CHANROBLES PUBLISHING COMPANY

SUPREME COURT
THIRD DIVISION

PANTRANCO NORTH EXPRESS, INC.,
***Petitioner*,**

-versus-

G.R. No. 95940
July 24, 1996

NATIONAL LABOR RELATIONS COMMISSION and URBANO SUÑIGA,
***Respondents*.**
x----------x

D E C I S I O N

PANGANIBAN, *J.*:

Is a Collective Bargaining Agreement provision allowing compulsory retirement before age 60 but after twenty five years of service legal and enforceable? Who has jurisdiction over a case involving such a question — the labor arbiter or arbitrators authorized by such CBA?

The foregoing questions are presented in the instant petition for Certiorari seeking the nullification of the Resolution[1] promulgated September 28, 1990 by the National Labor Relations Commission[2] in an illegal dismissal case brought to private respondent. In its assailed Resolution, the public respondent affirmed the decision of Labor Arbiter Ricardo N. Olairez dated March 26, 1990[3] declaring that the compulsory retirement of private respondent constituted

illegal dismissal, ordering his reinstatement and granting him backwages.

The Antecedent Facts

Private respondent was hired by petitioner in 1964 as a bus conductor. He eventually joined the Pantranco Employees Association-PTGWO. He continued in petitioner's employ until August 12, 1989, when he was retired at the age of fifty-two (52) after having rendered twenty five years' service. The basis of his retirement was the compulsory retirement provision of the collective bargaining agreement between the petitioner and the aforenamed union Private respondent received P49,300.00 as retirement pay.

On February 15, 1990, private respondent filed a complaint[4] for illegal dismissal against petitioner with the Sub-Regional Arbitration Branch of the respondent Commission in Dagupan City. The complaint was consolidated with two other cases of illegal dismissal[5] having similar facts and issues, filed by other employees, non-union members.

After hearings were held and position papers submitted, on March 26, 1990, Labor Arbiter Olairez rendered his decision, the dispositive portion of which reads:

> "WHEREFORE, with all the foregoing considerations, we find the three complainants illegally and unjustly dismissed and we hereby order the respondent to reinstate them to their former or substantially equivalent positions without loss of seniority rights with full backwages and other benefits, computed as follows:
>
> x x x
>
> 3. Urbano Suñiga
>
> | | | |
> |---|---|---|
> | 27,375.00 | — | Backwages Aug. 16/89 to March 31/90 (P3,650.00 x 7.5 mos.) |
> | 1,368.75 | — | 13th month pay for 1989 (P16,425.00 over 12) |

—————		
P28,743.75		
2.874.37	—	10% attorney's fees
—————		
P31,618.12	—	Total as of March 31/90 plus additional backwages and other benefits but not to exceed 3 years and the corresponding attorney's fees.

The amounts already received by complainants shall be considered as advanced payment of their retirement pay which shall be deducted when they shall actually retire or (be) separated from the service.

The order of reinstatement is immediately executory even pending appeal."

Petitioner appealed to public respondent, which issued the questioned Resolution affirming the labor arbiter's decision in toto. Hence, this petition.

The Issues

Petitioner raises the following issues for decision:

"I. The National Labor Relations Commission gravely abused its discretion in holding that the Labor Arbiter has jurisdiction over the case.

II. Assuming that the Labor Arbiter has jurisdiction over the case, the National Labor Relations Commission gravely abused its discretion in affirming the Labor Arbiter's decision that private respondent Urbano Zuñiga (sic) was illegally dismissed."

Of course, it is obvious that the underlying and pivotal issue is whether the CBA stipulation on compulsory retirement after twenty-five years of service is legal and enforceable. If it is, private respondent has been validly retired. Otherwise, petitioner is guilty of

illegal dismissal. The answer to said question will settle the issue of the validity of the questioned resolution of the public respondent.

The Court's Ruling

On the key issue, the Court finds the petition meritorious, thus warranting reversal of the questioned Resolution.

First Issue: Jurisdiction of Labor Arbiter

Petitioner contends that the labor arbiter had no jurisdiction because the dispute concern a provisions of the CBA and its interpretation. It claims that the case falls under the jurisdiction of the voluntary arbitrator or panel of arbitrators under Article 261 of the Labor Code, which provides:

> "Article 61. Jurisdiction of Voluntary Arbitrators or Panel of Voluntary Arbitrators. — The Voluntary Arbitrator or panel of Voluntary Arbitrators shall have original and exclusive jurisdiction to hear and decide all unresolved grievances arising from the interpretation or implementation of the Collective Bargaining Agreement and those arising from the interpretation or enforcement of company personnel policies referred to in the immediately preceding Article. Accordingly, violations of a Collective Bargaining Agreement, except those which are gross in character, shall no longer be treated as unfair practice and shall be resolved as grievances under the Collective Bargaining Agreement. For purposes of this Articles, gross violations of a Collective Bargaining agreement shall mean flagrant and/or malicious refusal to comply with the economic provisions of such agreement.
>
> The Commission, its Regional Offices and the Regional Directors of the Department of Labor and Employment shall not entertain disputes, grievances or matters under the exclusive and original jurisdiction of the Voluntary Arbitrator or panel of Voluntary Arbitrators and shall immediately dispose and refer the same to the Grievance Machinery or Voluntary Arbitration provided in the Collective Bargaining Agreement."

The Labor Arbiter believed otherwise. In his decision,[6] he stated:

> "In our honest opinion we have Jurisdiction over the complaint on the following grounds:
>
> > First, this is a complaint of illegal dismissal of which original and exclusive jurisdiction under Article 217 has been conferred to the Labor Arbiters. The interpretation of the CBA or enforcement of the company policy is only corollary to the complaint of illegal dismissal. Otherwise, an employee who was on AWOL, or who committed offenses contrary to the personnel polices (sic) can no longer file a case of illegal dismissal because the discharge is premised on the interpretation or enforcement of the company polices sic).
> >
> > Second. Respondent voluntarily submitted the case to the jurisdiction of this labor tribunal. It adduced arguments to the legality of its act, whether such act may be retirement and/or dismissal, and prayed for reliefs on the merits of the case. A litigant cannot pray for reliefs on the merits and at the same time attacks (sic) the jurisdiction of the tribunal. A person cannot have one's cake and eat it too."

The Court agrees with the public respondent's affirmance of the arbiter's decision in respect o the question of jurisdiction.

In Sanyo Philippines Workers Union — PSSLU vs. Cañizares[7] a case cited by the petitioner, this Court ruled:

> "Hence only disputes involving the union and the company shall be referred to the grievance machinery or voluntary arbitrators.
>
> In the instant case, both the union and the company are united or have come to an agreement regarding the dismissal of private respondents. No grievance between them exists which could be brought to a grievance machinery. The problem or dispute in the present case is between the union and the company on the

> one hand and some union and non-union members who were dismissed, on the other hand. The dispute has to be settled before an impartial body. The grievance machinery with members designated by the union and the company cannot be expected to be impartial against the dismissed employees. Due process. demands that the dismissed workers grievances be ventilated before an impartial body. Since there has already been an actual termination, the matter falls within the jurisdiction of the Labor Arbiter."

Applying the same rationale to the case at bar, it cannot be said that the "dispute" is between the union and petitioner company because both have previously agreed upon the provision on "compulsory retirement" as embodied in the CBA. Also, it was only private respondent on his own who questioned the compulsory retirement. Thus, the case is properly denominated as a "termination dispute" which comes under the jurisdiction of labor arbiters.

Therefore, public respondent did not commit a grave abuse of discretion in upholding the jurisdiction of the labor arbiter over this case.

Second Issue: Private Respondent's

Compulsory Retirement Is Not Illegal Dismissal

The bone of contention in this case is the provision on compulsory retirement after 25 years of service. Article XI, Section 1 (e) (5) of the May 2, 1989 Collective Bargaining Agreement[8] between petitioner company and the union states:

> "Section 1. The COMPANY shall formulate a retirement plan with the following main features:
>
> x x x
>
> (e) The COMPANY agrees to grant the retirement benefits herein provided to regular employees who may be separated from the COMPANY for any of the following reasons:

x x x

> (5) Upon reaching the age of sixty (60) years or upon completing twenty-five (25) years of service to the COMPANY, whichever comes first, and the employee shall be compulsory retired and paid the retirement benefits herein provided."

Petitioner contends that the aforequoted provision is valid and in consonance with Article 287 of the Labor Code. The respondent Commission holds otherwise.

The said Code provides:

> "Art. 287. Retirement. — Any employee may be retired upon reaching the retirement age established in the Collective Bargaining Agreement or other applicable employment contract.
>
> In case of retirement, the employee shall be entitled to receive such retirement benefits as he may have earned under existing laws and any collective bargaining or other agreement."

The Solicitor General, in his Manifestation in Lieu of Comment,[9] agrees with petitioner's contention that the law leaves to the employer and employees the fixing of the age of retirement. He cites Section 13, Rule I, Book VI of the Omnibus Rule Implementing the Labor Code, which reads:

> "Retirement. — In the absence of any collective bargaining agreement or other applicable agreement concerning terms and condition of employment which provides for retirement at an older age, an employee may be retired upon reaching the age of sixty (60) years."

Arguing that the law on compulsory retirement age is open-ended, as indicated by the use of the word "may", the Solicitor General maintains that there is no prohibition against parties fixing a lower age for retirement.[10]

Additionally, the Solicitor General and the petitioner contend that a CBA provision lowering compulsory retirement age to less than sixty (60) is not contrary to law because it does not diminish the employee's benefits. Rather, they argue that early retirement constitutes a reward of employment, and therefore, retirement pursuant to the CBA provision in question cannot be considered a dismissal following this Court's ruling in Soberano vs. Clave,[10a] the relevant portions of which read as follows:

> "Retirement and dismissal are entirely different from each other. Retirement is the result of a bilateral act of the parties, a voluntary agreement between the employer and the employees whereby the latter after reaching a certain age agrees and/or consents to severe his employment with the former On the other hand, dismissal refers to the unilateral act of the employer in terminating services of an employee with or without cause. In fine, in the case of dismissal, it is only the employer who decides when to terminate the services of an employee. Moreover, concomitant with the provisions on retirement in a Labor Agreement is a stipulation regarding retirement benefits pertaining to a retired employee. Here again, the retirement benefits are subject to stipulation by the parties unlike in dismissals where separation pay is fixed by law in cases of dismissals without just cause. Evident, therefore, from the foregoing is that retirements which are agreed upon by the employer and the employee in their collective bargaining agreement are not dismissals. To further fortify the aforesaid conclusion, it is noteworthy that even the New Labor Code recognizes this distinction when it treats retirement from service under a separate title from that of dismissal or termination of employment, aside from expressly recognizing the right of the employer to retire any employee who has reached the retirement age established in the collective bargaining agreement or other applicable employment contract and the latter to receive such retirement benefits as he may have earned under existing laws and any collective bargaining or other agreement (Art. 277, New Labor Code)."

We agree with petitioner and the Solicitor General. Art. 287 of the Labor Code as worded permits employers and employees to fix the

applicable retirement age at below 60 years. Moreover, providing for early retirement does not constitute diminution of benefits. In almost all countries today, early retirement, i.e., before age 60, is considered a reward for services rendered since it enables an employee to reap the fruits of his labor — particularly retirement benefits, whether lump-sum or otherwise — at an earlier age, when said employee, in presumably better physical and mental condition, can enjoy them better and longer. As a matter of fact, one of the advantages of early retirement is that the corresponding retirement benefits, usually consisting of a substantial cash windfall, can early on be put to productive and profitable uses by way of income-generating investments, thereby affording a more significant measure of financial security and independence for the retiree who, up till then, had to contend with life's vicissitudes within the parameters of his fortnightly or weekly wages. Thus we are now seeing many CBAs with such early retirement provisions. And the same cannot be considered a diminution of employment benefits.

It is also further argued that, being a union member, private respondent is bound by the CBA because its terms and conditions constitute the law between the parties.[11] The parties are bound not only to the fulfillment of what has been expressly stipulated but also to all the consequences which according to their nature, may be in keeping with good faith, usage and law.[12] It binds not only the union but also its members. [13] Thus, the Solicitor General[14] said:

> "Private respondent cannot therefore claim illegal dismissal when he was compulsory retired after rendering twenty-five (25) years of service since his retirement is in accordance with the CBA."

We again concur with the Solicitor General's position. A CBA incorporates the agreement reached after negotiations between employer and bargaining agent with respect to terms and conditions of employment. A CBA is not an ordinary contract. "(A)s a labor contract within the contemplation of Article 1700 of the Civil Code of the Philippines which governs the relations between labor and capital, (it) is not merely contractual in nature but impressed with public interest, thus it must yield to the common good. As such, it must be construed liberally rather than narrowly and technically, and

the courts must place a practical and realistic construction upon it, giving due consideration to the context in which it is negotiated and purpose which it is intended to serve."[15]

Being a product of negotiation, the CBA between the petitioner and the union intended the provision on compulsory retirement to be beneficial to the employees-union members, including herein private respondent. When private respondent ratified the CBA with the union, he not only agreed to the CBA but also agreed to conform to and abide by its provisions. Thus, it cannot be said that he was illegally dismissed when the CBA provision on compulsory retirement was applied to his case.

Incidentally, we call attention to Republic Act No. 7641, known as "The Retirement Pay Law", which went into effect on January 7, 1993. Although passed many years after the compulsory retirement of herein private respondent, nevertheless, the said statute sheds light on the present discussion when it amended Art. 287 of the Labor Code, to make it read as follows:

> "ART. 7. Retirement. — Any employee may be retired upon reaching the retirement age establish in the collective bargaining agreement or other applicable employment contract.
>
> x x x
>
> In the absence of a retirement plan or agreement providing for retirement benefits of employees in the establishment, an employee upon reaching the age of sixty (60) years or more, but not beyond sixty-five (65) years which is hereby declared the compulsory retirement age, who has served at least five (5) years in the said establishment may retire."

The aforequoted provision makes clear the intention and spirit of the law to give employers and employees a free hand to determine and agree upon the terms and conditions of retirement. Providing in a CBA for compulsory retirement of employees after twenty-five (25) years of service is legal and enforceable so long as the parties agree to be governed by such CBA. The law presumes that employees know

what they want and what is good for them absent any showing that fraud or intimidation was employed to secure their consent thereto.

On this point then, public respondent committed a grave abuse of discretion in affirming the decision of the labor arbiter. The compulsory retirement of private respondent effected in accordance wit the CBA is legal and binding.

WHEREFORE, premises considered, the petition is **GRANTED** and the questioned Resolution is hereby set aside. No costs.

SO ORDERED.

Narvasa, *C. J.*, Davide, Jr., Melo and Francisco, *JJ.*, concur.

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[1] Rollo, pp. 85-107.
[2] Third Division, composed of Comm. Ireneo B. Bernardo, ponente, and Pres. Comm. Lourdes C. Javier (concurring) and Rogelio I. Rayala (on leave).
[3] Rollo, pp. 50-65.
[4] Entitled "Urbano Suñiga vs. Pantranco North Express, Inc.", NLRC Case No. SUB-RAB-01-02-7-0038-90.
[5] Viz., "Ricardo M. Rezada vs. Pantranco North Express, Inc." and "Gregorio A. Lachica vs. Pantranco North Express, Inc."
[6] Rollo, pp. 61-62.
[7] 211 SCRA 361, 372-373 (July 8, 1992).
[8] Rollo, p. 38.
[9] Rollo, p. 128.
[10] Rollo, p. 128.
[10a] 99 SCRA 549, 558-559 (August 29, 1989).
[11] Globe Mackay Cable and Radio Corporation vs. NLRC, 163 SCRA 71, 77 (June 29, 1988).
[12] Article 1315 of the Civil Code.
[13] Roche (Phil.) vs. NLRC, 178 SCRA 386, 395 (October 5, 1989).
[14] Rollo, p. 130.
[15] Davao Integrated Port Stevedoring Services vs. Abarquez, 220 SCRA 197, 204 (March 19, 1993); footnotes omitted.

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