HONDA PHILS., INC., PETITIONER, VS. SAMAHAN NG MALAYANG MANGGAGAWA SA HONDA, RESPONDENT.

G.R. NO. 145561. June 15, 2005

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This petition for review under Rule 45 seeks the reversal of the Court of Appeals' decision[1] dated September 14, 2000[2] and its resolution[3] dated October 18, 2000, in CA-G.R. SP No. 59052. The appellate court affirmed the decision dated May 2, 2000 rendered by the Voluntary Arbitrator who ruled that petitioner Honda Philippines, Inc.'s (Honda) pro-rated payment of the 13[th] and 14[th] month pay and financial assistance to its employees was invalid.

As found by the Court of Appeals, the case stems from the Collective Bargaining Agreement (CBA) forged between petitioner Honda and respondent union Samahan ng Malayang Manggagawa sa Honda (respondent union) which contained the following provisions:

> Section 3. 13[th] Month Pay
>
> The COMPANY shall maintain the present practice in the implementation [of] the 13th month pay.
>
> Section 6. 14[th] Month Pay
>
> The COMPANY shall grant a 14[th] Month Pay, computed on the same basis as computation of 13[th]Month Pay.

Section 7. The COMPANY agrees to continue the practice of granting, in its discretion, financial assistance to covered employees in December of each year, of not less than 100% of basic pay.

This CBA is effective until year 2000. In the latter part of 1998, the parties started re-negotiations for the fourth and fifth years of their CBA. When the talks between the parties bogged down, respondent union filed a Notice of Strike on the ground of bargaining deadlock. Thereafter, Honda filed a Notice of Lockout. On March 31, 1999, then Department of Labor and Employment (DOLE) Secretary Laguesma assumed jurisdiction over the labor dispute and ordered the parties to cease and desist from committing acts that would aggravate the situation. Both parties complied accordingly.

On May 11, 1999, however, respondent union filed a second Notice of Strike on the ground of unfair labor practice alleging that Honda illegally contracted out work to the detriment of the workers. Respondent union went on strike and picketed the premises of Honda on May 19, 1999. On June 16, 1999, DOLE Acting Secretary Felicisimo Joson, Jr. assumed jurisdiction over the case and certified the same to the National Labor Relations Commission (NLRC) for compulsory arbitration. The striking employees were ordered to return to work and the management accepted them back under the same terms prior to the strike staged.

On November 22, 1999, the management of Honda issued a memorandum[4] announcing its new computation of

the 13th and 14th month pay to be granted to all its employees whereby the thirty-one (31)-day long strike shall be considered unworked days for purposes of computing said benefits. As per the company's new formula, the amount equivalent to 1/12 of the employees' basic salary shall be deducted from these bonuses, with a commitment however that in the event that the strike is declared legal, Honda shall pay the amount deducted.

Respondent union opposed the pro-rated computation of the bonuses in a letter dated November 25, 1999. Honda sought the opinion of the Bureau of Working Conditions (BWC) on the issue. In a letter dated January 4, 2000,[5] the BWC agreed with the pro-rata payment of the 13th month pay as proposed by Honda.

The matter was brought before the Grievance Machinery in accordance with the parties' existing CBA but when the issue remained unresolved, it was submitted for voluntary arbitration. In his decision[6] dated May 2, 2000, Voluntary Arbitrator Herminigildo C. Javen invalidated Honda's computation, to wit:

> WHEREFORE, in view of all foregoing premises being duly considered and evaluated, it is hereby ruled that the Company's implementation of pro-rated 13[th] Month pay, 14[th] Month pay and Financial Assistance [is] invalid. The Company is thus ordered to compute each provision in full month basic pay and pay the amounts in question within ten (10) days after this Decision shall have become final and executory.
>
> The three (3) days Suspension of the twenty one (21) employees is hereby affirmed.
>
> SO ORDERED.[7]

Honda's Motion for Partial Reconsideration was denied in a resolution dated May 22, 2000. Thus, a petition was filed with the Court of Appeals, however, the petition was dismissed for lack of merit.

Hence, the instant petition for review on the sole issue of whether the pro-rated computation of the 13th month pay and the other bonuses in question is valid and lawful.

The petition lacks merit.

A collective bargaining agreement refers to the negotiated contract between a legitimate labor organization and the employer concerning wages, hours of work and all other terms and conditions of employment in a bargaining unit.[8] As in all contracts, the parties in a CBA may establish such stipulations, clauses, terms and conditions as they may deem convenient provided these are not contrary to law, morals, good customs, public order or public policy.[9] Thus, where the CBA is clear and unambiguous, it becomes the law between the parties and compliance therewith is mandated by the express policy of the law.[10]

In some instances, however, the provisions of a CBA may become contentious, as in this case. Honda wanted to implement a pro-rated computation of the benefits based on the "no work, no pay" rule. According to the company, the phrase "present practice" as mentioned in the CBA refers to the manner and requisites with respect to the payment of the bonuses, i.e., 50% to be given in May and the other 50% in December of each year. Respondent union, however, insists that the CBA provisions relating to the implementation of the 13th month pay necessarily relate to the computation of the same.

We agree with the findings of the arbitrator that the assailed CBA provisions are far from being unequivocal. A cursory reading of the provisions will show that they did not state categorically whether the computation of the 13[th] month pay, 14[th] month pay and the financial assistance would be based on one full month's basic salary of the employees, or pro-rated based on the compensation actually received. The arbitrator thus properly resolved the ambiguity in favor of labor as mandated by Article 1702 of the Civil Code.[11] The Court of Appeals affirmed the arbitrator's finding and added that the computation of the 13[th] month pay should be based on the length of service and not on the actual wage earned by the worker.

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We uphold the rulings of the arbitrator and the Court of Appeals. Factual findings of labor officials, who are deemed to have acquired expertise in matters within their respective jurisdiction, are generally accorded not only respect but even finality, and bind us when supported by substantial evidence. It is not our function to assess and evaluate the evidence all over again, particularly where the findings of both the arbiter and the Court of Appeals coincide.[12]

Presidential Decree No. 851, otherwise known as the 13th Month Pay Law, which required all employers to pay their employees a 13th month pay, was issued to protect the level of real wages from the ravages of worldwide inflation. It was enacted on December 16, 1975 after it was noted that there had been no increase in the minimum wage since 1970 and the Christmas season was an opportune time for society to show its concern for the plight of the working masses so that they may properly celebrate Christmas and New Year.[13]

Under the Revised Guidelines on the Implementation of the 13[th] month pay issued on November 16, 1987, the salary ceiling of P1,000.00 under P.D. No. 851 was removed. It further provided that the minimum 13th month pay required by law shall not be less than one-twelfth (1/12) of the total basic salary earned by an employee within a calendar year. The guidelines pertinently provides:

> The "basic salary" of an employee for the purpose of computing the 13th month pay shall include all remunerations or earnings paid by his employer for services rendered but does not include allowances and monetary benefits which are not considered or integrated as part of the regular or basic salary, such as the cash equivalent of unused vacation and sick leave credits, overtime premium, night differential and holiday pay, and cost-of-living allowances.[14] (Emphasis supplied)

For employees receiving regular wage, we have interpreted "basic salary" to mean, not the amount actually received by an employee, but 1/12 of their standard monthly wage multiplied by their length of service within a given calendar year. Thus, we exclude from the computation of "basic salary" payments for sick, vacation and maternity leaves, night differentials, regular holiday pay and premiums for work done on rest days and special holidays.[15] In Hagonoy Rural Bank v. NLRC,[16] St. Michael Academy v. NLRC,[17] Consolidated Food Corporation v. NLRC,[18] and similar cases, the 13th month pay due an employee was computed based on the employee's basic monthly wage multiplied by the number of months worked in a calendar year prior to separation from employment.

The revised guidelines also provided for a pro-ration of this benefit only in cases of resignation or separation from work. As the rules state, under these circumstances, an employee is entitled to a pay in proportion to the length of time he worked during the year, reckoned from the time he started working during the calendar year.[19] The Court of Appeals thus held that:

> Considering the foregoing, the computation of the 13th month pay should be based on the length of service and not on the actual wage earned by the worker. In the present case, there being no gap in the service of the workers during the calendar year in question, the computation of the 13th month pay should not be pro-rated but should be given in full.[20] (Emphasis supplied)

More importantly, it has not been refuted that Honda has not implemented any pro-rating of the 13[th] month pay before the instant case. Honda did not adduce evidence to show that the 13[th] month, 14[th] month and financial assistance benefits were previously subject to deductions or pro-rating or that these were dependent upon the company's financial standing. As held by the Voluntary Arbitrator:

> The Company (Honda) explicitly accepted that it was the strike held that prompt[ed] them to adopt a pro-rata computation, aside [from] being in [a] state of rehabilitation due to 227M substantial losses in 1997, 114M in 1998 and 215M lost of sales in 1999 due to strike. This is an implicit acceptance that prior to the strike, a full

> month basic pay computation was the "present practice" intended to be maintained in the CBA.[21]

The memorandum dated November 22, 1999 which Honda issued shows that it was the first time a pro-rating scheme was to be implemented in the company. It was a convenient coincidence for the company that the work stoppage held by the employees lasted for thirty-one (31) days or exactly one month. This enabled them to devise a formula using 11/12 of the total annual salary as base amount for computation instead of the entire amount for a 12-month period.

That a full month payment of the 13[th] month pay is the established practice at Honda is further bolstered by the affidavits executed by Feliteo Bautista and Edgardo Cruzada. Both attested that when they were absent from work due to motorcycle accidents, and after they have exhausted all their leave credits and were no longer receiving their monthly salary from Honda, they still received the full amount of their 13th month, 14th month and financial assistance pay.[22]

The case of Davao Fruits Corporation v. Associated Labor Unions, et al.[23] presented an example of a voluntary act of the employer that has ripened into a company practice. In that case, the employer, from 1975 to 1981, freely and continuously included in the computation of the 13[th] month pay those items that were expressly excluded by the law. We have held that this act, which was favorable to the employees though not conforming to law, has ripened into a practice and therefore can no longer be withdrawn, reduced, diminished, discontinued or eliminated. Furthermore, in Sevilla Trading Company v. Semana,[24] we stated:

> With regard to the length of time the company practice should have been exercised to constitute voluntary employer practice which cannot be unilaterally withdrawn by the employer, we hold that jurisprudence has not laid down any rule requiring a specific minimum number of years. In the above quoted case of Davao Fruits Corporation vs. Associated Labor Unions, the company practice lasted for six (6) years. In another case, Davao Integrated Port Stevedoring Services vs. Abarquez, the employer, for three (3) years and nine (9) months, approved the commutation to cash of the unenjoyed portion of the sick leave with pay benefits of its intermittent workers. While in Tiangco vs. Leogardo, Jr. the employer carried on the practice of giving a fixed monthly emergency allowance from November 1976 to February 1980, or three (3) years and four (4) months. In all these cases, this Court held that the grant of these benefits has ripened into company practice or policy which cannot be peremptorily withdrawn. In the case at bar, petitioner Sevilla Trading kept the practice of including non-basic benefits such as paid leaves for unused sick leave and vacation leave in the computation of their 13th-month pay for at least two (2) years. This, we rule likewise constitutes voluntary employer practice which cannot be unilaterally withdrawn by the employer without violating Art. 100 of the Labor Code.[25] (Emphasis supplied)

Lastly, the foregoing interpretation of law and jurisprudence is more in keeping with the underlying principle for the grant of this benefit. It is primarily given to alleviate the plight of workers and to help them cope with the exorbitant increases in the cost of living. To allow the pro-ration of the 13th month pay in this case is to undermine the wisdom behind the law and the mandate that the workingman's welfare should be the primordial and paramount consideration.[26] What is more, the factual milieu of this case is such that to rule otherwise inevitably results to dissuasion, if not a deterrent, for workers from the free exercise of their constitutional rights to self-organization and to strike in accordance with law.[27]

WHEREFORE, the instant petition is DENIED. The decision and the resolution of the Court of Appeals dated September 14, 2000 and October 18, 2000, respectively, in CA-G.R. SP No. 59052, affirming the decision rendered by the Voluntary Arbitrator on May 2, 2000, are hereby AFFIRMED in toto.

SO ORDERED.

Davide, Jr., C.J., Quisumbing, Carpio, and Azcuna, JJ., concur.

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[1] Penned by Court of Appeals Associate Justice Martin S. Villarama, Jr. as concurred in by Associate Justices Salome A. Montoya and Romeo J. Callejo, Sr. (currently Associate Justice of the Supreme Court).

[2] Rollo, pp. 27-32.

[3] Id. at 34.

[4] Id. at 290-291.

[5] Id. at 65-66.

[6] Court of Appeals Rollo, pp. 22-33.

[7] Id. at 32-33.

[8] Section (jj), Rule I, Book V, Omnibus Rules Implementing the Labor Code; University of the Immaculate Concepcion, Inc. v. Secretary of Labor and Employment, 425 Phil. 311, 324 (2002).

[9] Article 1306 of the Civil Code; Manila Fashions, Inc. v. National Labor Relations Commission, 332 Phil. 121, 125-126 (1996).

[10] Viviero v. Court of Appeals, G.R. No. 138938, 24 October 2000, 344 SCRA 268, 274, citing Razon, Inc. v. Secretary of Labor and Employment, G.R. No. 85867, 13 May 1993, 222 SCRA 1, 8.

[11] "In case of doubt, all labor legislation and all labor contracts shall be construed in favor of the safety and decent living for the laborer."

[12] Stamford Marketing Corporation, et al. v. Julian, et al., G.R. No. 145496, 24 February 2004, 423 SCRA 633, 651.

[13] Whereas clauses of P.D. No. 851.

[14] Section 4(a), paragraph 4.

[15] San Miguel Corporation Cagayan Coca-Cola Plant v. Inciong, et al., G.R. No. L-49774, 24 February 1981, 103 SCRA 139.

[16] 349 Phil. 220 (1998).

[17] 354 Phil. 491 (1998).

[18] 373 Phil. 751 (1999).

[19] Section 6.

[20] Rollo, p. 31.

[21] Court of Appeals Rollo, p. 29.

[22] Annexes E and E-1, Rollo, pp. 295-296.

[23] G.R. No. 85073, 24 August 1993, 225 SCRA 562.

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[24] G.R. No. 152456, 28 April 2004, 428 SCRA 239.

[25] Id. at 249.

[26] Santos v. Velarde, 450 Phil. 381, 390-391 (2003).

[27] Philippine Constitution, Article XIII-Social Justice and Human Rights, Section 3.

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