

**NATIONAL WATERWORKS AND SEWERAGE AUTHORITY,
PETITIONER, VS. NWSA CONSOLIDATED LABOR UNIONS NOW
KAISAHAN KAPATIRAN NG MANGGAGAWA AT KAWANI SA NAWASA
(PAFLU) AND COURT OF INDUSTRI...**

G.R. No. L-20055. September 27, 1967

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Petitioner seeks a review of the order of the Court of Industrial Relations dated December 8, 1961, in CIR Case No. 27-IPA, and of its resolution en banc of July 17, 1962, denying petitioner's motion for reconsideration.

Respondent NWSA Consolidated Labor Unions, later on renamed Kaisahan Kapatiran ng mga Manggagawa at Kawani sa NAWASA, had a collective bargaining agreement with petitioner, effective for a period of three years from October 1, 1956. Before expiry date the union submitted to petitioner a number of proposals concerning its renewal. Protracted controversies and negotiations for settlement were generated as a result. Conciliation efforts by the Department of Labor proved unavailing; the union declared a strike on October 28, 1959 and again on December 8, 1959 and the President certified the dispute to the Industrial Court which issued a return-to-work order on December 9, 1959.

In the meantime, or on November 13, 1959, the Union filed with said court a petition against NWSA, containing a set of demands, such as annual wage increases, additional commissions of bill collectors, strike-duration pay, check-off of union dues, christmas bonus, continuance of benefits then already existing and extensions of the effectivity of the collective bargaining agreement during the pendency of the case.

On December 8, 1961 the lower Court issued an order denying all the demands except the following: (1) increase of comission of bill collectors by P.02 per bill collected over and above the old rate; (2) continuance of existing benefits including meal allowance, for overtime service; (3) Christmas bonus for the year 1961; (4) check-off of union dues.

Petitioner moved to reconsider insofar as the first three items were concerned and, failing therein, filed the instant proceeding for review. The case was thereafter submitted for decision without briefs or memoranda, but only upon the petition itself and the answer thereto or the Industrials Court as respondent.

(1) On the question of increase in the commissions of bill collectors in the sum of P.02 per bill collected over and above the old rate, petitioner submits that com-missions are already deemed included in the adjustment of salaries of employees pursuant to the WAPCO salary standard-ization plan. The point was not entertained by the court below, which held that commissions are not so included, citing the rule laid down by WAPCO that pending implementation of its pay plan the current (previous) salary should con-tinue to be received, and that "previous salary" means "all pecuniary emoluments received by the employees but excluding commissions, overtime pay, travel allowances, subsistence quarters, laundry, clothing, and uniform allowances."

Petitioner on its part, points out that the aforequoted rule should be applied only for purposes of fixing and adjusting salaries, and that once the salary of an employee has been fixed and adjusted no other amount maybe received by him. Thus, it is pointed out, the WAPCO rules also provide that "any food, lodging or other thing or service provided to any employees shall have its value established by the Budget Commission, and such value maybe deducted from the salary."

We are not convinced that this particular rule cited by petitioner applies to commissions given to its bill collectors. Commissions do not fall in any of the categories therein mentioned, namely, food, lodging or other thing or service. Commissions are not grants in kind or in service, but sums of money given to compensate the employees concerned, in this case bill collectors, for the special nature of their work. Unlike a member of the office personnel, for instance, or even an ordinary manual laborer, either of whom puts into his job a certain number of hours of work and performs a quantum of beneficial service measurable thereby, for which a commensurate compensation may be fixed, a bill collector may be on the road the whole day and yet show nothing for his efforts. When he calls on a customer to collect, the latter has any number of reasons to put off payment, and the collector may have to come back again and again. Some reward in the form of commissions would not only compensate him fairly for his trouble but also provide a proper incentive for him to persist until the bill is actually collected.

2. The members of respondent union were enjoying certain benefits, including meal allowance for overtime service, under their collective bargaining agreement with petitioner which expired in October 1959. The continuance of these benefits was included in the order of respondent Court "at the old rates before the issuance of Memorandum Circular No. 24 of the President." It is admitted by both parties, and respondent Court so stated, that the collective bargaining agreement may no longer be relied upon as basis for the definition of the rights of the employees in this regard. The parties did try to negotiate but arrived at no agreement. The Court, however, ordered the continuance of "existing benefits, including meal allowance for overtime service," by virtue of the following provision in the draft of agreement proposed by petitioner:

"RIGHTS TO EXISTING BENEFITS. - Unless otherwise specified herein, it is understood and agreed that all existing benefits being enjoyed by the employees and laborers prior to the effectivity of this agreement shall remain in force and form part of this Agreement, except in cases where such benefits are curtailed, suspended or suppressed as a disciplinary measure for misfeasance or nonfeasance in office, and subject to the provisions of existing law on the matter."

The phrase "subject to the provisions of existing law on the matter" seems to have been overlooked or mis-interpreted by respondent Court. For Memorandum Circular No. 24 of the President, issued on January 1, 1959, specifically enjoins all heads of Departments etc., including Government-owned and/or controlled corporations, that "payment of meal allowance for overtime service except in meritorious cases, shall not be allowed." in the present case the general rule laid down in this circular is applicable, and in order to be considered as an exception thereto the grant of meal allowance must be justified as a meritorious case. No such justification is revealed by the record. The meal allowance should therefore be excluded from whatever benefits may continue to be enjoyed under the order sought to be reviewed.

(3) Petitioner disputes the grant of Christmas bonus for the year 1961 and points out that it is purely an act of liberality which may be withheld, considering that the collective bargaining agreement of 1956 under which the employees enjoyed such benefits had already expired. This is true enough, as a matter of law. But this Court has held that "even if a bonus is not demand-able for not forming part of the wage, salary or compensation of the employee, the same may nevertheless be granted on equitable considerations," (*Heacock Co. vs. National Labor Union, et al.*, 95 Phil. 553, 559); and that the Court of Industrial Relations, "according to the law of its creation may make an award for the purpose of settling and preventing further disputes." Respondent Court stated the following considerations, which we believe justify the award:

"There is no question that the respondent's employees and laborers have been enjoying the benefit of christmas bonus. It is not denied that even during the operation of the corporation under the defunct Metro-politan Water District and since its administration and operation by the respondent Authority, the employees and laborers have been continuously given such benefit. And even while this case was pending them NWSA granted Christmas bonus in December, 1960."

In view of the foregoing, the orders of respondent Court dated December 8, 1961 and July 17, 1962, subject of this petition for review, are affirmed except with respect to the grant of meal allowance for overtime service, which is hereby eliminated. No pronouncement as to costs.

Concepcion, C.J., Reyes, Dizon, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.
Bengzon, J., did not take part.

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