.

SYLLABUS

1. **CONSTITUTIONAL LAW; 1973 CONSTITUTION; CONSTITUTIONAL COMMISSIONS; CIVIL SERVICE COMMISSION; EMPLOYEES IN GOVERNMENT-OWNED AND/OR CONTROLLED CORPORATIONS EMBRACED WITHIN THE CIVIL SERVICE.—** Under the laws then in force, employees of government-owned and/or controlled corporations were governed by the Civil Service Law and not by the Labor Code. Hence, Article 277 of the Labor Code (PD 442) then provided: "The terms and conditions of employment of all government employees, including employees of government-owned and controlled corporations shall be governed by the Civil Service Law, rules and regulations x x x." The

Supreme Court E-Library

1973 Constitution, Article II-B, Section 1(1), on the other hand provided: "The Civil Service embraces every branch, agency, subdivision and instrumentality of the government, including government-owned or controlled corporations."

2. **ID.; 1987 CONSTITUTION; CONSTITUTIONAL COMMISSIONS; CIVIL SERVICE COMMISSION; ONLY EMPLOYEES OF GOVERNMENT-OWNED AND/OR CONTROLLED CORPORATIONS WITH *ORIGINAL CHARTER*, EMBRACED WITHIN THE CIVIL SERVICE.—** Although we had earlier ruled in National Housing Corporation *v.* Juco, that employees of government-owned and/or controlled corporations, whether created by special law or formed as subsidiaries under the general Corporation Law, are governed by the Civil Service Law and not by the Labor Code, this ruling has been supplanted by the 1987 Constitution. Thus, the said Constitution now provides: "The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with *original charter*." (Article IX-B, Section 2[1])

3. **ID.; ID.; ID.; ID.; ID.; "WITH ORIGINAL CHARTER," CONSTRUED.—** We ruled that the new phrase "with original charter" means that government-owned and controlled corporations refer to corporations chartered by special law as distinguished from corporations organized under the Corporation Code.

4. **REMEDIAL LAW; JURISDICTION; CONSTITUTION IN PLACE AT TIME OF DECISION DETERMINES JURISDICTION OVER CASES INVOLVING EMPLOYEES IN GOVERNMENT-OWNED AND/OR CONTROLLED CORPORATIONS.—** In National Service Corporation (NASECO) *v.* National Labor Relations Commission, we had the occasion to apply the present Constitution in deciding whether or not the employees of NASECO are covered by the Civil Service Law or Labor Code notwithstanding that the case arose at the time when the 1973 Constitution was still in effect. We ruled that the NLRC has jurisdiction over the employees of NASECO on the ground that it is the 1987 Constitution that governs because it is the Constitution in place at the time of the decision. Thus, NASECO which had been organized under the general incorporation statute and a subsidiary of the National Investment Development

Supreme Court E-Library

Corporation, which in turn was a subsidiary of the Philippine National Bank, is excluded from the purview of the Civil Service Commission.

5. **ID.; ID.; ID.; EMPLOYEES OF NHA INCORPORATED UNDER THE FORMER CORPORATION LAW, SUBJECT TO THE PROVISIONS OF THE LABOR CODE.—** We see no cogent reason to depart from the ruling in the aforesaid case. In the case at bench, the National Housing Corporation is a government owned corporation organized in 1959 in accordance with Executive Order No. 399, otherwise known as the Uniform Charter of Government Corporation, dated January 1, 1959. Its shares of stock are and have been one hundred percent (100%) owned by the Government from its incorporation under Act 1459, the former corporation law. The government entities that own its shares of stock are the Government Service Insurance System, the Social Security System, the Development Bank of the Philippines, the National Investment and Development Corporation and the People's Homesite and Housing Corporation. Considering the fact that the NHA had been incorporated under Act 1459, the former corporation law, it is but correct to say that it is a government-owned or controlled corporation whose employees are subject to the provisions of the Labor Code. This observation is reiterated in the recent case of Trade Union of the Philippines and Allied Services (TUPAS) *v.* National Housing Corporation, where we held that the NHA is now within the jurisdiction of the Department of Labor and Employment, it being a government-owned and/or controlled corporation without an original charter. Furthermore, we also held that the workers or employees of the NHC (now NHA) undoubtedly have the right to form unions or employee's organization and that there is no impediment to the holding of a certification election among them as they are covered by the Labor Code. Thus, the NLRC erred in dismissing petitioner's complaint for lack of jurisdiction because the rule now is that the Civil Service now covers only government-owned or controlled corporations with original charters. Having been incorporated under the Corporation Law, its relations with its personnel are governed by the Labor Code and come under the jurisdiction of the National Labor Relations Commission.

Supreme Court E-Library

APPEARANCES OF COUNSEL

Ricardo C. Valmonte for petitioner.
The Government Corporate Counsel for private respondent.

D E C I S I O N

HERMOSISIMA, JR., *J.*:

This is a petition for *certiorari* to set aside the Decision of the National Labor Relations Commission (NLRC) dated March 14, 1991, which reversed the Decision dated May 21, 1990 of Labor Arbiter Manuel R. Caday, on the ground of lack of jurisdiction.

Petitioner Benjamin C. Juco was hired as a project engineer of respondent National Housing Corporation (NHC) from November 16, 1970 to May 14, 1975. On May 14, 1975, he was separated from the service for having been implicated in a crime of theft and/or malversation of public funds.

On March 25, 1977, petitioner filed a complaint for illegal dismissal against the NHC with the Department of Labor.

On September 17, 1977, the Labor Arbiter rendered a decision dismissing the complaint on the ground that the NLRC had no jurisdiction over the case.[1]

Petitioner then elevated the case to the NLRC which rendered a decision on December 28, 1982, reversing the decision of the Labor Arbiter.[2]

Dissatisfied with the decision of the NLRC, respondent NHC appealed before this Court and on January 17, 1985, we rendered a decision, the dispositive portion thereof reads as follows:

"WHEREFORE, the petition is hereby GRANTED. The questioned decision of the respondent National Labor Relations Commission is

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[1] *Rollo*, pp. 20-21.

[2] *Id.*, pp. 22-26.

Supreme Court E-Library

SET ASIDE. The decision of the Labor Arbiter dismissing the case before it for lack of jurisdiction is REINSTATED."[3]

On January 6, 1989, petitioner filed with the Civil Service Commission a complaint for illegal dismissal, with preliminary mandatory injunction.[4]

On February 6, 1989, respondent NHC moved for the dismissal of the complaint on the ground that the Civil Service Commission has no jurisdiction over the case.[5]

On April 11, 1989, the Civil Service Commission issued an order dismissing the complaint for lack of jurisdiction. It ratiocinated that:

"The Board finds the comment and/or motion to dismiss meritorious. It was not disputed that NHC is a government corporation without an original charter but organized/created under the Corporate Code.

Article IX, Section 2 (1) of the 1987 Constitution provides:

> 'The civil service embraces all branches, subdivisions, instrumentalities and agencies of the Government, including government owned and controlled corporations *with original charters*.' (italics supplied)

From the aforequoted constitutional provision, it is clear that respondent NHC is not within the scope of the civil service and is therefore beyond the jurisdiction of this Board. Moreover, it is pertinent to state that the 1987 Constitution was ratified and become effective on February 2, 1987.

WHEREFORE, for lack of jurisdiction, the instant complaint is hereby dismissed."[6]

On April 28, 1989, petitioner filed with respondent NLRC a complaint for illegal dismissal with preliminary mandatory injunction against respondent NHC.[7]

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[3] *Id.*, pp. 27-37.

[4] *Id.*, pp. 38-42.

[5] *Id.*, pp. 43-47.

[6] *Id.*, p. 52.

[7] *Id.*, pp. 53-58.

Supreme Court E-Library

On May 21, 1990, respondent NLRC thru Labor Arbiter Manuel R. Caday ruled that petitioner was illegally dismissed from his employment by respondent as there was evidence in the record that the criminal case against him was purely fabricated, prompting the trial court to dismiss the charges against him. Hence, he concluded that the dismissal was illegal as it was devoid of basis, legal or factual.

He further ruled that the complaint is not barred by prescription considering that the period from which to reckon the reglementary period of four years should be from the date of the receipt of the decision of the Civil Service Commission promulgated on April 11, 1989. He also ratiocinated that:

"It appears x x x complainant filed the complaint for illegal dismissal with the Civil Service Commission on January 6, 1989 and the same was dismissed on April 11, 1989 after which on April 28, 1989, this case was filed by the complainant. Prior to that, this case was ruled upon by the Supreme Court on January 17, 1985 which enjoined the complainant to go to the Civil Service Commission which in fact, complainant did. Under the circumstances, there is merit on the contention that the running of the reglementary period of four (4) years was suspended with the filing of the complaint with the said Commission. Verily, it was not the fault of the respondent for failing to file the complaint as alleged by the respondent but due to, in the words of the complainant, a `legal knot' that has to be untangled."[8]

Thereafter, the Labor Arbiter rendered a decision, the dispositive portion of which reads:

"Premises considered, judgment is hereby rendered declaring the dismissal of the complainant as illegal and ordering the respondent to immediately reinstate him to his former position without loss of seniority rights with full back wages inclusive of allowace and to his other benefits or equivalent computed from the time it is withheld from him when he was dismissed on March 27, 1977, until actually reinstated."[9]

On June 1, 1990, respondent NHC filed its appeal before the NLRC and on March 14, 1991, the NLRC promulgated a

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[8] *Id.*, p. 68.

[9] *Id.*, p. 69.

Supreme Court E-Library

decision which reversed the decision of Labor Arbiter Manuel R. Caday on the ground of lack of jurisdiction.[10]

The primordial issue that confronts us is whether or not public respondent committed grave abuse of discretion in holding that petitioner is not governed by the Labor Code.

Under the laws then in force, employees of government-owned and /or controlled corporations were governed by the Civil Service Law and not by the Labor Code. Hence,

Art. 277 of the Labor Code (P.D. 442) then provided:

"The terms and conditions of employment of all government employees, including employees of government-owned and controlled corporations shall be governed by the Civil Service Law, rules and regulations x x x."

The 1973 Constitution, Article II-B, Section 1(1), on the other hand provided:

"The Civil Service embraces every branch, agency, subdivision and instrumentality of the government, including government-owned or controlled corporations."

Although we had earlier ruled in National Housing Corporation *v.* Juco,[11] that employees of government-owned and/or controlled corporations, whether created by special law or formed as subsidiaries under the general Corporation Law, are governed by the Civil Service Law and not by the Labor Code, this ruling has been supplanted by the 1987 Constitution. Thus, the said Constitution now provides:

"The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government owned or controlled corporations with *original charter*." (Article IX-B, Section 2[1])

In National Service Corporation (NASECO) *v.* National Labor Relations Commission,[12] we had the occasion to apply the present

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[10] *Id.*, pp. 78-86.

[11] 134 SCRA 172 (1985).

[12] 168 SCRA 122 [1988].

Supreme Court E-Library

Constitution in deciding whether or not the employees of NASECO are covered by the Civil Service Law or the Labor Code notwithstanding that the case arose at the time when the 1973 Constitution was still in effect. We ruled that the NLRC has jurisdiction over the employees of NASECO on the ground that it is the 1987 Constitution that governs because it is the Constitution in place at the time of the decision. Furthermore, we ruled that the new phrase "with original charter" means that government-owned and controlled corporations refer to corporations chartered by special law as distinguished from corporations organized under the Corporation Code. Thus, NASECO which had been organized under the general incorporation statute and a subsidiary of the National Investment Development Corporation, which in turn was a subsidiary of the Philippine National Bank, is excluded from the purview of the Civil Service Commission.

We see no cogent reason to depart from the ruling in the aforesaid case.

In the case at bench, the National Housing Corporation is a government-owned corporation organized in 1959 in accordance with Executive Order No. 399, otherwise known as the Uniform Charter of Government Corporation, dated January 1, 1959. Its shares of stock are and have been one hundred percent(100%) onwed by the Government from its incorporation under Act 1459, the former corporation law. The government entities that own its shares of stock are the Government Service Insurance System, the Social Security System, the Development Bank of the Philippines, the National Investment and Development Corporation and the People's Homesite and Housing Corporation.[13] Considering the fact that the NHA had been incorporated under Act 1459, the former corporation law, it is but correct to say that it is a government-owned or controlled corporation whose employees are subject to the provisions of the Labor Code. This observation is reiterated in recent case of Trade Union of the Philippines and Allied Services (TUPAS)

[13] National Housing Corporation *vs.* Juco, 134 SCRA 172 (1985).

Supreme Court E-Library

v. National Housing Corporation,[14] where we held that the NHA is now within the jurisdiction of the Department of Labor and Employment, it being a government-owned and/or controlled corporation withpout an original charter. Furthermore, we also held that the workers or employees of the NHC (now NHA) undoubtedly have the right to form unions or employee's organization and that there is no impediment to the holding of a certification election among them as they are covered by the Labor Code.

Thus, the NLRC erred in dismissing petitioner's complaint for lack of jurisdiction because the rule now is that the Civil Service now covers only government-owned or controlled corporations with original charters.[15] Having been incorporated under the Corporation Law, its relations with its personnel are governed by the Labor Code and come under the jurisdiction of the National Labor Relations Commission.

One final point. Petitioners have been tossed from one forum to another for a simple illegal dismissal case. It is but apt that we put an end to his dilemna in the interest of justice.

WHEREFORE, the decision of the NLRC in NLRC NCR-04-02036089 dated March 14, 1991 is hereby REVERSED and the Decision of the Labor Arbiter dated May 21, 1990 is REINSTATED.

SO ORDERED.

Padilla (Chairman), Bellosillo, Vitug, and *Kapunan, JJ.*, concur.

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[14] 173 SCRA 33 (1989).

[15] PNOC-Energy Development Corporation *v.* NLRC, 201 SCRA 487 {1991} The NHC (now NHA).