

**CEBU INSTITUTE OF MEDICINE AND DR. JOSEFINA L. POBLETE,
PETITIONERS, VS. CEBU INSTITUTE OF MEDICINE
EMPLOYEES' UNION-NATIONAL FEDERATION OF LABOR,
RESPONDENT.**

G.R. No. 141285. July 05, 2001

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

May the mandatory share of an educational institution in the SSS, Medicare and Pag-Ibig premiums be charged against the seventy percent (70%) incremental tuition fee increase authorized under Sec. 5, par. (2), of RA 6728?[1]

Cebu Institute of Medicine (CIM), petitioner, is a non-stock, non-profit educational institution with Dr. Josefina L. Poblete as its incumbent dean at the time the instant petition was filed. Respondent Cebu Institute of Medicine Employees' Union - National Federation of Labor (UNION) is the duly certified bargaining representative of the employees of CIM.

On 2 September 1997 the UNION asked CIM to stop its practice of charging the employer's mandatory share in the SSS, Medicare and Pag-Ibig premiums against the seventy percent (70%) incremental tuition fee increase under Sec. 5, par. (2), of RA 6728. CIM refused. Eventually, the dispute was submitted to voluntary arbitration.

On 6 January 1999 Voluntary Arbitrator Julius Z. Neri rendered a decision[2] in favor of the UNION holding that charging the employer's share in the SSS, Medicare and Pag-Ibig contributions against the seventy percent (70%) incremental tuition fee increase contravened Sec. 19, of RA 1161[3] thereof which provides -

Sec. 19. Employer's Contributions. - (a) Beginning as of the last day of the month when an employee's compulsory coverage takes effect and every month thereafter during his employment his employer shall pay, with respect to such covered employee, the employer's contribution in accordance with the schedule indicated in section eighteen of this Act. Notwithstanding any contract to the contrary, an employer shall not deduct, directly or indirectly, from the compensation of his employees covered by the SSS or otherwise recover from them the employer's contributions with respect to such employees.

In short, the Voluntary Arbitrator ordered CIM to refund the UNION of the employer's share in the SSS and Pag-Ibig premiums and to refrain from charging the employer's share against the seventy percent (70%) incremental tuition fee increase.

Its Motion for Reconsideration having been denied, CIM appealed to the Court of Appeals arguing that the Voluntary Arbitrator gravely erred in disregarding the clear tenor of Sec. 5, par. (2), of RA 6728, and in disallowing petitioners from deducting the employer's premiums for SSS and Pag-Ibig benefits from the seventy percent (70%) portion of the incremental tuition fee increase, and also in ordering a refund of the employer's premiums taken from the seventy percent (70%) portion.[4]

The Court of Appeals affirmed the ruling of the Voluntary Arbitrator that to pay the employer's share out of funds allotted for the employees would make the employees contribute the entire amount of the said premiums, aside from the fact that it will reduce the portion of the tuition fee increases intended for their benefit.[5]

Petitioners disagree and this Court sustains them. Section 5, par. (2), of RA 6728 provides -

x x x 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 or of the tuition fee increases shall go to the payment of salaries, wages, allowances and other benefits of teaching and non-teaching personnel x x x Provided, That government subsidies are not used directly for salaries of teachers of non-secular subjects. At least twenty percent (20%) shall go to the improvement or modernization of buildings, equipment, libraries, laboratories, gymnasias and similar facilities and to the payment of other costs of operation.

As may be culled from the foregoing, salaries, wages, allowances and other benefits of teaching and non-teaching personnel are to be charged against the seventy percent (70%) incremental tuition fee increase. SSS, Medicare and Pag-Ibig fall under the category of "other benefits," hence, may very well be charged against the seventy percent (70%) incremental tuition fee increase which after all is for the benefit of petitioners' teaching and non-teaching personnel.

The law speaks of payment of "salaries, wages, allowances and other benefits." There is no specific prohibition against charging the employer's share to the incremental tuition fee increase. Hence, it cannot properly be said that the SSS, Medicare and Pag-Ibig premiums could be charged against the seventy percent (70%) incremental tuition fee increase but the employer's share of the contribution should be deducted from the remaining thirty percent (30%) or elsewhere. This would seem absurd. As we can see it, the employer's share in the SSS, Medicare and Pag-Ibig premiums is deemed integrated in the amount to be allocated for these benefits from the seventy percent (70%) incremental tuition fee increase. *Ubi lex non distinguit, nec nos distinguere debemus*. Where the law does not distinguish courts should not distinguish.[6] For sure, the seventy percent (70%) is not to be delivered whole to the employees but packaged in the form of salaries, wages, allowances, and other benefits which may be in the form of SSS, Medicare and Pag-Ibig premiums, all intended for the benefit of the employees. In other words, the private educational institution concerned has the discretion on the disposition of the seventy percent (70%) incremental tuition fee increase. It enjoys the privilege of determining how much increase in salaries to grant and the kind and amount of allowances and other benefits to give. The only precondition is that seventy percent (70%) of the incremental tuition fee increase goes to the payment of salaries, wages, allowances and other benefits of teaching and non-teaching personnel.

On the other hand, the remaining thirty percent (30%) is intended, quite obviously, for the use of the educational institution itself, otherwise, it will be a diminution of the aliquot share of the employer which is specifically intended under Sec. 5, par. (2), of RA 6728, "for the improvement or modernization of buildings, equipment, libraries, laboratories, gymnasias and similar facilities and to the payment of other costs of operation." Plainly, SSS, Medicare and Pag-Ibig premiums cannot be lumped in this category.

The seventy percent (70%) incremental tuition fee increase for salaries, wages, allowances and other benefits under RA 6728 may be compared to the sixty percent (60%) allocation contained in PD 451[7] and BP Blg. 232.[8]

Under PD 451, the disposition of the sixty percent (60%) incremental tuition fee increase was limited to salaries and wages. No provision was made for allowances and other benefits unlike in RA 6728. Thus the provision was increased from sixty percent (60%) under PD 451 to seventy percent (70%) under RA 6728 obviously because of

the inclusion of allowances and other benefits provided in the latter law.

Under BP Blg. 232, which repealed PD 451, private school institutions were granted the authority to determine tuition fee increases on the condition that the application and use thereof be subject to the rules and regulations promulgated by the Ministry of Education, Culture and Sports (MECS).[9] In *University of Pangasinan v. Confesor*,^[10] decided under BP Blg. 232, this Court held -

x x x salaries or wages, allowances and fringe benefits of Faculty and other staff, including accruals to cost of living allowance, 13th month pay, social security, medicare and retirement contribution and increases as may be provided in mandated wage orders, collective bargaining agreements or voluntary employer practices should be charged against the 60% tuition fee increase (underscoring supplied).

Corollarily, under PD 451, the forty percent (40%) balance of the incremental tuition fee increase was to be devoted for institutional development, student assistance and extension services, and return on investments, the latter not to exceed twelve percent (12%) of the incremental proceeds, while under RA 6728 the balance is to be disposed of in the following manner: at least twenty percent (20%) of the incremental tuition fee increase shall go to the improvement or modernization of buildings, equipment, libraries, laboratories, gymnasias and other similar facilities, and to the payment of other costs of operation.

It may be noted in RA 6728 that there is no provision for return on investments similar to that in PD 451. Also, RA 6728 does not set a maximum limit as to the amount to be used in the improvement or modernization of buildings, equipment, libraries, laboratories, gymnasias and other similar facilities, and to the payment of other costs of operation. What it provides instead is a minimum which is twenty percent (20%). Therefore, not only twenty percent (20%) of the incremental tuition fee increase but the entire thirty percent (30%) balance from the incremental tuition fee increase is allocated for the improvement or modernization of buildings, equipment, libraries, laboratories, gymnasias and other similar facilities and to the payment of other costs of operation thus leaving nothing for return on investments, which would not be attractive to educational institutions; more so, if they would still be required to charge their share in the SSS, Medicare and Pag-Ibig premiums from sources other than the seventy percent (70%) incremental tuition fee increase.

WHEREFORE, the petition is GRANTED. The Decision of the Court of Appeals of 17 August 1999 and its Resolution of 13 December 1999 are REVERSED and SET ASIDE and a new one is entered allowing petitioner Cebu Institute of Medicine (CIM) to charge its share in the SSS, Medicare and Pag-Ibig premiums against the seventy percent (70%) incremental tuition fee increase under Sec. 5, par. (2), RA 6728. No costs.

SO ORDERED.

Mendoza, Buena, and De Leon, Jr., JJ., concur.
Quisumbing, J., on official business.

[1] "Government Assistance to Students and Teachers in Private Education Act."

[2] Annex "H," Rollo, pp. 159-164.

[3] The Social Security Law.

[4] Rollo, p. 37.

[5] Id., p. 38.

[6] *Dominado v. Derayunan*, 49 Phil. 457 (1926); *Ramirez v. Court of Appeals*, G.R. No. 93833, 28 September

1995, 248 SCRA 590.

[7] "An Act Authorizing the Secretary of Education and Culture to Regulate the Imposition of Tuition and Other School Fees, Repealing Republic Act No. 6139, and for Other Purposes."

[8] "The Education Act of 1982."

[9] Now Department of Education, Culture and Sports.

[10] G.R. No. 109977, 5 September 1997, 278 SCRA 591.

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