

BATANGAS LAGUNA TAYABAS BUS COMPANY, PETITIONER, VS. HONORABLE COURT OF APPEALS AND GREGORIO HINAGPIS, RESPONDENTS.

G.R. No. L-38504. October 25, 1977

Ponente: GUERRERO, J.

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GUERRERO, J.:

Petitioner comes before this Court praying for the review, by way of appeal by certiorari, of the decision dated February 21, 1974 and the resolution dated March 27, 1974 of the Court of Appeals,[1] pursuant to Section 17, par. 4 of the Judiciary Act, as amended by Republic Act.No. 5440.

The questioned decision of respondent Court of Appeals[2] discloses the following undisputed facts:

"Plaintiff was an employee of the defendant Laguna Tayabas Bus Company from October 1927 to July 31, 1963, except for the years 1942 to 1944 of the Japanese Occupation, or for a net period of 33 years. At the time of his separation from the employ of the defendant, the plaintiff held the position of Chief Accountant with a monthly salary of P900.00.

On May 23, 1963, a Labor Agreement was entered into between the defendant and the Laguna Tayabas Bus Employees Association (LTBEA) providing, among others, for a retirement plan for the employees of the defendant. The plain-tiff was a member of the Special Bargaining Committee of the LTBEA which negotiated the agreement in or about August, 1961. Among the provisions of the retirement plan was the compulsory retirement of an employee upon reaching the age of sixty.

On June 27, 1963, the defendant wrote a letter to the plaintiff notifying him, among other things, that the plaintiff will be retired from the service effective July 31, 1963 on which date the plaintiff shall have reached the age of sixty years.

The plaintiff replied to the said letter on the same date, requesting that he be allowed to continue in the service until he shall have reached the age of sixty-five.

The request was denied in a letter of the defendant dated July 8, 1963.

In due course, the plaintiff was retired from the employ of the defendant. His retirement pay was computed according to the retirement plan under which he was entitled to receive the sum of P7,139.54. After deducting the sums that the plaintiff owed the defendant, the plaintiff actually received a net retirement pay of P6,743.08 for which the plaintiff signed the requisite clearance certificate. At the bottom of the said clearance certificate appears a certification that the plaintiff had been paid and received all the regular and overtime pay for services rendered previous to and including the last day of service with the company and that he had no other claim for non-payment or underpayment of any wage due him.

On February 2, 1966, the plaintiff, thr.0 Atty. Alberto Villaraza, made a formal demand on the defendant for the payment of separation pay pursuant to the provisions of Republic Act 1787 in the total sum of P16,200.00. This claim was denied in a letter of defendant's counsel dated February 17, 1966 on the ground that the

employment of the plaintiff with the defendant was for a definite period; moreover, it was claimed that the termination of plaintiff's employment upon reaching sixty years of age was a "just cause" within the contemplation of Section 1 (f) of Republic Act 1787.

On April 6, 1966, the plaintiff commenced his action before the Court of First Instance of Laguna, Branch III in San Pablo City, praying for the recovery of the difference between P14,850.00, the termination pay equivalent to 33 years of service at P900.00 a month and the sum of p6,743.08 which the plaintiff had received from the latter's employ.

After the parties submitted a Stipulation of Facts, the trial court rendered judgment dismissing the complaint with costs against the plaintiff."

(Rollo, pp. 56-60)

Acting upon the appeal of herein private respondent Gregorio Hinagpis, the Court of Appeals rendered judgment thereon ruling adversely against herein petitioner company. The dispositive portion of said decision reads thus:

"IN VIEW OF THE FOREGOING CONSIDERATION, the judgment appealed from is hereby reversed and set aside. In lieu thereof, another one is rendered ordering the defendant to pay the plaintiff the sum of P7,710.46 with interest at the legal rate from April 6, 1966 until full payment, plus the further sum of P2,000.00 for and as attorney's fees. The defendant shall pay the costs."

In this petition for review, petitioner company seeks the setting aside of the decision of respondent Court of Appeals and the rendition of a judgment dismissing the complaint. Likewise, it prays that it be absolved from any liability to private respondent Gregorio Hinagpis or his heirs.[3]

The fundamental issue in this controversy is whether or not respondent Gregorio Hinagpis is entitled to separation pay provided for in Republic Act No. 1787 (Termination Pay Law), or to retirement pay provided for in the rider to the labor agreement between petitioner Company and the Laguna Tayabas Bus Employees Association.

The petitioner contends that the employment of respondent Hinagpis was for a definite period and hence, does not come within the purview of Republic Act No. 1787, and that the termination of respondent's employment upon reaching sixty years of age was a "just cause" within the contemplation of Section 1 (f) of Republic Act 1787. Petitioner also maintains that the action of respondent Hinagpis in becoming a member of the Special Bargaining Committee that negotiated the labor agreement for compulsory retirement upon reaching sixty years of age militates against such claim for separation coverage under Republic Act 1787.

Petitioner's contentions are untenable. There is no dispute that at the time respondent Hinagpis commenced working for petitioner company in 1927, his employment was for an indefinite period which status continued until Republic Act 1787 was approved on June 21, 1957, Did the approval of the rider to the Labor Agreement in 1963 setting the retirement age at sixty years change the status of respondent Hinagpis' employment? This question is answered squarely by Section 2 of the Termination Pay Law or Republic Act 1787 which provides thus:

"Any contract or agreement contrary to the provisions of section one of this Act shall be null and void. Provided, however, That nothing herein contained shall prevent an employer and his employees or their representatives to enter into a collective bargaining agreement with terms more liberal than those provided for in this Act in favor of the employees." (Underscoring supplied.)

Considering that under the Labor Agreement, the respondent received P7,139.54 whereas under Republic Act 1787 (the Termination Pay Law) he would receive Y14,850.00, it stands to reason that the Termination Pay Law is more favorable to respondent Hinagpis than under the Labor Agreement. In other words, the Labor Agreement was less liberal to respondent Hinagpis than under the Termination Pay Law and should not prejudice him. It

would obviously defeat the very purpose of Republic Act 1787 which this Court speaking thru Justice Conrado Sanchez in *Insular Lumber Co. v. Court of Appeals, et al.*[4] said should be interpreted with the aim in view of advancing the magnificent purpose thereof to give justifiable protection to laborers so dismissed and their families.

There are, indeed, provisions in the Labor Agreement relied upon by respondent Court of Appeals in reversal of the trial court's decision, such as Article XVII of the Agreement which specifically provided that "all existing privileges presently enjoyed by the employees but which have not been included in this Agreement shall continue to be enjoyed by the employees." This is reiterated and reinforced in Article XVIII which provides that "the parties hereby agree that all existing privileges presently enjoyed by the employees shall be maintained and granted to the employees." We agree with the respondent Court's declaration that the petitioner's action of denying and depriving respondent Hinagpis of the privileges and benefits he was already enjoying under Republic Act 1787 at the time of the effectivity of the Labor Agreement is tantamount to a betrayal of faith.

The contention of the petitioner that the separation of respondent upon reaching the retirement age of sixty is a just cause for terminating his employment even if the same were without a definite period, is clearly inapplicable in petitioner's case for the reasons above stated.

Respondent is, therefore, entitled to separation pay under Republic Act 1787 equivalent to one-half month's salary for every year of service. Respondent having served for 33 years in the company at the rate of p900.00 a month as chief accountant, he should receive p450.00 multiplied by 33 years or 014,850.00. After deducting the amount he actually received as separation pay in the sum of P7,139.54, the difference of 07,710.46 is still due him under the said Republic Act 1787. He is further entitled to attorney's fees having been compelled to litigate to enforce his claim. (Art. 2208, pars. (7) & (8), New Civil Code)

In *Philippine Rabbit Bus Lines, Inc. v. Calma*[5] this Court, speaking through now Chief Justice Fred Ruiz Castro, held that while it is the employer's legal right to terminate an employee's services at any time with or without just cause, in the latter case, it is the company's legal duty to serve on the employee the written notice required by Republic Act 1787 and otherwise, to accord him the separation pay due him. In that case, Calma, who was separated without just cause and without the service of the required notice was awarded one-half month for every year of service with legal interest thereon from the filing of the complaint until the amount was fully paid plus attorney's fees. Likewise, in *Batangas Laguna Taya-bas Bus Co. v. Court of Appeals*,[6] this Court ruled that since the dismissal of therein private-respondent Teotimo de Mesa was without cause, he was entitled under the law to one-half (1/2) month salary for every year of service, so that for 31 years of service he was held entitled to 15-1/2 months' salary or the amount of P19,957.56 as his separation pay with legal interest from the filing of the complaint until fully paid.

In the light of these two cases above cited wherein this Court applied Republic Act 1787 and awarded payment of attorney's fees and legal interest to the claimants separated without termination pay from their employment, We see no ground to disturb respondent Court's award of interests and attorney's fees.

IN VIEW OF THE FOREGOING, the judgment of the respondent Court of Appeals is hereby affirmed.

Petition denied.

SO ORDERED.

Makasiar, Martin, and Fernandez, JJ., concur.

Teehankee, J., (Chairman), concurs in the main opinion and separate opinion of J. Muñoz Palma.

[1] Special Division of Five Justices, penned by Justice Vasquez, concurred by Justices Canonoy, Leuterio and Chanco; Justice Herrera dissented.

[2] pp. 56-78, Rollo.

[3] Private respondent Gregorio Hinagpis died during the pendency of the case before the Court of Appeals and was substituted by wife and children. See p. 156, Rollo.

[4] L-23857, August 29, 1969, 29 SCRA 371.

[5] L-33085, October 20, 1971, 42 SCRA 173.

[6] No. L-38482, June 18, 1976, 71 SCRA 481.

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CONCURRING OPINION

MUÑOZ PALMA, J.:

I agree that respondent Gregorio Hinagpis should receive, in addition to his retirement pay, the amount of P7, 710.46 representing the difference between the termination pay to which he should have been entitled under the Termination Pay Law and the retirement pay he received from the petitioner under their labor 'agreement, but not because he was "wrongfully retired or illegally separated" from the service of petitioner beginning July 31, 1963 as stated in the main Opinion. (see p. 5)

Under Article 1306 of the Civil Code the contracting parties - in this particular case, the employer and the employees - are free to stipulate such terms and conditions as they may deem convenient pro-vided these are not contrary to law, morals, good customs, public order or public policy.

This Court has upheld the right of contracting parties to freely stipulate for their mutual benefit and protection and has respected contracts and agreements validly entered into between them.

In Philippine Education Co., Inc. vs. Court of Industrial Relations and Union of Philippine Education Employees (NLU), the Court, speaking through Justice Pedro Tuazon, had occasion to state that "pension payments and retirement plans are embraced in 'wages' and conditions of employment, and are proper subjects of collective bargaining," citing 12 A.L.R. 2d 274, 275 for American decisions adopting this view, thus -

"Pension payments, together with a compulsory retirement plan, were held in *Inland Steel Co. v. National Labor Relations Board* (1948, CA7th) 170 F 2d 247, 12 ALR2d 240, cent den 336 US 960, 93 L ed 1112, 69 S et 886, to be a matter as to which collective bargaining was required by the National Labor Relations and the Labor-Management Relations Acts. Pension payments were held to be 'wages' within the act, or at least to be included in 'conditions of employment', the court pointing out that such plans were an inducement to the worker to accept employment, and affected his financial status, forming a part of the consideration for work performed as to which the employee would be entitled to sue and recover upon the refusal of the company to pay benefits, so that such payments could not be regarded as a mere gift, similar to voluntary payments made

on the marriage of an employee or at the birth of his child. x x x

"In the same case, age of compulsory retirement of employees was held to be a condition of employment as to which the National Labor Relations Act and the Labor Management Relations Act required the employer to carry on collective bargaining with the employees' representative. xxx '" (94 Phil. 73, 80, 1953)

The freedom of the parties to stipulate is likewise recognized in paragraph 3, Section 2 of the Termination Pay Law (R.A. No. 1052, as amended by R.A. No. 1787) which provides that nothing therein contained (in Section 1 of the Law) shall prevent an employer and his employees or their representatives from entering into a collective bargaining agreement with terms more liberal than those provided for in the law in favor of the employees.

A collective bargaining agreement once successfully concluded between the parties becomes a "labor contract" in the true sense of the term between two parties and from thence on, their rights shall be governed thereunder. (Francisco, Labor Laws in the Philippines Annotated, Vol. I, Fourth Edition, p. 778) (Underline supplied)

In the case on hand the parties were free to agree on a retirement plan providing for the compulsory retirement age of 60 years and for the corresponding payment of retirement pay. Such an agreement is perfectly valid and may be allowed under the law to govern the rights of the parties thereto. Consequently, although retirement is not one of the just causes for termination of employment enumerated in the Termination Pay Law, I hold the view that the retirement of an employee under a labor agreement is not a dismissal without just cause.

However, should the benefits in favor of the employee under the retirement plan of the labor agreement prove to be less liberal than those provided for in the Termination Pay Law, the law should be made to apply to the employee for it is the intent of the law (as expressly provided in Section 2, par. 3, thereof) not to deprive the employee of certain benefits already existing in his favor at the time the labor agreement was entered into.

Thus, under the Termination Pay Law respondent Hinagpis would have been entitled to 16 months and 15 days advance notice before he could be separated from the service considering his 33 years of service with the petitioner; or, in lieu thereof, to the payment of separation pay in the amount of P14,850.00 based on his monthly rate of P900.00. The purpose of the law is "to cushion the adverse effects of sudden separation from employment." (Insular Lumber Co. vs. Court of Appeals, et al., L-23857, August 29, 1969 29 SCRA 371, 376, per Justice Conrado Sanchez)

Under the retirement plan of the labor agreement which was approved only on May 23, 1963, respondent Hinagpis had only a period of a little over two (2) months to prepare for the eventuality of his separation from the service of petitioner due to his retirement on July 31, 1963. And his retirement pay thereunder amounted to only P7,139.54. It was due to this suddenness of the event of his retirement that respondent Hinagpis requested petitioner to allow him to continue in the service until he shall have reached 65 years of age.

It is thus clear from the foregoing that the benefits to which respondent Hinagpis was entitled under the labor agreement were less liberal than those under the Termination Pay Law.

Inasmuch as at the time of respondent Hinagpis' retirement the record does not disclose any pending charge against him and had it not been for the compulsory retirement age he would have continued in the service of petitioner until given the proper notice of separation under the law, and further considering the length of his service in the company, it is but fair and just that this particular employee be granted the benefit of separation pay at the same rate provided for dismissals without just cause.

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