

**ANGELICUM FACULTY AND EMPLOYEES ASSOCIATION,
PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION,
ANGELICUM SCHOOL, INC., TAMERLANE LANA AND ALFONSO
LORETO, RESPONDENTS.**

G.R. No. 121304. March 19, 1998

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

ANGELICUM FACULTY AND EMPLOYEES ASSOCIATION (AFEA) is a legitimate labor organization and the collective bargaining agent of all teaching and non-teaching employees of respondent ANGELICUM SCHOOL, INC. (ASI), a religious educational institution existing under the laws of the Philippines with respondent TAMERLANE LANA as its school Director and respondent ALFONSO LORETO as its Assistant Director for Finance.[1]

On 15 October 1990 Wage Order No. NCR-01, which increased by P17.00 a day the minimum wage of private sector workers and employees in the National Capital Region receiving a basic wage of not more than P125.00 per day, with certain exceptions,[2] was promulgated by the Regional Tripartite Wages and Productivity Board.[3]

Subsequently, or on 20 December 1990, the NCR Regional Tripartite Wages and Productivity Board, in view of the continuing economic crisis brought about by the Gulf war and the natural calamities that befell the country, promulgated Wage Order No. NCR-02 granting another provisional wage increase of P12.00 per day to employees receiving a daily wage of P142.00 mentioned in the immediately preceding paragraph.[4]

As a consequence of Wage Orders Nos. NCR-01 and NCR-02, the Department of Education Culture and Sports (DECS) issued DECS Order No. 30, Series of 1991, setting the guidelines for tuition fee increase which would answer for wage increases, relevant provisions of which read -

1. In response to the clamor from the regions for guidelines responsive to the needs and conditions peculiar to these areas and in consideration of the regional wage orders, schools may increase their tuition fees as provided by the State Assistance Council (SAC) in accordance with the following guidelines -

a) Entering Freshman. - The tuition fee rates for entering freshman in all levels may be determined by the school itself subject to consultation. However, no consultation is required when the amount of increase will raise the tuition fee level to not more than P80.00 per unit for the tertiary schools and to not more than P1,500.00 per year for the elementary and secondary schools.

b) Upper Year Students. - Schools may increase their tuition fees for the upper year students in accordance with the following prescribed rates: x x x x

Tuition fee increase within the prescribed rates above shall not require consultation and DECS approval provided

that a notice of increase is submitted to the DECS regional office not later than April 30, 1991. Schools may increase up to a maximum level rate of 25% for program below Level II accreditation and up to a maximum of 30% for programs with Level II and Level III accreditation based on approved tuition fee rates in school year 1990-1991, subject to consultation: x x x x

c) Emergency Tuition Fee Assessment. - To comply with the provisional emergency cost of living allowances mandated by the Regional Tripartite Wages and Productivity Boards of Regions VI, VII, VIII, IX, X, XI, XII and NCR, schools in these regions may collect an emergency tuition fee assessment from both the entering freshman and the upper year students in all levels in accordance with the following schedule: x x x x

The above prescribed emergency tuition fee assessments shall be collected only in school year 1991- 1992 and shall not form part of the approved tuition fee rates. Consultation and DECS approval shall not be required. However, a notice of collection shall be submitted to the DECS not later than April 30, 1991.[5]

On the basis thereof, private respondents sent DECS a letter dated 15 April 1991 notifying that office of the P226.50 increase in tuition fee for all grade levels and another P226.50 emergency tuition fee increase to comply with the Emergency Tuition Fee Allowance (ETFA).[6] All in all, ASI collected for school year 1991-1992 the amount of P763,021.88 as increase in the prescribed tuition fee for NCR and another P763,021.88 for the ETFA or a total of P1,526,043.76.[7]

Petitioner thereafter made several representations with private respondents for the proper distribution of the 70% share from the tuition fee increase pursuant to Sec. 5, par. 2, RA No. 6728, which reads -

2) Assistance under paragraph (1), subparagraphs (a) and (b), shall be granted and tuition fees under subparagraph (c) may be increased on the condition that seventy percent (70%) of the amount subsidized allotted for tuition fee increases shall go to the payment of salaries, wages, allowances and other benefits of teaching and non-teaching personnel except administrators who are principal stockholders of the school and may be used to cover increases as provided for in the collective bargaining agreements existing or in force at the time when this Act is approved and made effective: x x x x

According to petitioner, complementing the aforecited provision is a stipulation in Sec. 3, Art. X, of the Collective Bargaining Agreement in force which states that -

Any tuition fee increase applied for and approved by the DECS during the term of this agreement shall be treated in accordance with DECS memorandum/circular in effect at the time of the increase provided that the portion allotted for salary increase and other benefits shall be distributed in the ratio of 75:25.[8]

In effect, petitioner is asking for P534,115.32 or 70% of P763,021.88 collected pursuant to the prescribed tuition fee increase.

Private respondents, in a letter to petitioner dated 12 February 1993, presented their computation regarding the distribution of the tuition fee increase as follows: P534,115.32 (which is 70% of P763,021.88, the prescribed tuition fee increase) plus P763,021.88 (which is the money collected pursuant to ETFA) equals P1,306,137.20 (which is the amount the employees are entitled to after increasing their salaries). When they granted the gross salary increase of P1,545,777.15 to the faculty and non-teaching personnel, the amount constituted more than 70% of the total of the tuition fee increase and the ETFA, hence, they have fully complied with RA No. 6728.[9] In arriving at the amount of P1,545,777.15 private respondents included the following items in their computation:

Retroactive payment of P12.00/day
provisional increase effective

January 1991 to April 1991 P254,880.00
P12.00/day provisional
increase for May 1991 to
April 1992 (SY 1991-92) 828,360.00
Total provisional increase P1,083,240.00
Add: SSS/PERAA/MEDICARE 108,324.00
Total payments on provisional increase
of P12.00/day P1,191,564.00
Other salary increases:
CBA Adj. (P75.00 per emp) P189,832.50
Re-ranking 102,384.00
Change in Pay class 29,250.00
Add: SSS/PERAA/MEDICARE 32,146.65
353,613.15
Total payments for the 70%
share at P12.00/day plus other
salary increases and
salary related benefits P1,545,177.15

Petitioner objected and maintained that the mandated salary increases per approved wage orders should not be credited against the collected tuition fee increase. The employees should receive instead P534,115.32 which is 70% of P763,021.88, the prescribed tuition fee increase. Respondents on the other hand claimed that DECS Order No. 30, Series of 1991, had in effect authorized the tuition fee increase to help the school to mitigate the effects of the increase in the wage salaries as mandated by the approved wage orders.

In the resulting impasse, petitioner filed a complaint with the Labor Arbiter for money claims and unfair labor practice.

Private respondents argue before the Labor Arbiter that the above-mentioned Sec. 5, par. 2, RA No. 6728, and Sec. 3, Art. X, of the CBA provision find no application in their case as they properly pertain to a tuition fee increase applied for and approved by the DECS. In contrast, the subject tuition fee increase was not applied for nor did it require consultation or DECS approval but merely a notice of increase which had to be submitted to the DECS regional office not later than 30 April 1991.[10]

Private respondents further argued that the proper and applicable provision in the existing CBA was Sec. 4, Art. X, which provides -

Any government mandated salary as wage increase approved during the life of this agreement shall be implemented per its implementing rules/guidelines.[11]

In his decision dated 9 December 1993,[12] the Labor Arbiter found that respondent school should pay petitioner

AFEA 70% of the tuition fee increase of P763,021.88 amounting to P530,410.53 plus attorney's fees of P53,410.53 considering the rationale behind the issuance of DECS Order No. 30, Series of 1991 -

x x x it can be safely said that the authority to effect tuition fee increases was granted to ease the problems of the employees brought about by Wage Orders 1 and 2 and certainly not to hold them to satisfy contractual obligations such as wage increases stipulated in a CBA.

The Labor Arbiter further observed that RA No. 6728 was worded explicitly. Seventy percent (70%) of the tuition fee increase was to be distributed mandatorily to both the teaching and non-teaching personnel of the school. In the absence of any express provision allowing the school to appropriate the collected tuition fee increase for some other purpose, the clear mandate of the law to distribute the 70% increase must prevail. To rule otherwise, the Labor Arbiter opined, would run counter to the intent of DECS Order No. 30 or RA No. 6728.

On appeal, ASI reiterated its position that it had fully complied with RA No. 6728 and NLRC agreed. However NLRC qualified its conformity by modifying the dispositive portion of the decision of the Labor Arbiter. It credited the salary increase given to the faculty and non-teaching personnel of respondent school but excluded the increase of P353,613.15 mandated by the CBA adjustment, re-ranking, change in pay class and SSS/PERAA/MEDICARE, and credited the amount of P1,191,564.00 representing the total provisional increase to the amount of P1,306,137.20 due the personnel, thus arriving at the amount of P114,573.20.

Contrary to the ruling of the Labor Arbiter, the NLRC found that DECS Order No. 30, Series of 1991, "spells out the grant of authority for schools to increase their tuition fee rates as anchored, among others, on the consideration of the regional wage orders x x x x To this extent, crediting the wage increase to the seventy percent (70%) of the employees in the tuition fees collected is proper." Consequently, the NLRC reduced the amount of salary differentials due petitioner to only P114,573.20 so that the award of attorney's fees representing the 10% of the decreed amount was accordingly reduced to P11,457.32.[13]

Petitioner now imputes error to respondent NLRC in crediting the provisional wage increase under Wage Order No. NCR-02 against the seventy percent (70%) portion of the tuition fee increase in violation of the collective bargaining agreement and DECS Order No. 30, Series of 1991.

Petitioner maintains that the tuition fee increase is not and has never been intended to cover the cost of provisional wage increase which was supposed to be borne by the ETFA. Rather, per their CBA, the tuition fee increase was to be used for salaries and benefits of the covered employees in the ratio of 75:25. With insistence, it pointed out that ASI made two (2) collections, i.e., one for the tuition fee increase, and the other, for the ETFA.

We disagree with petitioner. As found by the NLRC, the text of DECS Order No. 30, Series of 1991, in consideration of the regional wage orders, shows the grant of authority for schools to increase their tuition fee rates necessary to mitigate the effects of the wage increase in learning institutions. As aptly observed by the NLRC, Sec. 6 of the Rules Implementing Wage Orders Nos. NCR-01 and NCR-01-A[14] provides that the share of the workers and employees in the increase in the tuition fee for the school year 1990 shall be credited in compliance with the prescribed wage increase. Definitely, this provision is nowhere to be found in Wage Order No. NCR-02.

Schools were thus prohibited from crediting whatever wage increases were received by their employees on account of the tuition fee increase that may have been effected for schoolyear 1991, hence, the authority to effect an increase in tuition fees in order to cover the emergency wage increase subject matter of Wage Order No. NCR-02. Therefore, crediting the wage increase to the seventy percent (70%) share of the employees in the tuition fees thus collected is proper.

Further, the NLRC properly ordered that the increases given by respondents by virtue of the CBA, re-ranking, change in pay class and SSS/PERAA/MEDICARE be stricken out from the computation.

However, a correction must still be made with regard to the computation. The total amount due the employees is P1,297,137.20 (not P1,306,137.20) which is the sum of P763,021.88 collected by virtue of the ETFA, and P534,115.32, which is 70% of P763,021.88 or the collection on the prescribed tuition fee increase. Subtracting P1,191,564.00 (the amount given to the employees minus the increase under the CBA and the other benefits granted them) from P1,297,132.20 (the corrected total amount due the employees) leaves us a difference of P105,573.20, the amount due the employees after finally determining the 70% of the prescribed tuition fee increase and the ETFA. The attorney's fees equivalent to 10% of the modified award of P105,573.20 is accordingly reduced to P10,557.32.

WHEREFORE, the instant petition is DENIED. The assailed Decision of 18 January 1995 and the Resolution of 12 May 1995 are AFFIRMED with the following modifications: the amount of salary differentials due petitioner Angelicum Faculty and Employees Association (AFEA) is One Hundred and Five Thousand Five Hundred Seventy-Three Pesos and Twenty Centavos (P105,573.20) instead of One Hundred Fourteen Thousand Five Hundred Seventy-Three and Twenty Centavos (P114,573.20), and the award of attorney's fees representing 10% thereof is accordingly reduced to Ten Thousand Five Hundred and Fifty-Seven Pesos and Thirty-Two Centavos (P10,557.32) instead of Eleven Thousand Four Hundred Fifty-Seven Pesos and Thirty-Two Centavos (P11,457.32).

SO ORDERED.

Davide, Jr.,(Chairman), Vitug, Panganiban, and Quisumbing, JJ., concur.

[1] Complaint,Original Records, p. 2-3

[2] Expected under the coverage were: (a) household or domestic helpers, including family drivers and workers in the personal service of another; (b) workers and employees in retail/service establishments regularly employing not more than 10 workers, when exempted from compliance with the Order and the Supplemental Order, for a period fixed by the Board in accordance with applicable guidelines to be issued by the Commission (see Chap. II, Sec. 1 (a), Rules Implementing Wage Orders Nos. NCR- 01 and NCR-01-A; Annex "A," Position Paper, Original Record, pp. 48-55).

[3] Annex "A," Position Paper, Original Records, p. 48.

[4] Annex "B," id., p. 58.

[5] Annex "D," id., p. 62.

[6] Annex "B," Complaint, id., p. 23.

[7] Annex "I," id., p. 75.

[8] Annex "A," Complaint, id., p. 78

[9] See Note 7.

[10] Position Paper of Private respondents, Original Records, p. 33.

[11] See Note 8, Sec 4.

[12] Annex "F," Rollo, p. 76.

[13] Annex "A," id., p. 21.

[14] Section 6. Application to private Institution. - With respect to private educational institution, the share of the covered workers and employees in the increase in tuition fees for the school year 1990 shall be credited as compliance with the wage increase prescribed in the Order and Supplemental Order. Where their share is less than the wage increase provided therein, the employer shall pay the difference.

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