

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**PHILIPPINE AIRLINES, INC.,
*Petitioner,***

-versus-

**G.R. No. 143686
January 15, 2002**

**AIRLINE PILOTS ASSOCIATION OF
THE PHILIPPINES,
*Respondent.***

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DECISION

YNARES-SANTIAGO, J.:

This is a Petition for Review on Certiorari seeking to annul and set aside the March 2, 2000 Decision^[1] and the June 19, 2000 Resolution^[2] of the Court of Appeals^[3] in CA-G.R. SP No. 54403 which affirmed the Order^[4] dated June 13, 1998 and Resolution^[5] dated June 1, 1991 of the Secretary of Labor and Employment in NCMB-NCR-N.S. 12-514-97.

The instant labor dispute between petitioner Philippine Airlines, Inc. (PAL) and respondent Airline Pilots Association of the Philippines (ALPAP), the exclusive bargaining representative of all commercial airline pilots of petitioner, stemmed from petitioner's act of unilaterally retiring airline pilot Captain Albino Collantes under

Section 2, Article VII, of the 1967 PAL-ALPAP Retirement Plan. Contending, inter alia, that the retirement of Captain Collantes constituted illegal dismissal and union busting, ALPAP filed a Notice of Strike with the Department of Labor and Employment (DOLE). Pursuant to Article 263 (g) of the Labor Code, the Secretary of the DOLE (hereafter referred to as Secretary) assumed jurisdiction over the labor dispute.

On June 13, 1998, the Secretary issued the assailed order upholding PAL's action of unilaterally retiring Captain Collantes and recognizing the same as a valid exercise of its option under Section 2, Article VII, of the 1967 PAL-ALPAP Retirement Plan. The Secretary further ordered that the basis of the computation of Captain Collante's retirement benefits should be Article 287 of the Labor Code (as amended by Republic Act No. 7641) and not Section 2, Article VII, of the PAL-ALPAP Retirement Plan. The Secretary added that in the exercise of its option to retire pilots, PAL should first consult the pilot concerned before implementing his retirement. The dispositive portion of the said order reads:

WHEREFORE, premises considered, this Office hereby issues the following resolutions:

- (1) PAL's action on Captain Albino Collantes is hereby recognized as a valid exercise of its option under Sections 1 and 2, Article VII of the 1976 Retirement Plan. However, the retirement benefits provided under Section 2 shall be adjusted to comply with Section 5, of Republic Act No. 7641.
- (2) Said 1967 Retirement Plan which was incorporated as Article XXVII of the PAL-ALPAP Collective Bargaining Agreement, is hereby sustained. In the interest of justice, however, this Office holds that whenever PAL exercises its option under Section 2, it shall consult the pilot involved before the retirement is implemented.
- (3) PAL is not guilty of gross violation of the CBA insofar as the Wet Lease Agreement is concerned; and

(4) The coverage of Section 6, Article 1 of the PAL-ALPAP Collective Bargaining Agreement is limited only to union dues and other fees and assessments which are rightfully remitted to and are due ALPAP.

The above disposition shall be without prejudice to the parties' arriving at a voluntary settlement of the dispute, especially in connection with employer-employee relations in PAL. Accordingly, the National Conciliation and Mediation Board (NCMB) is hereby directed to continue assisting the parties in arriving at such a settlement.

The department takes notice of the Ex-parte Manifestation filed by PAL on June 10, 1998.

SO ORDERED.^[6]

A motion for reconsideration of the foregoing order was denied by the Secretary on June 1, 1991.

On September 24, 1999, PAL filed with the Court of Appeals a petition for certiorari with prayer for injunction and temporary restraining order. On March 2, 2000, and June 19, 2000, however, the Court of Appeals denied the petition and the motion for reconsideration of petitioner, respectively. Hence, PAL appealed to this Court, contending that:

I

THE QUESTION OF WHETHER OR NOT THE AMOUNT OF RETIREMENT PAY TO BE PAID UNDER SECTION 2, ARTICLE VII OF THE PAL-ALPAP RETIREMENT PLAN OF 1967 SHOULD BE INCREASED WAS NOT IN NCMB-NCR CASE NO. 12514-97.

II

A JUDGMENT THAT GOES BEYOND THE ISSUES AND PURPORTS TO ADJUDICATE SOMETHING UPON WHICH THE PARTIES WERE NOT HEARD IS IRREGULAR AND

INVALID SINCE IT AMOUNTS TO A DENIAL OF DUE PROCESS.

III

THE LAW GRANTS TO THE CONTRACTING PARTIES THE EXCLUSIVE RIGHT TO DETERMINE FOR THEMSELVES THE PROVISIONS OF A COLLECTIVE BARGAINING AGREEMENT.

IV

THE SECRETARY OF LABOR AND EMPLOYMENT CANNOT AMEND THE CBA AND THE PAL-ALPAP RETIREMENT PLAN OF 1967 WITHOUT VIOLATING THE PROSCRIPTION AGAINST THE IMPAIRMENT OF CONTRACTS.

V

ON THE ASSUMPTION THAT THE SECRETARY OF LABOR AND EMPLOYMENT MAY AMEND THE CBA AND THE PAL-ALPAP RETIREMENT PLAN OF 1967, IT IS LEGALLY INCORRECT AND INIQUITOUS TO COMPEL PETITIONER TO PAY RETIREMENT PAY IN ACCORDANCE WITH ARTICLE 287 OF THE LABOR CODE.

VI

ON THE ASSUMPTION THAT THE SECRETARY OF LABOR AND EMPLOYMENT MAY AMEND THE CBA AND THE PAL-ALPAP RETIREMENT PLAN OF 1967, IT IS LEGALLY INCORRECT TO COMPEL PETITIONER TO CONSULT THE PILOT CONCERNED BEFORE RETIREMENT IS IMPLEMENTED.^[7]

The Court of Appeals, applying the second paragraph of Article 287 of the Labor Code, held that an employee's retirement benefits under any collective bargaining and other agreement shall not be less than those provided in the Labor Code.^[8] Hence, Article 287 of the Labor

Code and not the 1967 PAL-ALPAP Retirement Plan, should govern the computation of the benefits to be awarded to Captain Collantes.

The pertinent provision of the 1967 PAL-ALPAP Retirement Plan states:

SECTION 1. Normal Retirement. (a) Any member who completed twenty (20) years of service as a pilot for PAL or has flown 20,000 hours for PAL shall be eligible for normal retirement. The normal retirement date is the date on which he completes twenty (20) years of service, or on which he logs his 20,000 hours as a pilot for PAL. The member who retires on his normal retirement shall be entitled to either (a) a lump sum payment of P100,000.00 or (b) to such termination pay benefits to which he may be entitled to under existing laws, whichever is the greater amount.

SECTION 2. Late Retirement. Any member who remains in the service of the Company after his normal retirement date may retire either at his option or at the option of the company and when so retired he shall be entitled either (a) to a lump sum payment of P5,000.00 for each completed year of service rendered as a pilot, or (b) to such termination pay benefits to which he may be entitled under existing laws, whichever is the greater amount.^[9]

A pilot who retires after twenty years of service or after flying 20,000 hours would still be in the prime of his life and at the peak of his career, compared to one who retires at the age of 60 years old. Based on this peculiar circumstance that PAL pilots are in, the parties provided for a special scheme of retirement different from that contemplated in the Labor Code. Conversely, the provisions of Article 287 of the Labor Code could not have contemplated the situation of PAL's pilots. Rather, it was intended for those who have no more plans of employment after retirement, and are thus in need of financial assistance and reward for the years that they have rendered service.

In any event, petitioner contends that its pilots who retire below the retirement age of 60 years not only receive the benefits under the

1967 PAL-ALPAP Retirement Plan but also an equity of the retirement fund under the PAL Pilots' Retirement Benefit Plan,^[10] entered into between petitioner and respondent on May 30, 1972.

The PAL Pilots' Retirement Benefit Plan^[11] is a retirement fund raised from contributions exclusively from petitioner of amounts equivalent to 20% of each pilot's gross monthly pay. Upon retirement, each pilot stands to receive the full amount of the contribution. In sum, therefore, the pilot gets an amount equivalent to 240% of his gross monthly income for every year of service he rendered to petitioner. This is in addition to the amount of not less than P100,000.00 that he shall receive under the 1967 Retirement Plan.

On the other hand, Article 287 of the Labor Code:

ARTICLE 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 agreement and other agreements: provided, however, That an employee's retirement benefits under any collective bargaining and other agreements shall not be less than those provided herein.

In the absence of a retirement plan or agreement plan 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 as the compulsory retirement age, who has served at least five (5) years in the said establishment, may retire and shall be entitled to retirement pay equivalent to at least one-half ($\frac{1}{2}$) month salary for every year of service, a fraction of at least six (6) months being considered as one whole year.

Unless the parties provide for broader inclusions, the term 'one-half ($\frac{1}{2}$) month salary' shall mean fifteen (15) days plus one-twelfth ($\frac{1}{12}$) of the 13th month pay and the cash equivalent of not more than five (5) days of service incentive leaves.

In short, the retirement benefits that a pilot would get under the provisions of the above-quoted Article 287 of the Labor Code are less than those that he would get under the applicable retirement plans of petitioner.

Finally, on the issue of whether petitioner should consult the pilot concerned before exercising its option to retire pilots, we rule that this added requirement, in effect, amended the terms of Article VII, Section 2 of the 1976 PAL-ALPAP Retirement Plan. The option of an employer to retire its employees is recognized as valid.^[12] In the earlier case of *Bulletin Publishing Corp. vs. Sanchez*,^[13] this Court held:

The aforesaid sections explicitly declare, in no uncertain terms, that retirement of an employee may be done upon initiative and option of the management. And where there are cases of voluntary retirement, the same is effective only upon the approval of management. The fact that there are some supervisory employees who have not yet been retired after 25 years with the company or have reached the age of sixty merely confirms that it is the singular prerogative of management, at its option, to retire supervisors or rank-and-file members when it deems fit. There should be no unfair labor practice committed by management if the retirement of private respondents were made in accord with the agreed option. That there were numerous instances wherein management exercised its option to retire employees pursuant to the aforementioned provisions, appears to be a fact which private respondents have not controverted. It seems only now when the question of the legality of a supervisors union has arisen that private respondents attempt to inject the dubious theory that the private respondents are entitled to form a union or go on strike because there is allegedly no retirement policy for their benefit. As above noted, this assertion does not appear to have any factual basis.^[14]

Surely, the requirement to consult the pilots prior to their retirement defeats the exercise by management of its option to retire the said employees. It gives the pilot concerned an undue prerogative to assail

the decision of management. Due process only requires that notice be given to the pilot of petitioner's decision to retire him. Hence, the Secretary of Labor overstepped the boundaries of reason and fairness when he imposed on petitioner the additional requirement of consulting each pilot prior to retiring him.

Furthermore, when the Secretary of Labor and Employment imposed the added requirement that petitioner should consult its pilots prior to retirement, he resolved a question which was outside of the issues raised, thereby depriving petitioner an opportunity to be heard on this point.^[15]

WHEREFORE, in view of all the foregoing, the petition is **GRANTED**. The March 2, 2000 Decision and the June 19, 2000 Resolution of the Court of Appeals in CA-G.R. SP No. 54403 are **REVERSED** and **SET ASIDE**. The Order of the Secretary of Labor in NCMB-NCR-N.S. 12-514-97, dated June 13, 1998, is **MODIFIED** as follows: The retirement benefits to be awarded to Captain Albino Collantes shall be based on the 1967 PAL-ALPAP Retirement Plan and the PAL Pilots' Retirement Benefit Plan. The directive contained in subparagraph (2) of the dispositive portion thereof, which required petitioner to consult the pilot involved before exercising its option to retire him, is **DELETED**. The said Order is **AFFIRMED** in all other respects.

SO ORDERED.

Davide, Jr., C.J., Puno, Kapunan and Pardo, JJ., concur.

[1] Rollo, p. 32.

[2] Ibid., p. 41.

[3] Associate Justices Rodrigo V. Cosico, ponente, Wenceslao I. Agnir, Jr., and Jose Sabio, Jr., concurring.

[4] Penned by Secretary Cresenciano B. Trajano; Rollo, p. 53.

[5] Penned by Secretary Bievenido E. Laguesma; Rollo, p. 101.

[6] Rollo, pp. 69-70.

[7] Ibid., pp. 15-16.

[8] Id., p. 38.

[9] Id., p. 188.

[10] Id., pp. 172-175.

[11] Id., pp. 192-201.

[12] Progressive Development Corp., vs. NLRC, et al., G. R. No. 138826, October 30, 2000; Manuel L. Quezon University, et al, vs. NLRC, et al., 274 SCRA 36, 46 [1997].

[13] 144 SCRA 628 [1986].

[14] Ibid., at 640-641.

[15] Carlos vs. Angeles, G. R. No. 142907, November 29, 2000.

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