

MANILA TRADING & SUPPLY COMPANY, PETITIONER, VS. MANILA TRADING LABOR ASSOCIATION, RESPONDENT.

G. R. No. L-5783. May 29, 1953

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for review of a decision of the Court of Industrial Relations dated March 11, 1952, which was reaffirmed in a resolution adopted on May 28, 1952, granting the demand of respondent for check-off and for the payment of gratuity to its members in a modified form following the gratuity awarded to former employees.

The issues raised are: (1) "May an employer be compelled to 'check-off' union dues from the wages of his employee when the employer has been authorized to do so by the employee?"; (2) "Has the Court of Industrial Relations the power to order an employer to pay gratuity to an employee who is separated from the service for some reason other than for cause?"

The first inquiry is not new. It has already been raised in a similar case wherein this court had occasion to interpret the nature and meaning of check-off under the Minimum Wage Law. Said this court:

"It may be noted that sub-paragraph (3) consists of two clauses. Our understanding of this provision, which is none too clear, is that the two clauses are independent of each other, each denoting a separate meaning. In other words, check-off may be enforced with the consent of the employer or by authority in writing by the employees. When the union and the employer agree, the attitude of the employees is immaterial. When the employees duly authorize the check-off, as provided by the last clause, the employer's consent is unnecessary and its recognition of the right is obligatory. If this were not so; if in any case the employer's conformity were essential, it would have to be concluded that the second clause is superfluous and meaningless, for the first clause already provides for such conformity as a condition precedent" (*A. L. Ammen Transportation Co., Inc. vs. Bicol Transportation Employees Mutual Association, et al.*, 91 Phil., 649.)

Under the above rule it is clear that check-off may now be allowed if the employer is so authorized in writing by the employee upon the theory that it is necessary to promote the welfare and integrity of the union to which he belongs. It is a forward step to promote social justice as envisaged by our Constitution.

Petitioner, however, seeks now a reconsideration of this ruling upon the plea that it runs counter to the theory of agency. Counsel contends that, under the check-off system, the employee merely appoints his employer as his agent, and it being a contractual relation, the employer may accept or refuse the designation. The employer, he contends, is not under obligation to accept it.

The pretense of counsel would be tenable if we were to abide merely by the tenets of the civil law, but it loses weight if tested in the light of social legislation. Note that the check-off provision is embodied in the Minimum Wage Law which was adopted to advance the cause of labor. It is imperative that its provisions be interpreted having in mind this paramount objective. If we were to interpret the check-off system as one dependent solely upon the will of the employer, this objective would be defeated. This system would be as good as not written. In

this connection, we should not lose sight of what the New Civil Code provides that "the relations between capital and labor are not merely contractual. They are so impressed with public interest that labor contracts must yield to the common good." (Article 1700.) This is in keeping with social justice. We therefore see no compelling reason for modifying the ruling as we are urged by counsel.

Coming now to the second issue, counsel contends that the giving of gratuity is a mere act of generosity on the part of the management and that there is no law which requires employers to give gratuity to their employees. Our answer to this contention is that what is demanded here is not strictly a gratuity but a separation pay, something on which a laborer may fall back when he loses his means of livelihood. There is nothing novel in this demand. This is in keeping with the policy long observed by our government with regard to the retirement of its employees who are given either a pension or a separation pay. We see no reason why this beneficent policy should not be extended to the laborers of a commercial firm in the same way as they are given sick and vacation leave with pay even if there is no express legal provision authorizing its payment. Thus, in the case of *Sta. Mesa Slipways & Engineering Company, Inc. vs. The Court of Industrial Relations*[*] (48 Off. Gaz., p. 3353), this court, in granting a similar demand to laborers of an industrial firm, said:

"But regardless of whether the laborers in the present case are commercial or industrial or business employees, the employer should, we believe, pay them the equivalent of one month wages upon separation from service without just cause. In the first place, from the stand point of the laborer or employee, one employed by an industrial or business concern is as much entitled to the benefits of the law and deserves this one month pay as one employed by a merchant. In the second place, regardless of the strict applicability or nonapplicability of article 302, the Court of Industrial Relations by reason of its general jurisdiction and authority to decide labor disputes, the amount of salary or wages to be paid laborers and employees, to determine their living conditions, has been deciding not only the minimum that the employer should pay its employees but also granting them even sick and vacation leave with pay without any express legal provision. A month's pay upon separation from service without just cause and without notice may also in the discretion of the Industrial Court be granted provided that said discretion is not abused. (Italics ours)

Petition is hereby denied, without pronouncement as to costs.

Paras, C. J., Feria, Pablo, Bengzon, Tuason, Reyes, Jugo and Labrador, JJ., concur.

MONTEMAYOR, J., dissenting:

I dissent, for the same reasons given in my dissenting opinion in a similar case, that of *A. L. Ammen Transportation Co., Inc. vs. Bicol Transportation Employees' Mutual Association, et al.*, 91 Phil. 649.

[*] 91 Phil. 764.

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