

**DAVAO FREE WORKERS FRONT AND/OR VICENTE R. VILLARIN,
JOSEFINO ALPAS, MIGUEL NAVALES, ROMEO PALLAR, FLORENTINO
HATAMOSA, BONIFACIO PIONSO, FRANCISCO DUJALE, LAURO
OCTOT, LORENZO ...**

G.R. No. L-29356. October 27, 1975

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

Before the Court is respondent 7-UP Bottling Co. of the Philippines' Motion for Clarification dated May 28, 1975 of the Court's decision of October 31, 1974 (as entered on January 21, 1975 pursuant to the Court's Extended Resolution of January 20, 1975 denying reconsideration) and petitioners' opposition thereto dated July 9, 1975.

The Court's judgment, specifically the dispositive part thereof which expressly reinstates the trial court's decision of September 5, 1966 subject to three modifications set forth in detail in Heading III of the body of the Court's opinion (at pages 18 to 21 of the decision), is clear and unambiguous and respondent's motion for clarification would have normally called for a summary denial.

1. The Court has noted, however, from the pleadings filed by the parties that although both agree on the surface on respondent's liability under the judgment to pay "full backwages" to nine dismissed petitioners, and "strike duration pay" to the striking members of petitioner union, both without deduction or qualification, there is clear disagreement between them on the basic question of the rate or amount of the backwages. The question is whether the payment of such "record full backwages without qualification" and without deduction of earnings elsewhere, covering a period of over seventeen (17) years from dates of dismissal in June 1957 to the date of entry of judgment on January 21, 1975,[1] as well as the payment of strike duration pay "at the equivalent of five (5) years wages net without deduction and qualification,"[2] shall be at the rate actually being paid at the time the nine petitioners were dismissed and the striking members of the union went on strike without taking into account any increases that may have been given thereafter to employees in respondent's other plants (since it closed down its Davao plant) by operation of law or otherwise, as is respondent's submittal or whether such payments shall take into account not only such wages at the time of dismissal or strike but also "all other benefits and bonuses and general increases, to which (the petitioners) would have been normally entitled had (they) not been dismissed and had not stopped working," as submitted by petitioners.

The Court therefore issues this resolution clarifying the matter once and for all, in order to expedite the satisfaction of judgment the soonest possible and prevent fruitless bickerings in the National Labor Relations Commission (as successor of the Court of Industrial Relations) as well as further possible additional and time-consuming appeals and needless expenses and delays, in consonance with the express avowals and wishes of both parties for immediate payment to petitioners of the backwages long justly due them.

The Court declares that the computation of the said backwages for over 17 years and strike duration pay for five years is at the rate that the petitioners entitled thereto were actually receiving and being paid at the time of

dismissal and strike. This is self-evident from the clear, unambiguous and express emphasis made by the Court in its opinion as well as in the judgment itself that such record full backwages as well as the strike duration pay are awarded "without deduction and qualification" as stressed by petitioners themselves in their opposition.[3]

This simply means that the workers were to be paid their backwages fixed as of the time of their dismissal or strike without deduction for their earnings elsewhere during their lay-off and without qualification of their backwages as thus fixed, i.e. unqualified by any wage increases or other benefits that may have been received by their co-workers who were not dismissed or did not go on strike.

Otherwise, the main objective of the judgment, of thereby precisely avoiding the protracted delay in extended post-judgment hearings to prove or disprove such earnings elsewhere and/or increases received by other co-workers in similar positions (which in some cases took as long a time, if not longer, to resolve as the case on its merits) to the grave prejudice of the workers, would be rendered nugatory.[4]

Obviously, furthermore, the judgment for a record full backwages for over 17 years and strike duration pay for 5 years, did not provide that aside from the wages at the rate received by the workers at the time of dismissal or strike, they were to be paid in addition all other benefits, bonuses and general increases received by other co-workers who continued working at their jobs for the duration of the lay-off or strike. And the judgment could not so provide, since in fact there were no other such co-workers who continued working due to respondent's unauthorized unilateral closure of the Davao plant in 1966 (which question of closure as a new matter is precisely the subject of the demand of the case for further proceedings and determination).

With this clarification as sought by respondent, the Court expects that respondent will make good and translate into reality its avowed "desire of terminating this matter as soon as possible" by the immediate payment through the National Labor Relations Commission of the amounts due petitioners as backwages and strike-duration pay.

2. The Court also declares on the second point raised in respondent's motion for clarification that it is clear and obvious that if the death of any of the workers awarded backwages or strike duration pay has intervened during the pendency of this case, his heirs would be paid only up to the time of the particular worker's death, if such death took place before entry of final judgment on January 21, 1975 in the case of the nine dismissed petitioners and before August 5, 1962 in the case of the striking workers awarded the equivalent of five (5) years net wages as strike duration pay (August 5, 1962 represents the completion of five (5) years from the commencement of the strike on August 6, 1957; hence if the worker survived this anniversary date but died thereafter, his heirs are entitled to the full five years strike duration pay earned by him). The rationale of this is simply that a worker can earn wages only when alive: Should the worker have died before the above cut-off dates of January 21, 1975 and August 5, 1962, then he could have worked and been paid only up to the time of his death, and the amount due at such date of death would be what his heirs would be entitled to. Conversely, should he have died after the said cut-off dates, then the right to the full backwages and strike duration pay shall have vested in him during his lifetime and his heirs would be entitled to receive full payment.

Similarly, if total and permanent physical or mental incapacity may have befallen any of the workers before January 21, 1975 for the nine dismissed petitioners and before August 5, 1962 for the striking workers, and such fact is duly documented and established, then such worker would be paid only up to the date of such incapacity, since a worker can earn wages only when not totally and permanently incapacitated.

The foregoing are really not a point of "clarification" but of detail and implementation, but the Court has nevertheless taken it up for the reason already stressed of bringing about the immediate payment by respondent of the amounts due the workers. Should respondent nevertheless fail to do so, then execution of the judgment should forthwith be ordered by the National Labor Relations Commission.

3. The other points raised by respondent asking for cutting off the backwages and strike duration pay in the case of workers who may have meantime obtained other employment at better wages and are now no longer interested in reinstatement, as of the time that they obtained such other employment, clearly concern matters that have been otherwise resolved in the judgment or concern details that have been remanded for determination by the National Labor Relations Commission in accordance with the guidelines given by the Court and require no further pronouncement, except to note that in case the National Labor Relations Commission after further proceedings as directed in the judgment[5] should find the closure of the Davao plant to have been unjustified and order reinstatement of the workers, then such reinstatement, as conceded by respondent, shall be "at such current wages and benefits as respondent is paying its present employees doing similar work." [6]

Makasiar, Muñoz Palma, Aquino, and Martin, JJ., concur.

Esguerra, J., on official leave.

[1] See Heading III, item 1, pages 18-20 of decision.

[2] See Heading III, item 3, page 20 of decision.

[3] At pages 3-4 thereof.

[4] In the writer's separate opinion in *Mercury Drug Co., Inc. vs. CIR*, 56 SCRA 694, 711 (April 30, 1974), it was observed inter alia that "(T)his new principle formally adopted by the Court now in fixing the amount of backwages at a reasonable level without qualification and deduction so as to relieve the employees from proving their earnings during their lay-offs and the employer from submitting counter-proofs, and thus obviate the twin evils of idleness on the part of the employees and attrition and undue delay in satisfying the award on the part of the employer is thus to be hailed as a realistic, reasonable and mutually beneficial solution." See cases cited therein.

[5] See Heading III, item 2, pages 20-21 of decision.

[6] Motion for clarification, page 6.

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