

VICTORIAS MILLING COMPANY, INC., PETITIONER-APPELLANT, VS. SOCIAL SECURITY COMMISSION, RESPONDENT-APPELLEE.

G.R. No. 16704. March 17, 1962

Ponente: BARRERA, J.

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BARRERA, J.:

On October 15, 1958, the Social Security Commission issued its Circular No. 22 of the following tenor:

"Effective November 1, 1958, all Employers in computing the premiums due the System, will take into consideration and include in the Employee's remuneration all bonuses and overtime pay, as well as the cash value of other media of remuneration. All these will comprise the Employee's remuneration or earnings, upon which the 3-1/2% and 2-1/2% contributions will be based, up to a maximum of P500 for any one month."

Upon receipt of a copy thereof, petitioner Victorias Milling Company, Inc., through counsel, wrote the Social Security Commission in effect protesting against the circular as contradictory to a previous Circular No. 7, dated October 7, 1957 expressly excluding overtime pay and bonus in the computation of the employers' and employees' respective monthly premium contributions, and submit ting, "In order to assist your System in arriving at a proper interpretation of the term compensation for the purposes of such computation, their observations on Republic Act 1161 and its amendment and on the general interpretation of the words "compensation", "remuneration" and "wages Counsel Further questioned the validity of the circular for lack of authority on the part of the Social Security Commission to promulgate it without the approval of the President and for lack of publication in the Official Gazette.

Overruling these objections, the Social Security Commission ruled that Circular No. 22 is not a rule or regulation that needed the approval of the President and ; publication in the Official Gazette to be effective, but a mere administrative interpretation of the statute, a mere statement of general policy or opinion as to how the law should be construed.

Not satisfied with this ruling, petitioner comes to this Court on appeal.

The single issue involved in this appeal is whether of not Circular No. 22 is a rule or regulation, as contemplated in Section 4 (a) of Republic Act 1161 empowering the Social Security Commission "to adopt, amend and repeal subject to the approval of the President such rules and regulations as may be necessary to carry out the provisions and purposes of this Act."

There can be no doubt that there is a distinction between an administrative rule or regulation and an administrative interpretation of a law whose enforcement is entrusted to an administrative body. When an administrative agency promulgates rules and regulations, it "makes" a new law with the force and effect of a valid law, while when it renders an opinion or gives a statement of policy, it merely interprets a pre-existing law (Parker, Administrative Law, p. 197; Davis, Administrative Law, p. 194). Rules and regulations when promulgated in pursuance of the procedure or authority conferred upon the administrative agency by law, partake of the nature of a statute, and compliance therewith may be enforced by a penal sanction provided in the law. This is so because statutes are

usually couched in general terms, after expressing the policy, purposes, objectives, remedies and sanction) intended by the legislature. The details and the manner of carrying out the law are often times left to the administrative agency entrusted with its enforcement. In this sense, it has been said that rules and regulations are the product; of a delegated power to create new or additional legal provisions that have the effect of law. (Davis, op. cit. p. 194.)

A rule is binding on the courts so long as the procedure fixed for its promulgation is followed and its scope is within the statutory authority granted by the legislature, even if the courts are not in agreement with the policy stated therein or its innate wisdom (Davis, op. cit. pp. 195-197). On the other hand, administrative interpretation of the law is at best merely advisory, for it is the courts that finally determine what the law means.

Circular No. 22 in question was issued by the Social Security Commission, in view of the amendment of the provisions of the Social Security Law defining the term. "compensation" contained Section .8(f) ,of Republic Act. No. 1161 which, before its amendment, reads as follows:

"(f) Compensation — All remuneration, for employment include the cash value of any remuneration, paid, in ;any medium other than) cash except (1) that part of the remuneration in excess of P500 received during the month; (2) bonuses, allowances or overtime pay; and (3) dismissal and all other payments which the employer may make, although not legally required to do so,"

Republic Act No. 1792 changed the definition of "compensation" to:

"(f) Compensation — All remuneration for employment include the cash value of any remuneration paid in any medium other than cash except that part of the remuneration in excess of P500.00 received during the month."

It will thus be seen that whereat) prior to amendment, bonuses, allowances, and overtime pay given in addition to the regular or base pay were expressly excluded or exempted from the definition of the term "compensation", such exemption or exclusion was deleted by the amendatory law. It thus became necessary for the Social Security Commission to interpret the; effect of suck deletion or elimination. Circular No, 22 was, therefore, issued to apprise those concerned of the interpretation or understanding of the Commission,, of the, law as amended, which it was its duty to enforce. It did not add any duty or detail that was not already in the.law as amended. It merely stated and circularized the opinion of the Commission as to how the law should be construed.

The case of *People vs. Jolliffe* (G.R. No. L-9553, promulgated on May 30, 1959) cited by appellant, does not support its contention that the circular in question is a rule or regulation. What was there said was merely that a regulation may be incorporated in the form of a circular. Such statement simply meant that the substance and not the form of a regulation is decisive in determining its nature. It does not lay down a general proposition of law that any circular, regardless of its substance and even if it is only interpretative, constitutes a rule or regulation which must be published in the Official Gazette before it could take effect.

The case of *People vs. Que Po Lay* (50 O.G. 2850) also cited by appellant is not applicable to the present case, because the penalty that may be incurred by employers and employees if they refuse to pay the corresponding premiums on bonus, overtime pay, etc. which the employer pays to his employees, is not by reason of non-compliance with Circular No. 22, but for violation of the specific legal provisions contained in Section 27 (e) and (f) of Republic Act No. 1161.

We find, therefore, that Circular No. 22 purports merely to advise employers-members of the System of what, in the light of the amendment of the law, they should include in determining the monthly compensation of their employees upon which the social security contributions should be based, and that such circular did not require presidential approval and publication in the Official Gazette for its effectivity.

It hardly need be said that the Commission's interpretation of the amendment embodied in its Circular No. 22, is correct. The express elimination among the exemptions excluded in the old law, of all bonuses, allowances and overtime pay in the determination of the "compensation" paid to employees makes it imperative that such bonuses and overtime pay must now be included in the employee's remuneration in pursuance of the amendatory law. It is true that in previous cases, this Court has held that bonus is not demandable because it is not part of the wage, salary, or compensation of the employee. But the question in the instant case is not whether bonus is demandable or not as part of compensation, but whether, after the employer does, in fact, give or pay bonus to his employees, such bonuses shall be considered compensation, under the Social Security Act after they have been received by the employees. While it is true that terms or words are to be interpreted in accordance with their well-accepted meaning in law, nevertheless, when such term or word is specifically defined in a particular law, such interpretation must be adopted in enforcing that particular law, for it can not be gainsaid that a particular phrase or term may have one meaning for one purpose and another meaning for some other purpose. Such is the case that is now before us. Republic Act 1161 specifically defined what "compensation" should mean "For the purposes of this Act". Republic Act 1792 amended such definition by deleting some exceptions authorized in the original Act. By virtue of this express substantial change in the phraseology of the law, whatever prior executive or judicial construction may have been given to the phrase in question should give way to the clear mandate of the new law.

In view of the foregoing, the Resolution appealed from is hereby affirmed, with costs against appellant. So ordered.

Bengzon, C.J., Padilla, Baustista Angelo, Labrador, Concepcion, Reyes, J.B.L., Paredes, Dizon, and De Leon, JJ., concur.

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