

GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS. GSIS EMPLOYEES ASSOCIATION & THE COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G.R. No. L-34893. January 22, 1988

Ponente: CORTES, J.

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CORTES, J.:

In this petition for review by certiorari, the Government Service Insurance System (GSIS) seeks to vacate and set aside the order dated October 7, 1970 and the resolution en banc dated March 10, 1972, of the then Court of Industrial Relations in CIR Case No. 87-IPA (12).

On February 27, 1969, the President of the Philippines certified to the CIR a labor dispute between the GSIS and the GSIS Employees Association (GSISEA), pursuant to Section 10 of the Industrial Peace Act which provides:

SEC. 10. Labor Disputes in Industries Indispensable to the National Interest. — When in the opinion of the President of the Philippines there exists a labor dispute in an industry indispensable to the national interest and when such labor dispute is certified by the President to the Court of Industrial Relations, said Court may cause to be issued a restraining order forbidding the employees to strike or the employer to lockout the employees, pending an investigation by the Court, and if no other solution to the dispute is found, the Court may issue an order fixing the terms and conditions of employment.

Hence, the CIR assumed jurisdiction and held conciliation and mediation proceedings between the parties. On March 5, 1969, the court issued an order which provided:

WHEREFORE, in the exercise of the powers granted this Court under Commonwealth Act 103, as amended, and during the pendency of this certified case, all the striking rank and file employees of the Government Service Insurance System are hereby ordered to return to work not later than March 6, 1969; and the GSIS is, in turn, directed to accept all such striking employees under the same terms and conditions of employment existing before the strike. Any dismissal suspension, lay-off, transfer, demotion or promotion among the employees affected by this Order shall be subject to prior approval by this Court before such action shall be implemented or effected by the Management of the GSIS. (*Italics supplied.*)

Conformably with the above order, on September 15, 1970, the GSIS filed with the CIR a Motion to Approve Resolution No. 611 relative to the appointment of a number of employees. The motion was set for hearing, during which only Daniel Roberto, a ranking member of the union, filed a protest. Under Item 737 of Resolution No. 611 his appointment as Service Credit Investigator was made effective January 1, 1968. He claimed that the effectivity date of his appointment should be July 1964 as he started performing the tasks of a credit investigator on that date.

The facts show that on July 1, 1964, Roberto was promoted to the position of Senior Service Credit Adjudicator. However, on December 1965, an investigator, one Adoracion Pekson, was promoted to another operating unit. Since then, Roberto, who was still occupying the position of Senior Service Credit Adjudicator, had been performing investigation work which is different from the work of an adjudicator.

After due hearing, the CIR, on October 7, 1970, issued an order approving Resolution No. 611 with the modification that Roberto's appointment as Senior Service Credit Investigator was made effective July 1, 1964 instead of January 1, 1968. On motion for reconsideration, the court en banc modified the Order of October 7, 1970 by making December 1, 1965 the effectivity date of Roberto's promotion. Hence, this petition for review.

Petitioner contends that the CIR committed a grave abuse of discretion when it ordered the change in the effectivity date of Item No. 737 of Resolution No. 611. It avers that under the charter of the GSIS (Rep. Act No. 660 as amended), the power to appoint, determine the compensation and fix the effectivity date of appointments of GSIS employees is vested in the Board of Trustees, and contends that unless there is clear abuse of discretion or there is discrimination, no court can change or alter the determination of the GSIS.

Subject only to specific statutory limitations, management enjoys the freedom of administering the affairs of its business, and has the right, and the power, to control business operations. It enjoys what are called "management prerogatives." Among these prerogatives is the right to effect personnel movements without securing prior approval from anybody.

It is, however, settled that during the pendency of a labor dispute certified by the President to the industrial court, the labor court may validly require that any contemplated transfer, promotion, demotion or termination must first be submitted for approval. Thus, this Court ruled in the case of *Bachrach Transportation Co., Inc. v. Rural Transit Shop Employees Association, et al.* [127 Phil. 177 (1967), 20 SCRA 779]:

The overwhelming implication from the quoted text of Section 10 is that the CIR is granted great breadth of discretion in its quest for a solution to a labor problem so certified. It is within the allowable area of this discretion that the CIR issued its Order . . . Thus, the CIR directed "all the strikers to return to work immediately," the management "to get them back under the last terms and conditions existing before the dispute arose"; and, pending investigation of the dispute, the employer was enjoined "from dismissing any employee, unless with the express authority of the Court." (*Italics supplied.*)

Petitioner itself admits that the exercise by management of its powers to effectuate personnel movements, at least during the pendency of the dispute, may be subjected to certain restrictions. It does not question the validity of the Order of March 5, 1969, *supra*, requiring the GSIS to submit any "dismissal, suspension, lay-off, transfer, demotion or promotion" for approval by the court. In fact, it impliedly admitted the validity of said order when it filed its Motion dated September 15, 1970 asking the court to approve Resolution No. 611.

Nonetheless, even as the CIR's power to approve/disapprove any contemplated promotion, demotion, transfer or separation is conceded, said power must be exercised with circumspection, inasmuch as it interferes with the management prerogative of controlling personnel movements. The purpose of prior authority/ approval by the industrial court is "to stop acts that mar the process of solving the labor problem at hand; to produce the salutary effect of preventing further deterioration of the already deteriorated relationship between employer and employees ..." (*Ibid.*). It is intended as an aid to the eventual solution of the labor question.

The industrial court would therefore be justified in substituting its own judgment for that of management, in interfering with what normally is management's prerogative of transferring, promoting, demoting, or terminating its employees, only if by so doing, the purposes mentioned above may be realized.

In the present case, when the CIR issued its first order dated October 7, 1970, making July 1, 1964 as the date of effectivity of the promotion of Roberto to the position of Senior Service Credit Investigator (Item No. 737), it did so on the basis of Exhibits "1" to "1-B," which are true copies of communications purporting to show that Roberto was recommended by his immediate supervisors for promotion.

GSIS filed a motion for reconsideration of the order of October 7, 1970, alleging, among others, that Item No. 737 was not vacant on July 1, 1964; that on said date, Roberto was already promoted to Senior Service Credit Adjudicator, and hence, cannot be promoted to another position on the same date; that the order of October 7, would result in discriminating against the other employees whose appointments were effective January 1, 1968; and that recommendations from supervisors were merely recommendatory and not binding on the General Manager and the Board of Trustees. The GSIS likewise manifested that the relationship between the GSIS and its employees worsened as a result of the order of October 7, 1970, as the other employees were protesting against the appointment.

Despite this manifestation, the CIR en banc, in its order dated March 10, 1972, directed the change in the date of effectivity of Roberto's promotion from January 1, 1968 (as determined by the GSIS) to December 1, 1965, upon a finding that he has been performing the duties of a Service Credit Investigator since the latter date, when the position was vacated by virtue of the promotion of the incumbent. The CIR cited the civil law principle that no one should enrich himself at the expense of another, as reason for its order.

What is, at once, apparent is that the CIR, in issuing the questioned orders, did so NOT "to stop acts that mar the process of solving the labor problem at hand." Rather, it issued its orders because: (1) Roberto had been recommended by his supervisors for promotion in July 1964 (Order of October 7, 1970; Rollo, p. 54); and (2) It would be unfair if the GSIS did not pay the salaries and emoluments of a credit investigator to Roberto, even as it enjoyed his services as such investigator (Order of March 10, 1972; Rollo, pp. 67-69). In its Memorandum, the CIR sets forth a third justification. It alleges that under Section 10 of the Industrial Peace Act, the CIR is empowered to "issue an order fixing the terms and conditions of employment," which includes the power of determining when an appointment should be made effective (Memorandum for Respondent, p. 4).

The first ground relied upon deserves scant consideration. It is not disputed that the recommendations of supervisors are precisely what they are called: recommendations. However weighty they may be, recommendations cannot control the discretion of the appointing authority which, in this case, is the General Manager and the Board of Trustees of the GSIS.

The second reason likewise deserves no merit. If accepted, it would authorize an employee, holding a specific position, to perform the tasks and responsibilities of another position so that he may be justified in asking for the benefits and emoluments of the latter position. For instance, had Roberto performed not merely the duties of an investigator but those of a Division Chief, or even those of the GSIS General Manager, then, following the reasoning of the CIR, he would have to be promoted to the position of Division Chief or General Manager.

This reasoning in effect deprives management of its power to determine its specific manpower requirements in any given period of time.

Petitioner's argument which rests on the proposition of inequity and unfairness can work the other way. It may equally be argued that it was unfair for Roberto to abandon the duties of an adjudicator at a time when the need was for the services of an adjudicator, and not those of an investigator.

Finally, the third reason fails to appreciate the legal significance of the power of the Court of Industrial Relations to fix the terms and conditions of employment in compulsory arbitration cases under Section 10 of the Industrial Peace Act [Republic Act No. 875(1953)].

The pertinent portion of Section 10, RA 875 reads:

"... and if no other solution to the dispute is found, the Court may issue an order fixing the terms and

conditions of employment.”

It is clear from the quoted provision of the law that the fixing by the Court of the terms and conditions of employment is intended as a solution to the labor dispute which was certified by the President for arbitration. The fixing of terms and conditions of employment writes finis to the case. The above provision may be understood to refer to contract negotiation disputes which are disputes as to the terms of a collective bargaining agreement, as when there is a bargaining deadlock or impasse. [Fernandez and Quiason, *THE LAW OF LABOR RELATIONS* 441 (1963)]. It does not encompass incidents of the main controversy like the situation in the present case where the GSIS management sought the Court’s imprimatur on the management’s resolution relative to the upgrading of its personnel, which, unquestionably, is not related to the dispute certified for arbitration.

As stated above, the only reason why the CIR’s approval is necessary before any intended transfer, promotion, demotion, or separation may be effected pending a dispute, is “to stop acts that mar the process of solving the labor dispute” and to prevent “further deterioration of the already deteriorated relationship between employer and employee.” Otherwise, the CIR would not be justified in interfering with what, under normal circumstances, is purely a management prerogative.

In the case at bar, it has not been shown that the GSIS acted arbitrarily or discriminatorily in fixing the date of effectivity of Roberto’s promotion so as to warrant a change in said date. Neither was it shown that the change in the date of effectivity of Roberto’s promotion was necessary in the process of arriving at a solution to the labor dispute, or in maintaining a desirable industrial atmosphere pending arbitration. On the contrary, to order the change would, as it did, have the effect of discriminating against the other employees, and fomenting unrest, thus resulting in the further deterioration in the relationship between the GSIS and its employees. To order the change was therefore unwarranted.

Hence, this Tribunal finds that the Court of Industrial Relations overstepped legal bounds when it ordered the change in the effectivity date of Item No. 737 in GSIS Resolution No. 611 adopted July 21, 1970.

WHEREFORE, the petition is hereby GRANTED. The questioned Orders of the Court of Industrial Relations are hereby SET ASIDE. GSIS Resolution No. 611 is approved without any modification.

SO ORDERED.

Fernan, Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

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