

**PHILIPPINE AIRLINES SUPERVISORS' ASSOCIATION (PALSA),
PETITIONER, VS. HONORABLE AMADO GAT INCIONG, IN HIS
CAPACITY AS ACTING SECRETARY OF LABOR, NATIONAL LABOR
RELATIONS COMMISS...**

G.R. No. L-46762. August 30, 1982

Ponente: RELOVA, J.

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RELOVA, J.:

The question presented in this petition for certiorari is whether or not the National Labor Relations Commission and the Secretary of Labor have jurisdiction to review on appeal decisions of Voluntary Arbitrators chosen by the parties, pursuant to Presidential Decree No. 21 and to their collective bargaining agreement.

On November 19, 1973, petitioner Philippine Airlines Supervisors' Association (PALSA for short) filed a grievance with Philippine Airlines, Inc. (PAL for short) asking that PALSA employees be paid one (1) month salary for every year of service rendered with PAL as retirement benefit based on the employees' highest salary and that the computation of the retirement benefit be counted from the first day the supervisory employees were employed on whatever status. Further, on February 20, 1974, PALSA filed a grievance with PAL requesting the latter to grant to all supervisory employees a monthly gasoline/ transportation allowance of Two Hundred Pesos (P200.00) as well as a monthly cost of living allowance of Two Hundred Fifty Pesos (P250.00).

The aforesaid grievances were discussed by representatives of PALSA and PAL, and because of their failures to mutually settle said grievances, recourse was made to the National Labor Relations Commission by PALSA in a complaint filed on May 3, 1974, containing seven (7) causes of action. It was docketed as NLRC Case No. 3555.

PAL filed its answer to the complaint.

After several conciliation conferences, PALSA and PAL agreed to submit their dispute to a Voluntary Arbitrator, retired Justice Calixto O. Zaldivar. This was on October 18, 1974.

After hearing all the witnesses presented by both parties, Voluntary Arbitrator Calixto O. Zaldivar gave PALSA the following awards:

"1. WHEREFORE, an emergency cost of living allowance of One Hundred Fifty Pesos (P150.00) a month, and an emergency gasoline/transportation allowance of Ninety (P90.00) Pesos a month, are hereby granted to the regular super-visory employees of Philippine Airlines, Inc. (PAL) who were bona fide members of the Philippine Airlines Supervisors' Association (PALSA) on May 2, 1974, effective as of February 18, 1974, and under the conditions set forth in this award.

"x x x x x x x x

"2. Resolving, therefore, the question involved in the second cause of action of the complaint of PALSA in the present case, the Arbitrator declares that the retirement plan for the supervisory employees of PAL be modified

x x x

"x x x x x x x x

"7. WHEREFORE, respondent PAL is ordered to reinstate Vicente Arrieta to the job he was holding on March 16, 1971 when he was placed on forced leave without pay, or to rehire him and place him in a job or position where his qualifications and experience best fit him, which job or position carries a salary, and other privileges, if any, not less than that which he was receiving, or was entitled to receive, on March 15, 1971. Or, in the alternative, if Vicente Arrieta would choose to avail himself of the retirement privilege that was extended to retrenched supervisory employees pursuant to the order of the Court of Industrial Relations, dated October 22, 1971, in CIR Case No. 315- Inj., in lieu of his being reinstated as an employee of PAL, respondent PAL is ordered to extend to him that retirement privilege and to provide the necessary funds therefor. It should be understood that the first alternative has the priority over the second."

PAL appealed the said awards to the National Labor Relations Commission (NLRC for short). PALSA filed a motion to dismiss PAL'S appeal. The NLRC refused to dismiss the appeal and, on September 13, 1976, rendered a decision reversing the decision of the Voluntary Arbitrator. The dispositive portion of the decision of the NLRC reads as follows:

"WHEREFORE, in view of all the foregoing considerations, the Awards appealed from should be, as it is hereby REVERSED, insofar as it (1) granted emergency cost of living allowance to PALSA members retroactive to February 18, 1974; (2) revised the retirement plan and increased the benefits arising from compulsory and optionally retired PALSA members; and (3) directs PAL to reinstate Vicente Arrieta now to his former position or another equivalent position. However, PAL is directed to re-employ Vicente Arrieta immediately upon the availability of any job opening which is substantially similar to his former position, after satisfying the conditions set forth in the current collective bargaining agreement of the parties herein, or, in the alternative, to allow Vicente Arrieta to avail of the retirement privileges extended to his co-retrenched supervisory employees, pursuant to the Order of the Court of Industrial Relations dated 22 October 1971 in CIR Case No. 315-Inj."

PALSA appealed the decision of the NLRC to the Department of Labor, again reiterating its claim that the awards of the Voluntary Arbitrator cannot be the subject of review. The Department of Labor, thru its then Acting Secretary Amado Gat Inciong, upheld the NLRC in an order, dated June 16, 1977, affirming the decision of the NLRC.

It is the position of PALSA (1) that there is no law which justifies the action taken by respondents Acting Secretary of Labor and NLRC; (2) that even if it be assumed that both respondents have authority to entertain PAL's appeal, they committed grave abuse of discretion in disturbing the findings of facts of Voluntary Arbitrator, retired Justice Calixto O. Zaldivar; and, (3) that the action taken by respondents constitute a serious setback to the efforts of the government to afford speedy determination of labor disputes.

PALSA claims that it was its agreement with PAL that the decision of the Voluntary Arbitrator mutually chosen by them will be final and executory; that Section 4 of Presidential Decree No. 21 provides that the NLRC "shall give the parties a chance to submit their problem for voluntary arbitration" and that only after the parties have failed to agree on the arbitrator that the Commission may come in; that after the parties (PALSA and PAL) had actually chosen a Voluntary Arbitrator, they stipulated in their supplemental agreement that the decision of the voluntary arbitrator will be final and executory; that it is clear that respondent NLRC and the Acting Secretary of Labor acted without jurisdiction or in grave abuse of discretion when they gave due course to the appeal of PAL from the awards of the Voluntary Arbitrator and finally reversed such awards.

Petitioner prays that the judgment be rendered nullifying the decision of respondent NLRC and of respondent

Acting Secretary of Labor; that the awards of Voluntary Arbitrator Calixto O. Zaldivar be sustained and that PAL be ordered to comply therewith.

On the other hand, respondents contend that while under the earliest Rules and Regulations which implemented Presidential Decree No. 21, promulgated by the Ad Hoc NLRC on October 18, 1972, it was provided in Section 19 thereof that decisions of the Voluntary Arbitrator are final and executory, this provision was amended by the NLRC on January 26, 1973, this time, allowing appeal from decisions/awards of Voluntary Arbitrators under certain specified grounds, to wit:

"Section 1. Any aggrieved party in any award, whether voluntary or compulsory arbitration, may appeal to the Commission or to the Secretary of Labor, as the case may be, on the following grounds:

- a) If the arbitrator exceeded his authority in accordance with the terms of the arbitration agreement;
- b) If the award is obtained through fraud;
- c) If the arbitrator disregards vital evidence which if considered may substantially change the nature of the Award;
- d) On grounds of partiality and special interest to favor one of the parties in the case, if not disclosed to the parties at the beginning of the proceedings." (Supplementary Rules and Regulations No. I)

Further, respondents alleged that when the Labor Code was promulgated on November 1, 1974 it contained a provision making Voluntary Arbitration awards or decisions appealable to the Commission. Article 263, Third Paragraph thereof, reads:

"ART. 263. Voluntary Arbitration. -

x x x x x x x x

"Voluntary arbitration awards or decisions shall be final, inappealable, and executory. [However, voluntary arbitration awards or decisions on money claims involving an amount exceeding One Hundred Thousand Pesos (P100,000.00) or forty per cent (40%) of the paid-up capital of the respondent employer, whichever is lower, may be appealed to the Commission on grounds of abuse of discretion or gross incompetence.]" (Underscoring ours)

and, Article 289 of the said Labor Code provides:

"Disposition of pending cases. - All cases pending before the Court of Industrial Relations and the National Labor Relations Commission established under Presidential Decree No. 21 on the date of effectivity of this Code shall be transferred to and processed by the corresponding Labor Relations Division or the National Labor Relations Commission created under this Code having cognizance of the same in accordance with the procedure laid down herein and its implementing rules and regulations. Cases on labor relations on appeal with the Secretary of Labor or the Office of the President of the Philippines as of the date of effectivity of this Code shall remain under their respective jurisdiction and shall be decided in accordance with the rules and regulations in force at the time of appeal."

Thus, respondents argued that the allegation of petitioner that there is no appeal from the decisions of the Voluntary Arbitrator is incorrect because the matter of no-appeal was already obsolete when PAL questioned the awards in its appeal dated May 15, 1976.

Respondents also argued that there was no proof and justification why the cost of living allowance should be P150.00 a month and the transportation/gasoline allowance P90.00; that these figures were arbitrarily fixed without regard to specific proof; that PALSA employees are already highly paid and should be the last to seek

such allowances.

And, with respect to the order of the Arbitrator to reinstate Vicente Arrieta, respondents claim that:

- " a) There is no position suitable for qualifications of Mr. Arrieta.
- b) Under the criteria for the selection of employees provided for in the collective bargaining agreement, there are other PALSA employees who are preferred over Mr. Arrieta.
- c) The case of Mr. Arrieta is the subject matter of another complaint filed by him and which is still pending before the NLRC."

The NLRC, reversing the decision of the Voluntary Arbitrator, said:

"Coming now to the economic grants made by the voluntary arbitrator in favor of PALSA as contained in the dispositive portions of his Award, under the sub-titles, FIRST CAUSE OF ACTION AND SECOND CAUSE OF ACTION, we shall discuss the issues jointly for the sake of brevity and coherence, they being in the main common and ultimately intertwined.

"On these issues, the impression generated in our minds is that PALSA's demand for emergency living allowance and emergency gasoline/transportation allowance is barred by Letter of Instructions No. 174. Said LOI 174 is clear on this specific point when it stated, thus:-

'4 . Non- Arbitrability of Allowance Disputes. -Allowances granted in accordance with the above scales may not be questioned and shall not be subject to compulsory arbitration under Presi-dential Decree 21.'

"And there is no denying that PAL had already fully complied with LOI 174. But, despite the stricture contained in LOI 174, the vol-untary arbitrator granted each PALSA member a monthly emergency living allowance of P150.00 and a monthly emergency gasoline/transportation allowance of P90.00 declaring, albeit wrongly, that what is not subject to arbitration under paragraph 4 of LOI 174 are only the rates (or scales) of allowances.

"A careful reading of paragraph 4 of LOI 174 dictates an interpretation contrary to that of the Voluntary Arbitrator. What is non- arbitrable as contemplated in said paragraph 4 is the 'allowance' granted (by the employers) in accordance with (or pursuant to) the scales. Thus, in case of disputes between employers and employees with respect to allowances granted by the former to the latter, said economic grants may neither be questioned by the parties nor be the subject of arbitration, as long as the same were, or are, granted in accordance with the scales fixed. This interpretation is in consonance with the prefatory phrase or title of paragraph 4 of LOI 174 which mandates of the 'non-- arbitrability of allowance disputes', which interpretation would certainly not hold true had this prefatory phrase been worded 'Non- Arbitrability of Scales or Rates of Allowance.' Besides, basic English grammar tells that the subject, as contradistinguished from the term pre-dicate, of the one sentence provision of paragraph 4 of LOI 174 is the 'allowances' granted by the employers, the phrase 'granted in accordance with the above scales' being merely a 'modifier' qualifying the word 'allowances.'

"As adverted to above, with PAL having granted emergency allowances in full compliance with LOI 174, the arbitration of the demand for emergency living allowance and gasoline/transpor-tation allowance is therefore barred.

"Painstakingly justifying his award of allowances, the voluntary arbitrator went on to state that, at any rate, PALSA's demands are not based on LOI 174 but on the exigencies of the economic condition of the employees on one hand and the economic capability of PAL on the other.

"Even by that guideline resorted to by the voluntary arbitrator, we believe that some fallacies seem to have entered his judgement. The evidence on record discloses that, while PAL was indeed granted several increases

in its passenger and freight rates by the Civil Aeronautics Board, the resulting increase in revenues is not even enough to absorb one-half of the corresponding increase in the cost of its fuel consumption. Moreover, while it was shown that PAL enjoys a monopoly of domestic air transportation, we take note of the fact that it does not enjoy a monopoly of transportation. There are still other transportation by land or sea to reckon with. It is our thinking that we cannot saddle PAL with additional operating expenses in the form of economic grants, without it possibly precipitating another corresponding increase of its already high rates of passenger and freight charges, thereby making travel by air almost prohibitive. Our point is that unreasonably increased burden like additional operating expenses may ruin the company and its business and ultimately the economy in general.

x x x x x x x x

"Anent the order of the voluntary arbitrator directing the re-employment of Vicente Arrieta under the sub-title SEVENTH CAUSE OF ACTION, we agree that subject PALSA member is entitled to reinstatement. However, the 1972-75 CBA, particularly paragraph 3, Section 1 of Article II, which was cited by PALSA itself to support its claim that Vicente Arrieta should be re-hired, provides:

'(3) When job opening of a promotional nature occurs in any job classification covered by this Agreement, the company agrees to comply with the following order of priority in its selection of employees to fill up the position:

aa) Employees in the division within the bargaining unit (PALSA);

bb) If no employee is qualified in the division, the employees in the department within the bargaining unit (PALSA);

cc) If there is no qualified employee for the job in the department within the bargaining unit, the employee within the bargaining unit (PALSA) in the company;

dd) If there is no qualified and available employee within the bargaining unit in the company, the selection shall be from the employees group within the company.'

"There is no showing on the part of PALSA, in the same way that the voluntary arbitrator found no pertinent evidence, (a) that there is a job opening for Vicente Arrieta, (b) that he is qualified for said job opening and (conjective) (c) that, other than himself, there is no employee who has preference over him to said job opening, pursuant to the aforequoted order of priority in the selection of employees to fill up a vacant position."

We find the petition to be without merit. When NLRC Case No. 3555, entitled "Philippine Airlines Supervisors' Association (PALSA) versus Philippine Airlines, Inc.," was filed in May 1974, decisions of the Voluntary Arbitrators were already appealable to the National Labor Relations Commission. It was on October 14, 1972 when President Marcos issued Presidential Decree No. 21 creating the National Labor Relations Commission. Four days thereafter, or on October 18, 1972, the NLRC promulgated its Rules and Regulations implementing said Presidential Decree No. 21. The Rules, among others, provide:

"Section 19. The decision of the arbitrator shall be final and executory in the following cases:

(1) If the arbitrator is chosen voluntarily by the parties themselves.

(2) If the arbitrator is the Chairman or any member of the Commission together with a representative of the union and a representative of the management concerned.

"Section 20. The decision of the arbitrator is appealable to the Commission in the following cases:

(1) If the arbitrator is chosen by the Commission.

(2) If the complaints involve the national interests."

On January 26, 1973, the NLRC amended its Rules and Regulations with respect to appealability of the decision of the Arbitrator, as follows:

"Section 1. Any aggrieved party in any award, whether voluntary or compulsory arbitration, may appeal to the Commission or to the Secretary of Labor, as the case may be, on the following grounds:

- a) If the arbitrator exceeded his authority in accordance with the terms of the arbitration agreement;
- b) If the award is obtained through fraud;
- c) If the arbitrator disregards vital evidence which if considered may substantially change the nature of the Award;
- d) On grounds of partiality and special interest to favor one of the parties in the case, if not disclosed to the parties at the beginning of the proceedings." (Supplementary Rules and Regulation No. I)

Thus, there is no question that before the filing of this NLRC Case No. 3555 the Rules implementing Presidential Decree No. 21 have already been amended to expressly allow appeals from the decisions of the Voluntary Arbitrators.

With respect to the grant by the Voluntary Arbitrator of an emergency cost of living allowance of P150.00 a month and gasoline/ transportation allowance of P90.00 a month to the regular supervisory employees of PAL who were bona fide members of PALSAs, it appears that PALSAs and PAL, on October 29, 1973, had agreed to grant a 10% salary increase to PALSAs members effective June 1, 1972. In that agreement, it was provided that:

"1 . In recognition of the claim of PALSAs for wage adjustment embodied in the 'Memorandum Agreement' between PAL and PALSAs on September 29, 1970, which claim is now before a panel of arbitrators docketed as NLRC Case No. 767, PAL now grants to all its supervisory employees a wage adjustment in the amount of ten percent (10%) of their present salary to be effective on August 1, 1972.

"2 . The foregoing wage adjustment shall be in full and complete settlement of wage adjustment claim that PALSAs has by virtue of the aforementioned 'Memorandum Agreement' and PALSAs acknowledges that it has no further valid claims for wage adjustment up to June 30, 1975 when its current Collective Bargaining Agreement with PAL expires. PALSAs further acknowledges that with the settlement and the adjustment mentioned in the pre-ceeding paragraph, the employees represented by PALSAs are not entitled to any bonus for the year 1973.

"3. With the adjustment and settlement mentioned in paragraph 1 of this Agreement, all terms and conditions of employment not expressly specified by the current Collective Bargaining Agreement signed by the parties on December 27, 1971 and not embodied in this Agree-ment are fully satisfied by said adjustment."

Despite the foregoing agreement between PALSAs and PAL, petitioner PALSAs, on November 19, 1973, presented a demand that the retirement benefits of each members be increased to one (1) month salary for every year of service based on the employees' highest monthly salary. On March 6, 1974, the President issued Letter of Instruction No. 174 directing the Secretary of Labor to urge all employers in the private sector to grant monthly emergency allowance of P50.00 a month to all employees receiving less than P600.00 a month. Further, Section 4 of LOI No. 174 provides that allowances granted in accordance with the scale "may not be questioned and shall not be subject to compulsory arbitration under PD No. 21."

Respondent PAL complied with the directive of the President in LOI 174. Pursuant to the agreement between PALSAs and PAL, the former agreed that when the latter granted to all its supervisory employees a wage

adjustment in the amount of ten percent (10%) of their present salary to be effective August 1, 1972, it shall be in full and complete settlement of wage adjustment claim of PALSA members who will no longer present valid claims for wage adjustments up to June 30, 1975, when its Collective Bargaining Agreement with PAL expires.

Thus, there is no justification in PALSA's demand for emergency cost of living allowance and gasoline/transportation allowance.

With respect to Vicente Arrieta, the Voluntary Arbitrator ordered to reinstate him to the job he was holding on March 16, 1971 when he was placed on forced leave without pay, or to rehire him or place him in a job or position where his qualifications and experience best fit him based on the following circumstances:

"(1) that he had been continuously an employee of PAL from 1954 to 1971, or for almost 17 years;

"(2) that he was separated by PAL from the service because of its retrenchment program due to unfavorable business conditions obtaining at the early part of 1971, but which business conditions have since improved;

"(3) that it is not shown that when he was retrenched or laid off such factors as seniority, efficiency, qualifications and personnel record file, as provided in the CA, were considered;

"(4) that his separation from the service was not due to any fault, mis-conduct or inefficiency on his part, nor is it shown that he was under investigation because of any complaint against him at the time when he was placed on forced leave without pay on March 16, 1971;

"(5) that he had not taken advantage of the retirement privilege that was extended to supervisory employees who were retrenched along with him on March 16, 1971; and

"(6) the fact that the Vice-President for Labor Relations of PAL has no objection to his being rehired, said official of PAL having expressed his lack of competent supervisors and his preference to get employees who had been with PAL, the Arbitrator believes that it is only fair and just that PAL should reinstate him to the job he was holding when he was placed on forced leave without pay on March 16, 1971, or rehire him and assign him to a job or position where his qualifications and experience would best fit him, and to a job or position that carries the salary and privileges, if any, that are not less than what he was receiving or was entitled to receive, when he was placed on forced leave without pay on March 16, 1971."

The NLRC, in its order dated September 13, 1976, directed PAL to re-employ Vicente Arrieta immediately upon the availability of any job opening which is substantially similar to his former position, after satisfying the conditions set forth in the Collective Bargaining Agreement of the parties, or, in the alternative to allow him to avail of the retirement privileges pursuant to the order of the Court of Industrial Relations dated October 22, 1971 in CIR Case No. 315-Inj.

Considering that the separation of Mr. Arrieta from the service was not due to his fault, misconduct or inefficiency, it is but fair that he be reinstated without any condition to the position he was holding on March 16, 1971 when he was placed on forced leave without pay; or that he be placed in a job where his qualifications and experience best fit him.

In closing, it may be noted that the memorandum submitted by the Government Corporate Counsel Manuel Lazaro placed matters in a clearer perspective and thus aided the Court in the disposition of this case.

ACCORDINGLY, the Decision of the National Labor Relations Commission is hereby AFFIRMED, as well as the Order of the then Acting Secretary of Labor affirming it, with the modification that Vicente Arrieta should be reinstated without any condition to the position he was holding on March 16, 1971; or, that he be placed in a job where his qualifications and experience best fit him.

SO ORDERED.

Concepcion, Jr., Guerrero, De Castro, Melencio-Herrera, Plana, Escolin, Vasquez, and Gutierrez, Jr., JJ., concur. Fernando, C.J., While sympathetic to the claims of labor and mindful of the well-deserved prestige of the late Justice Calixto O. Zaldivar fairness and impartiality, I concur in the result out of deference to well-settled principles of administrative law, more specifically the broad discretion accorded administrative authorities.

Teehankee, and Aquino, JJ., no part.

Barredo, and Makasiar, J, on leave.

Abad Santos, J., I dissent. I am not convinced that the appeal of PAL falls within any of the cases mentioned in Sec. 1 of the Supplementary Rules and Regulations No. 1 with Justice Calixto O. Zaldivar as arbitrator.

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