CENTRO ESCOLAR UNIVERSITY FACULTY AND ALLIED WORKERS UNION-INDEPENDENT, PETITIONER, VS. HON. COURT OF APPEALS, APRON MANGABAT AS VOLUNTARY ARBITRATOR, AND CENTRO ESCOLAR UNIVERS...

G.R. NO. 165486. May 31, 2006

Ponente: PUNO, J.

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PUNO, J.:

Republic Act No. (R.A.) 6728, otherwise known as the "Government Assistance To Students and Teachers in Private Education Act," allows private schools to increase their tuition fees on the condition that 70% of the tuition fee increases shall go to the payment of salaries, wages, allowances and other benefits of teaching and non-teaching personnel. The petition at bar poses the issue of whether respondent Centro Escolar University may source from the 70% incremental proceeds (IP) the integrated IP incorporated into the salaries of its teaching and non-teaching staff pursuant to the collective bargaining agreements (CBAs) entered into by their union.

It appears that petitioner union, representing the teaching and the non-teaching staff of respondent university, has existing CBAs with the university. Their respective CBAs granted both the teaching and the non-teaching staff increases in their compensation. The following increases were provided in the CBA of the teaching personnel for the period 2000 to 2005:

> ARTICLE V
>
> SALARIES
>
> Section 1. Salary Scales. In order to achieve a sound and effective administration, the UNIVERSITY and the UNION hereby agree on the salary scale based on the 2000 Faculty Ranking, which shall be given during the lifetime of this Agreement.
>
> Section 2. Hiring Rates. The following shall be the salary scale for the college teachers (inclusive of the amount of P3.00 per hour for faculty members with rank and P1.50 for those without rank) as a result of negotiation aimed at preventing distortion of the salary rate.
>
> In addition to the above rates, an integration of IP is added according to the following schedule:
>
> x x x
>
> Section 3. Improvement in salary due to Educational Qualifications. Any faculty member in the College Level shall be given P3.00 per hour increase in pay upon presentation to the Human Resource Department of his Special Order for a Master's Degree and P5.00 per hour increase in pay upon presentation to the Human Resource Development of his Special Order for a Doctoral Degree; provided the same has not been considered in the determination of his rank.
>
> Section 4. Other benefits.

a) Emergency Financial Assistance. The faculty member shall receive an additional P350.00 to the previous P800.00 for a total of P1,150.00 for the Emergency Financial Assistant (EFA).

b) Mid-year Bonus. Mid-year bonus shall be improved from 115% to 120% of basic pay, effective April 1, 2000 to March 31, 2003.

c) There shall be an improvement of summer pay for permanent faculty members with master's degree using the following table:

x x x

Section 5. At no time shall a faculty member suffer a reduction of the salary rate he enjoyed before the effectivity of this agreement even if his rate exceeds that which corresponds to his rank as established in the CBA Pay Scale set forth.

Section 6. Salary increases arising from the CBA's (sic) and from faculty ranking shall not be deductible from the 70% share in the Incremental Proceeds (IP) of the faculty and non-teaching staff.[1] (emphases supplied)

Respondent university admits that salary increases provided under Sections 1, 2, 3 and 4 are taken from the university fund, while the salary increases brought about by the IP integration are deducted from the IP.[2]

The CBA for the non-teaching personnel, on the other hand, provided:

ARTICLE V

SALARIES

Section 1. Effective April 1, 2000 to March 31, 2005, all employees shall receive an additional basic salary of P600.00 per month. This is an across the board increase, over and above legislated wage increase.

All employees shall also receive an additional P350.00 or a total of P1,150.00 for their EFA.

Section 2. Job Classification and Salary Scale. The University agrees to adopt a table or classification of jobs in the University with component grade levels and corresponding salary ranges which shall form part of this contract by reference.

Starting April 1, 2000, an increase of not more than 50% of the improvement given to the faculty shall be given to the non-teaching staff.

Section 3. Effective April 1, 2000 to March 31, 2005, longevity pay for the non-teaching staff shall be improved, following this table:

x x x

Section 4. There shall be a partial integration of incremental proceeds in the basic pay amounting to not more than P1,000/per month, according to the following schedule:

x x x

Section 5. Salary increases arising from CBA's (sic) from job classification shall not be deductible from the 70% share of the IP of the faculty and non-teaching staff.[3] (emphases supplied)

As with the salary increases for the school's faculty, the increases provided under Sections 1, 2 and 3 are also taken from the university fund, while the increases under Section 4 are deducted from the IP.[4]

Petitioner asserts that the integrated IP granted in the CBAs should not be deducted from the personnel's 70% share in the IP. It cites the common provision in the CBAs of the faculty and the non-teaching staff prohibiting the

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deduction of salary increases arising from the CBA from their 70% share in the IP. Petitioner also sought the payment of additional IP for the faculty members with overload and permanent substitution units.

On February 5, 2002, petitioner filed with the National Conciliation and Mediation Board a preventive mediation for the recovery of IP losses due to the university's alleged deduction of the cost of CBA-won economic benefits from the 70% share of the teachers and employees in the IP.

The parties submitted their position papers before the voluntary arbitrator. Petitioner contended that the deduction of the IP integration from the 70% share of tuition fee increase is illegal and contrary to the CBA, as the IP integration in the salary is considered a CBA-won increase, hence, may not be deducted from the 70%. It also claims that the IP is computed on a pro-rata basis, depending on the number of hours worked. Hence, those who are assigned overload units must also receive the corresponding IP for the extra assignment.[5]

Respondent university, meanwhile, averred that there are two kinds of salary increases in the CBA-the CBA-negotiated increase taken from the university fund, and the increase as a result of IP integration which, by its nature, is taken from the 70% share of the school personnel in the IP. It further argued that it would not be feasible to grant additional IP to teachers with overload or permanent substitution assignments, as the IP is distributed among all employees of the school, whether teaching or non-teaching. The only conceivable formula to accommodate the claim of teachers with overload or permanent substitution assignment is to reduce the share of the employees who have no such load. This, respondent university claimed, would create more problems than solutions for the university.[6]

In his decision dated April 10, 2003,[7] Voluntary Arbitrator Apron Mangabat upheld the position of respondent university and dismissed the case. The dispositive portion of the decision reads:

> WHEREFORE, premises considered, judgment is hereby issued in favor of the Centro Escolar University and ordering that:
>
> - Integration of incremental proceeds in the basic pay as provided for in the Collective Bargaining Agreement shall be deducted from the employees' share on the incremental proceeds;
>
> - Other than that currently provided in the Collective Bargaining Agreement, no other incremental proceeds shall be integrated in the basic pay;
>
> - No additional incremental proceeds shall be granted to faculty members with overload assignments and with permanent substitution classes; and,
>
> - The case is hereby dismissed.[8]

Petitioner elevated the case to the Court of Appeals via petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure. The appellate court dismissed the petition on the ground that petitioner used a wrong mode of appeal. It held that petitioner should have filed an appeal under Rule 43 of the 1997 Rules of Civil Procedure.[9]

The Court of Appeals also denied the motion for reconsideration filed by petitioner.[10]

Hence, this petition based on the following grounds:

> - Respondent court committed reversible error in dismissing the instant petition on technical ground that appeal under Rule 43 is the proper remedy, and not certiorari under Rule 65, when no less than Section 2 of Rule 43 explicitly provides that Rule 43 does not apply in labor cases.
>
> - Respondent court committed reversible error in relying on Bautista vs. Court of Appeals when Bautista refers to criminal case (while this is a labor case) and the citation is a mere obiter dictum, hence, inapplicable.

- Respondent court committed reversible error in denying pertitioner's motion for reconsideration based on the case of Luzon Development Bank vs. Association of Luzon Development Bank Employees, to further support the original ruling that Rule 43 is the correct remedy. However, in that case, the Supreme Court equates the award or decisions of voluntary arbitrator with that of RTC and ruled that in a petition for certiorari from that award or decision, Court of Appeals have concurrent jurisdiction with Supreme Court. Thus it ordered the remanding of the petition for certiorari to the Court of Appeals, thereby recognizing certiorari as a proper remedy.

- Respondent court committed reversible error in not holding that, as ruled by the Honorable Supreme Court in a long line of cases, decision of voluntary arbitrator is final and unappealable, except when there is want or excess of jurisdiction, grave abuse of discretion, denial of substantial justice or erroneous interpretation of the law. In such cases, certiorari is the proper remedy.

- Respondent court committed reversible errors in not holding that the voluntary arbitrator has acted with grave abuse of discretion, without or in excess of jurisdiction, in ignoring the CBA as the law between the parties and in not deciding the grievances through the interpretation or implementation of the CBA pursuant to his limited authority under Article 260 of the New Labor Code.

- Respondent court committed reversible error in conveniently disposing the merit of the case on a one-sentence, one paragraph coup de grace that petitioner has failed to offer meritorious reasons or arguments for allowance of petition. The truth is that petitioner has adduced ample meritorious reasons and arguments. Since the assailed deductions and estimated amounts are all uncontroverted only questions of law are involved, i.e., whether the deductions are valid in view of the CBA prohibition, and whether the university is liable to refund the deducted amount totaling P500 million.[11]

The issues in this case are two-pronged: first, the procedural issue - whether the decision of the voluntary arbitrator is appealable to the Court of Appeals under Rule 43 of the 1997 Rules of Civil Procedure; and second, the substantive issues - (1) whether the university may deduct from the 70% share of the personnel in the IP the integrated IP granted in the CBAs of the teaching and the non-teaching staff; and (2) whether the teaching staff is entitled to additional IP for overload and permanent substitution units.

We shall first address the procedural issue.

We find that the Court of Appeals did not err in holding that petitioner used a wrong remedy when it filed a special civil action on certiorari under Rule 65 instead of an appeal under Rule 43 of the 1997 Rules of Civil Procedure. The Court held in Luzon Development Bank v. Association of Luzon Development Bank Employees[12] that decisions of the voluntary arbitrator under the Labor Code are appealable to the Court of Appeals. In that case, the Court observed that the Labor Code was silent as regards the appeals from the decisions of the voluntary arbitrator, unlike those of the Labor Arbiter which may be appealed to the National Labor Relations Commission. The Court noted, however, that the voluntary arbitrator is a government instrumentality within the contemplation of Section 9 of Batas Pambansa Blg. (BP) 129[13] which provides for the appellate jurisdiction of the Court of Appeals.[14] The decisions of the voluntary arbitrator are akin to those of the Regional Trial Court, and, therefore, should first be appealed to the Court of Appeals before being elevated to this Court. This is in furtherance and consistent with the original purpose of Circular No. 1-91 to provide a uniform procedure for the appellate review of adjudications of all quasi-judicial agencies not expressly excepted from the coverage of Section 9 of BP 129. Circular No. 1-91 was later revised and became Revised Administrative Circular No. 1-95. The Rules of Court Revision Committee incorporated said circular in Rule 43 of the 1997 Rules of Civil Procedure. The inclusion of the decisions of the voluntary arbitrator in the Rule was based on the Court's pronouncements in Luzon Development Bank v. Association of Luzon Development Bank Employees.[15] Petitioner's argument, therefore, that the ruling in said case is inapplicable in this case is without merit.

Moreover, a petition for certiorari is an extraordinary remedy that is adopted to correct errors of jurisdiction committed by the lower court or quasi-judicial agency, or when there is grave abuse of discretion on the part of such court or agency amounting to lack or excess of jurisdiction. Where the error is not one of jurisdiction, but of law or fact which is a mistake of judgment, the proper remedy should be appeal.[16] In addition, an independent action for certiorari may be availed of only when there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.[17] There was no question of jurisdiction involved in the decision of the voluntary arbitrator. What was being questioned was merely his findings of whether the university's practice of sourcing the integrated IP in the CBA from the 70% share of the personnel in the IP violates the provisions of the CBA. Such is a proper subject of an appeal.

Nonetheless, even if we overlook petitioner's procedural lapse, the case should still be dismissed on substantive grounds.

Section 5 (2) of R.A. 6728 provides:

> SEC. 5. Tuition Fee Supplement for Student in Private High School
>
> x x x
>
> (2) Assistance under paragraph (1), subparagraphs (a) and (b) shall be granted and tuition fee 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 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: Provided, That government subsidies are not used directly for salaries of teachers of nonsecular subjects. x x x

In Cebu Institute of Medicine v. Cebu Institute of Medicine Employees' Union-National Federation of Labor,[18] the Court held that the private 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. In other words, the allocation of the 70% of the IP is considered a management prerogative. In that case, the Court allowed the charging against the 70% the employer's share in the SSS, Medicare and Pag-ibig premiums, they falling within the category of "other benefits" as provided in Section 5 (2) of RA 6728.

There is an additional element, however, in the case at bar. Here, the CBAs between the university and the teaching and the non-teaching staff prohibit the deduction of the CBA-won benefits from the 70% of the IP. The CBA is a 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, including mandatory provisions for grievances and arbitration machineries.[19] It is the law between the parties, and they are obliged to comply with its provisions. We need to resolve, therefore, whether the charging of the integrated IP against the 70% is violative of the CBA.

We find that it is not.

The voluntary arbitrator described the nature of the IP, thus:

> The allocation of 70% of the IP for payment of salaries, wages, allowances and other benefits of teaching and non-teaching personnel is clearly mandated by law. Yet, nowhere is it provided in Republic Act No. 6728 that

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> the IP should be integrated with the salary and wages. The nature of IP is that it bears a reasonable relation as to whether or not universities/schools will increase their tuition fees. Like that of a bonus, IP is additional compensation subject to a resolutory condition imposed for its payment. But unlike a bonus or commission, the IP is not given for extra efforts exerted. Thus, a teacher originally handling a load of 21 units will not be provided IP the next school year even with the same teaching load, should there be a tuition fee increase. Historically, IP was allocated "to alleviate the sad plight of private schools, their personnel and all those directly and indirectly dependent on school incomes." It is additional benefit accorded to the employees. Hence, the determination of the amount of IP to be integrated into employees' basic salary entails the exercise of the right of an employer to regulate all aspects of employment. Precisely, the employer has the right to change the basis of the payment of wages of the employees, subject to provisions of law.
>
> x x x
>
> Distinct and separate from employees' basic salary, IP are sourced from increase in tuition fees while the basic salaries and wages and incidental salary increases i.e., due to educational qualifications, emergency financial assistance, mid-year bonus, longevity pay, job classification, among others are sourced from the university fund.
>
> This distinction bears importance in the IP integration as provided under the Collective Bargaining Agreement (CBA) between the parties. x x x[20]

The integrated IP provided in the CBAs of the teaching and the non-teaching staff is actually the share of the employees in the 70% of the IP that is incorporated into their salaries as a result of the negotiation between the university and its personnel. The purpose of the integration is to regularize the receipt by the personnel of the benefits arising from the increase in the school's tuition fees. But it does not change the nature of the benefit as IP. There is no basis, therefore, for petitioner's objection to the sourcing of the integrated IP from the 70% of the tuition fee increases.

Finally, we agree with the discussion of the voluntary arbitrator as regards the award of additional IP to members of the faculty with overload or permanent substitution assignment:

> Coming now to the claim for additional IP for faculty members with overload assignments and with permanent substitution classes, the same must be denied. To be entitled to IP, it matters not that a teacher is handling a regular full teaching load or is handling extra teaching load. Professors handling extra teaching loads are correspondingly compensated depending on the extra units they are assigned. To grant them additional IP would amount to double compensation. As argued by University, "[t]he only conceivable formula to satisfy petitioner's claim for additional incremental proceeds is to deduct from the IP benefits of teaching personnel who do not have overload assignments or who do not have permanent substitution classes, and from non-teaching staff, which formula will create more problems than solution[s]."[21]

In view of the foregoing, we find that the Court of Appeals did not err in dismissing the petition filed before it by herein petitioner.

IN VIEW WHEREOF, the petition is DENIED.

SO ORDERED.

Sandoval-Gutierrez, Corona, and Azcuna, JJ., concur.
Garcia, J., on leave.

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[1] Rollo, pp. 133-134.

[2] Rollo, p. 134.

[3]Rollo, p. 135.

[4] Rollo, p. 136.

[5] Rollo, pp. 115-126.

[6] Rollo, pp. 128-136.

[7] Rollo, pp. 185-195.

[8]Rollo, p. 194a.

[9] Rollo, pp. 60-67.

[10]Rollo, pp. 111-114.

[11] Rollo, pp. 19-21.

[12] G.R. No. 120319, October 6, 1995, 249 SCRA 162.

[13] Judiciary Reorganization Act.

[14] SEC. 9. Jurisdiction. - The Court of Appeals shall exercise:

> x x x
>
> (3) Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders, or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards, or commissions, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948.
>
> x x x

[15]1997 Rules of Civil Procedure Annotated by Justice Jose Y. Feria (Ret.).

[16] Regalado, Remedial Law Compendium Vol. I (1997), p. 705, citing Matute v. Macadaeg, L-9325, May 30, 1956 and De Galasison v. Maddela, et al., L-24584, October 30, 1975.

[17] Section 1, Rule 65, 1997 Rules of Civil Procedure.

[18] G.R. No. 141285, July 5, 2001, 360 SCRA 515.

[19] University of the Immaculate Conception, Inc. v. Secretary of Labor and Employment, G.R. No. 146291, January 23, 2002, 374 SCRA 471.

[20] Rollo, pp. 192-193.

[21] Rollo, p. 194.

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