SUPREME COURT
THIRD DIVISION

PHILIPPINE SCOUT VETERANS SECURITY & INVESTIGATION AGENCY, INC.,
***Petitioner*,**

-versus-

G.R. No. 99859
September 20, 1996

NATIONAL LABOR RELATIONS COMMISSION and PORPING REGALADO,
***Respondent*.**
x----------x

D E C I S I O N

PANGANIBAN, *J.*:

Does the Labor Code, prior to its amendment by Republic Act No. 7641,[1] authorize the payment of retirement pay in the absence of a provision therefor in a collective bargaining agreement or other applicable employment contract?

The instant petition for *certiorari* seeks to nullify the Decision of the National Labor Relations Commission[2] promulgated January 10, 1991, in NLRC Case No. 00-05-02236-89, entitled "Porping Regalado vs. Phil. Scout Veterans Security & Investigation Agency, Inc. and/or

Col. Cesar Sa Macalalad", affirming the labor arbiter's[3] award of retirement pay to private respondent.

The Antecedent Facts

Private respondent worked for the petitioner as a security guard since September 1963 until his retirement at the age of 60 on March 20, 1989, with a monthly salary of P1,480.00. He formally requested petitioner for payment of his retirement pay, but petitioner refused, stating that it would give him financial assistance instead, without specifying the amount, which offer was refused by the private respondent.

On May 11, 1989, private respondent filed a complaint for non-payment of retirement benefits against petitioner, docketed as NLRC Case No. 00-05-02236-89. Petitioner, in its position paper, alleged that private respondent was not entitled to retirement pay since there was no company policy which provided for nor any collective bargaining agreement granting it.

On September 19, 1989, the arbiter rendered his decision in favor of private respondent.[4] Inasmuch as his ratiocination may be indicative of the mind-set of our labor officialdom, we quote the same below:

> "It is admitted that it is provided in Article 287 of the Labor Code that in case of retirement, the employee shall be entitled to receive such retirement benefits as he may have earned under existing laws and any CBA or other agreement. Since there is no CBA nor company policy granting the same, we have to look into other articles of the Labor Code. Article 283 of the Labor Code requires employer to give separation pay to employees who were retrenched at the rate of one month salary for every year of service when the termination is a result of installation of labor saving device and one-half month pay for every year of service in case of retrenchment due to prevent losses (sic), closure or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses. Article 284 of the Labor Code also requires employer to pay an employee his separation pay at the rate of one-month salary for every year of service when terminated due to

> incurable disease. An analysis of this article will reveal that it is the intention of the Code to provide same financial assistance to these people who are dislocated either because of loss of employment or due to disease and yet, an employee who retires and ironically whose company does not have any CBA nor policy providing for retirement pay will not receive any retirement pay for him to augment and supply his needs during his old age. This matter has to be correct(ed) and it will be an injustice if such retirement pay will be denied to complainant. After all, the company has benefitted from the service of the employee, hence, it is only fitting for the company to provide him some funds for his old age. Also, equity demands that in cases where there is no CBA nor company policy providing a retirement pay, an employer must pay its employee the needed retirement pay.
>
> "WHEREFORE, judgment is hereby rendered ordering the respondent Phil. Scout Veterans Security and Investigation Agency, Inc. to pay complainant his retirement pay at the rate of one-half month salary for every year of service, a fraction of at least six (6) months considered as one year of service."

Petitioner appealed to the respondent National Labor Relations Commission, which in its now-assailed Decision[5] affirmed the arbiter:

> "An employee is entitled to retirement benefits even in the absence of a company retirement plan or collective bargaining agreement. This is the import of Article 287 of the Labor Code, as amended, and implemented by Sections 13 and 14, Rule I, Book V (sic) of the Rules Implementing the Labor Code. Thus in a case, this Commission (1st Division) ruled:
>
> > 'With respect to the award of retirement benefits, the contention of respondent-appellant that complainant is not entitled to his claim of retirement benefits or to his termination or separation pay because he was not retired under the bonafide retirement plan or under an individual or collective bargaining agreement or under company policy, is highly untenable because Rule I, Sections 13 and

> 14, Book VI of the Rules Implementing the Labor Code taken together clearly states that, with or without a retirement plan, individual or collective bargaining agreement or company policy, an employee who retires or is retired at the age of sixty (60) or over, is entitled to termination pay equivalent to one-half month salary for every year of service, a fraction of at least six (6) months being considered as one whole year.
>
> Moreover, if social justice and compassion to labor demand that termination pay be granted to victims of mechanization, redundancy, retrenchment to avoid losses and which are, from the standpoint of affected employees usually temporary contingency that do not prevent them from sooner or later being gainfully employed again, we feel that there is far greater need to cushion retired employees from the difficulties attendant to old age and permanent idleness. And in protecting retired employees, we are also protecting their dependents. This is the essence of social justice. (Angel T. Tolentino vs. Standard Wood Products Company, Inc., NLRC Case No. NCR-5-3847-82, NLRC First Division, Promulgated July 8, 1987.)"

Petitioner moved for reconsideration but respondent Commission denied the same for lack of merit. Hence, this recourse.

This Court issued a temporary restraining order on June 10, 1991, enjoining respondent Commission and its representatives from enforcing its January 10, 1991 Decision. In a Manifestation in Lieu of Comment dated July 25, 1991, the Solicitor General agreed with the petitioner's position.

The Issues

Petitioner alleges that respondent Commission acted with grave abuse of discretion:

A

"IN APPLYING THE PROVISIONS OF ARTICLE 283 AND ARTICLE 284 OF THE LABOR CODE OF THE PHILIPPINES, AS AMENDED, AS THE LAW THAT PROVIDE FOR RETIREMENT PAY TO PRIVATE RESPONDENT.

B

IN ISSUING THE QUESTIONED RESOLUTION WHICH RESULTED IN ADMINISTRATIVE LEGISLATION."

In a nutshell, the issue here is whether or not private respondent is legally entitled to retirement benefits.

The Court's Ruling

The main contention of both petitioner and the Solicitor General is that there is no contractual nor statutory basis for the grant of retirement pay, hence, said award is improper.

The petition is impressed with merit.

The applicable provisions of the Labor Code on the matter of retirement are Art. 287 of the Labor Code, and Sections 13 and 14(a) of Rule I, Book VI of the Implementing Rules, which read as follows:

"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 or other agreement."

x x x

"Sec. 13. Retirement. In the absence of any collective bargaining agreement or other applicable agreement concerning terms and conditions of employment which

> provides for retirement at an older age, an employee may be retired upon reaching the age of sixty (60) years.
>
> Sec. 14. Retirement Benefits. (a) An employee who is retired pursuant to a bona-fide retirement plan or in accordance with the applicable individual or collective agreement or established employer policy shall be entitled to all the retirement benefits provided therein or to termination pay equivalent at least to one-half month salary for every year of service, whichever is higher, a fraction of at least six (6) months being considered as one whole year."

It is at once apparent from a cursory reading of the arbiter's decision that, in making the award of retirement pay, he was confronted by the lack of contractual or statutory basis therefor. Undaunted, he scavenged for a basis from among the other provisions of the Labor Code. Seizing upon Articles 283 and 284, he concluded that it is ironical and unjust that some financial assistance is provided for people who are dismissed from their jobs and who can presumably still find other work and continue to earn a livelihood, but not for those who are retired and facing the difficulties attendant to old age and permanent idleness. This reflection exudes wisdom; unfortunately, it lacks legal basis.

Going even deeper, respondent Commission, instead of clearing up the confusion, added to it by construing Sections 13 and 14(a) of Rule I. Book VI of the Implementing Rules in relation to Art. 287 as basis for the grant of retirement benefits to private respondent.

But far from being novel, this issue had already been settled in Abaquin Security and Detective Agency, Inc. vs. Atienza,[6] where this Court held:

> "Construing these provisions in relation to the same issue presented in this petition, this Court in the case of Llora Motors, Inc., and/or Constantino Carlota, Jr. vs. Hon. Franklin Drilon, et al., (G.R. No. 82895, November 7, 1989) clarified that Article 288 (now 287)'does not itself purport to impose any obligation upon employers to set up a retirement scheme for their employees over and above that already established under

> existing laws. In other words, Article 287 recognizes that existing laws already provide for a scheme by which retirement benefits may be earned or accrue in favor of employees, as part of a broader social security system that provides not only for retirement benefits but also death and funeral benefits, permanent disability benefits, sickness benefits and maternity leave benefits."

In Llora Motors, Inc. vs. Drilon,[7] this Court sought to end the confusion caused by the wording of Section 14 abovequoted, and differentiated between the concepts of "termination pay" and "retirement benefits". We clarified that the phrase "pay equivalent at least one-half month salary for every year of service, whichever is higher" pertains to termination pay:

> "Section 14(1) refers to' termination pay equivalent to at least one-half (1/2) month for every year of service' while Section 14(b) mentions' termination pay to which the employee would have been entitled had there been no such retirement fund' as well as' termination pay the employee is entitled to receive.' It should be recalled that Sections 13 and 14 are found in Implementing Rule I which deals with both' termination of employment' and' retirement.' It is important to keep the two (2) concepts of' termination pay' and' retirement benefits' separate and distinct from each other. Termination pay or separation pay is required to be paid by an employer in particular situations identified by the Labor Code itself or by Implementing Rule I. Termination pay where properly due and payable under some applicable provision of the Labor Code or under Section 4(b) of Implementing Rule I, must be paid whether or not an additional retirement plan has been set up under an agreement with the employer or under an' established employer policy.'
>
> What needs to be stressed, however, is that Section 14 of Implementing Rule I, like Article 287 of the Labor Code, does not purport to require' termination pay' to be paid to an employee who may want to retire but for whom no additional retirement plan had been set up by prior agreement with the employer. Thus, Section 14 itself speaks for an employee' who is

> retired pursuant to a bonafide retirement plan or in accordance with the applicable individual or collective agreement or established employer policy.'" (Emphasis in the original text.)

Consequently, the Decision in question has to be struck down for being legally indefensible.

While Article 287 has since been amended by Republic Act No. 7641 (approved on December 9, 1992) to read as follows:

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 and shall be entitled to retirement pay equivalent to at least one-half (½) month salary for every year of service, a fraction of at leaps six (6) months being considered as one whole year.
>
> Unless the parties provide for broader inclusions, the term' one half (½) month salary' shall mean fifteen (15) days plus one-twelfth (1/12) of the 13th month pay and the cash equivalent of not more than five (5) days of service incentive leaves.

x x x

> nevertheless, the aforequoted provisions, which could have saved the day for the private respondent, cannot be applied in this case, since private respondent retired on March 20, 1989, or about three years prior to the approval of the new retirement law. RA 7641 is to be effective prospectively, absent a clear intention on the part of the legislature to give it retroactively. 8 "It is a rule of statutory construction that all statutes are to be construed as having only a prospective operation unless the purpose and intention of the Legislature to give them a retrospective effect is expressly declared or is necessarily

> implied from the language used. In every case of doubt, the doubt must be resolved against the retrospective effect."[9]

The fact that respondent Commission had a prior ruling in a similar case[10] granting retirement benefits is of no moment. Although it may be true that the contemporaneous construction of a statute by executive officers tasked to enforce and implement said statute should be given great weight by the courts, nevertheless, if such construction is erroneous[11] or is clearly shown to be in conflict with the governing statute or the Constitution or other laws,[12] the same must be declared null and void. "It is the role of the Judiciary to refine and, when necessary, correct constitutional (and/or statutory) interpretation, in the context of the interactions of the three branches of the government."[13]

Had respondent Commission simply followed our ruling in Llora Motors, this problem would not have reached this far. Besides, with Llora's promulgation in 1989, the ruling in the Tolentino case was effectively superseded.

It has been held that "(i)t is axiomatic that retirement laws are liberally construed and administered in favor of the persons intended to be benefited. All doubts as to the intent of the law should be resolved in favor of the retiree to achieve its humanitarian purposes."[14] The intention is to provide for the retiree's sustenance and hopefully even comfort, when he no longer has the stamina to continue earning his livelihood. Unfortunately, such interpretation cannot be made in this case in the light of the clear lack of consensual and statutory basis of the grant of retirement benefits to private respondent.

In all, it has been sufficiently shown that respondent Commission acted in grave abuse of discretion by affirming the grant of retirement benefits to private respondent despite our pronouncements on the matter.

WHEREFORE, the instant Petition is hereby **GRANTED** and the assailed Decision **SET ASIDE**. No costs.

SO ORDERED.

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

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[1] Approved on December 9, 1992.
[2] Second Division, composed of Comm. Rustico L. Diokno, ponente, and Pres. Comm. Edna Bonto-Perez and Comm. Domingo H. Zapanta.
[3] Labor Arbiter Eduardo G. Magno.
[4] Rollo, pp. 35-38.
[5] Rollo, pp. 16-20.
[6] 190 SCRA 460, 465, October 15, 1990.
[7] 179 SCRA 175, 183-184, November 7, 1989.
[8] See Balatbat vs. Court of Appeals, 205 SCRA 419, 426, January 27, 1992; also Article 4, Civil Code.
[9] Balatbat vs. Court of Appeals, supra, citing Nilo vs. Court of Appeals, 128 SCRA 519, 525, April 2, 1984, in turn quoting Mr. Justice Moreland.
[10] Tolentino vs. Standard Wood Products Co., Inc., NLRC Case No. NCR-5-3847-82.
[11] Abaquin, supra, p. 466, citing Insular Bank of Asia and America Employees' Union (IBAAEU) vs. Inciong, 132 SCRA 663, October 23, 1984..
[12] Nestle Phil., Inc. vs. Court of Appeals, 203 SCRA 504, 510, November 13, 1991.
[13] Abaquin, supra, pp. 466-467.
[14] Re: Judge Alex Z. Reyes, 216 SCRA 720, 725, December 21, 1992, citing Borromeo vs. Civil Service Commission, 199 SCRA 924, 1991.
