

**DYNO NOBEL PHILIPPINES, INC., PETITIONER, VS. DWPI
SUPERVISORY UNION, RESPONDENT.***G.R. No. 170075. October 10, 2007*

Ponente: CARPIO MORALES, J.

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Challenged via Petition for Review[1] under Rule 45 are the January 20, 2005 Decision[2] and September 20, 2005 Resolution[3] of the Court of Appeals in CA-GR SP No. 65305, "DWPI Supervisory Union v. Dyno Nobel Philippines, Inc."

Edgar Ausejo (Ausejo) was hired by Dyno Noble Philippines, Inc. (petitioner) on September 11, 1987 as a Stores Clerk with a monthly salary of P8,150. Having joined the union of the rank and file, his salary was, in accordance with the Collective Bargaining Agreement (CBA) which the union forged with petitioner, increased by P500 per month effective January 1, 1996.[4]

On November 1, 1996, Ausejo was promoted to the position of General Stores Supervisor. He thus ceased to be a member of the union and joined the DWPI Supervisory Union (respondent).[5] On even date, petitioner implemented its Salary Scaling Program which was intended to structure and align the salary scales of its employees. Under the program, Cost/Budget Officers, Loss Control Officers, and General Stores Supervisors were grouped under "S-3 Level" supervisors with starting salary of P12,800.[6]

Ausejo was accordingly elevated to the "S-3 Level" group and his salary was increased to P12,800.

Eighteen (18) days after his promotion or on November 19, 1996, petitioner and respondent entered into a CBA,[7] the pertinent provision of which stated:

ARTICLE VII
SALARIES AND WAGES

Section 1. ANNUAL INCREASE. The COMPANY shall continue to grant an annual increase to all supervisors as follows:

1[st] year (1996) * * * * * P1,150.00
2[nd] year (1997) * * * * * 1,050.00
3[rd] year (1998) * * * * * 950.00

The abovementioned salary increase shall retroact to January 01, 1996.[8] (Emphasis in the original; underscoring supplied)

Invoking this immediately-quoted provision of the CBA, Ausejo, through respondent, requested petitioner to give him another salary increase of P1,150 for 1996.[9]

Petitioner denied respondent's request on the ground that Ausejo was not yet a member of respondent on January 1, 1996 and that, in any event, the increase of P1,150 was already taken into consideration and factored in the

Salary Scaling Program[10] adopted on November 1, 1996, the same date that he was promoted to the position of General Stores Supervisor.

Since the parties adopted contrary positions, they referred their conflict to a Voluntary Arbitrator where it was docketed as VA Case No. AC 036-VII-01-002-01D.

In its Position Paper before the Voluntary Arbitrator, petitioner reiterated its contention that Ausejo was not entitled to his claim as he was not yet a member of respondent on January 1, 1996, and the salary increase was already incorporated in his starting salary of P12,800; and even assuming that he is entitled to the increase, the action had already been barred by prescription, the complaint having been filed only in 2001.[11]

Voluntary Arbitrator Cicero D. Calderon found for petitioner in this wise:

. . . [T]his issue has to be resolved in the total perspective --- that the mandated increase of P1,150.00 for 1996 was already factored in the adoption of the Salary Scaling Program which took effect on November 01, 1996. In support of this claim, [petitioner], through [c]ounsel, submitted the Affidavit of Angelita L. Calpito (Annex "3"), the Company's Financial Controller, which provided:
"5. That in accordance with the Salary Scaling Program, the salaries of the employees occupying the above positions were amended effective 1[st] November 1996 to PhP12,800.00 per month which is the starting salary rate for all positions with S-3 job classification."

The "above position[s]" referred to were the Cost/Budget Officer, Loss Control Officer, General Stores Supervisors - all classified on the S-3 level.

To buttress the position of the Company that the P1,150.00 salary increase for 1996 was factored in the Salary Scaling Program of November 01, 1996, the Affidavit of Reynaldo E. Leonor, Human Resource Officer of the Company, was also submitted as Annex "4" of the Position Paper. x x x

x x x x

In view of the fact that the mandated increase of P1,150.00 for 1996 in the Salary Scaling Program of the Company was integrated or factored when he assumed the post of Stores Supervisor with a starting salary of P12,800.00 - an increase of P4,150.00 from his base pay of P8,650.00 prior to his promotion - to grant the claim of [Ausejo] would result in two increases of P1,150.00 for 1996 - a situation not envisaged or allowed in the CBA and not consistent with the demands of truth and equity.[12] (Emphasis and underscoring supplied)

Addressing the issue of prescription, the Voluntary Arbitrator held:

The issue of prescription of the cause of action would not be material and relevant since it involves the interpretation and application of the current CBA which is still in operation till November 18, 2001. Furthermore, issues of this nature should be resolved on the merits and not on technicalities in the interest of promoting and maintaining sound labor-management relations.[13] (Underscoring supplied)

By Decision of February 28, 2001,[14] the Voluntary Arbitrator denied respondent's claim.

Respondent's Motion for Reconsideration was denied by the Voluntary Arbitrator by Order of April 4, 2001[15] on the following grounds:

Firstly, it is hard to believe that, considering the closeness in the time between the implementation of the Salary Scaling Program and the execution of the CBA - a difference of eighteen days - the negotiating panel of the Union would not have known the rather substantial benefits and advantages accruing to the Supervisors under the Salary Scaling Program. Thus, Elmar C. Caluscusan, already a Supervisor in 1995, and receiving a basic salary of [P]9,085.00, received under the CBA retroactively the P1,150.00 mandated increase as

Supervisor for a total of P10,235.00 This was again increased under the salary Scaling Program on November 1, 1996 to P12,800.00 for a total increase of P2,565.00. On the other hand, Complainant Edgar S. Ausejo was receiving as rank and file employee P8,150.00 in 1995 plus the mandated increase of P500.00 in 1996 for a total of P8,650.00 This was his basic pay until his appointment as Stores Supervisor when, like Caluscusan, his basic pay was also raised to P12,800.00 which meant an increase of P4,150.00 upon his appointment. Under such circumstances, there was no need to mention or embody in his appointment by management that the mandated increase P1,150.00 for 1996 was already integrated in his basic pay of P12,800.00. Surely, the figures speak louder than words!

Secondly, the purpose of the Salary Scaling Program was intended to structure the salary scales of the employees on the basis of fairness and reasonable classification of jobs. There is every reason to uphold the Program, and, to uphold the claim of Ausejo that he is entitled to the P1,150.00 mandated increase for 1996 upon his appointment on November 1, 1996 would clearly be a deviation of the scale of P12,800.00 for all positions with S-3 job classification. . . . To add P1,150.00 more to the basic pay of Ausejo upon his appointment to the S-3 level would lead to an increase of P5,300.00 - that would automatically increase his basic pay to P13,950.00 as of November 01, 1996 and leave behind his S-3 colleagues who have already achieved previously the status as Supervisors. This would then be a case of wage distortion! [16] (Emphasis and underscoring supplied)

Respondent thus filed a Petition for Review [17] under Rule 43 before the Court of Appeals.

By Decision of January 20, 2005, the appellate court reversed the Voluntary Arbitrator's decision, it holding that the provision of the November 19, 1996 CBA that "all supervisors are entitled to the increase which shall retroact to January 1, 1996," is clear, bereft of any qualification, hence, Ausejo is entitled thereto. [18]

The appellate court further held that contrary to the finding of the Voluntary Arbitrator, when Ausejo assumed the position of supervisor on November 1, 1996, the mandated P1,150 salary increase for 1996 was not yet integrated into his salary, for if that were petitioner's intention, it should have communicated it to Ausejo when he assumed his post. [19]

Furthermore, the appellate court held that even assuming that there was doubt in the CBA provision in question, the same must be resolved in favor of labor. [20]

Thus the appellate court disposed in its Decision of January 20, 2005:

WHEREFORE, finding merit in the present petition, the same is hereby GRANTED and the assailed judgments REVERSED AND SET ASIDE. Accordingly D[yno] Nobel Philippines is hereby declared liable to pay Mr. Edgar S. Ausejo, represented by herein petitioner, his mandated salary increase in the amount of One Thousand One Hundred Fifty Pesos (P1,150.00) effective November 1, 1996. (Emphasis in the original)

Petitioner's Motion for Reconsideration having been denied, the present petition for review was filed faulting the appellate court for

. . . COMMITT[ING] SERIOUS ERROR IN LAW AND IN ITS FINDINGS OF FACTS IN GIVING THE COLLECTIVE BARGAINING AGREEMENT AN APPLICATION THAT CAUSES WAGE DISPARITY AND INEQUITY[;]

COMMITT[ING] GRAVE ERROR IN GIVING ABSOLUTE REALIANCE [SIC] TO THE COLLECTIVE BARGAINING AGREEMENT WHILE DISREGARDING THE FACTS AND FIGURES ATTENDANT TO THE PRESENT CONTROVERSY[;] [AND]

IN FAILING TO RULE THAT RESPONDENT'S CLAIM HAD ALREADY PRESCRIBED. [21]

The petition is impressed with merit.

The only issue is whether the mandated increase of P1,150 under the CBA forged on November 19, 1996 was already integrated into the salary of Ausejo when he assumed the position of General Stores Supervisor on November 1, 1996.

In petitioner's plantilla, there are three "S-3 Level" supervisors. It appears that upon the implementation of the New Salary Scaling Program on November 1, 1996, Ausejo who was promoted as General Stores Supervisor received the biggest salary increase - P4,150 - among them three supervisors as reflected in the table[22] below:

Name	Position	Previous Salary	Salary Increase	New Salary
Elmar Caluscusan	Cost/Budget Officer	[P]10,235.00	[P]2,565.00	[P]12,800.00
Edgar Ausejo	Gen. Stores Supervisor	8,650.00	4,150.00	12,800.00
Lowell Anfone	Loss Control Officer	10,950.00	1,850.00	12,800.00

(Emphasis supplied)

If Ausejo were still to receive an additional P1,150 following the CBA forged on November 19, 1996, then his salary as General Stores Supervisor would have been P13,950, whereas his fellow supervisors who were senior to him were receiving only P12,800.

Clearly, the Salary Scaling Program implemented by petitioner on November 1, 1996 which was primarily intended "to [re]structure and align the salary scales of the employees on the basis of fairness and reasonable classification of jobs"[23] would be rendered meaningless.

An examination of Annex "5"[24] of petitioner's Position Paper filed before the Voluntary Arbitrator, which is a comparison of Salaries of the "S-3 Level" supervisors, shows that Ausejo, just like the two others, received a monthly salary of P13, 850 for the year 1997 and P14,800 for 1998. Logically, in accordance with the 1996 CBA, for the year 1997, an increase of P1,050 was added to the salary of each of the three, to thereby amount to a total salary of P13,850, and for the year 1998, an increase of P950 was added to the P13,850, to thereby amount to a total salary of P14,800. If P1,150, representing the salary increase for 1996 which, following the 1996 CBA, retroacts to January 1, 1996, were still to be added to Ausejo's salary, his salary would be, not equal but, higher than the two other supervisors.

WHEREFORE, the petition is GRANTED. The assailed January 20, 2005 Decision and September 20, 2005 Resolution of the Court of Appeals in CA-GR SP No. 65305 are REVERSED and SET ASIDE. The February 28, 2001 Decision and April 4, 2001 Order of the Voluntary Arbitrator dismissing the claim of respondent for lack of merit are REINSTATED.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Tinga, and Velasco, Jr., JJ., concur.

* Also referred to in the records as Dyno Wesfarmers Philippines, Inc. (DWPI).

[1] Rollo, pp. 4-18.

[2] CA rollo, pp. 84-90. Penned by Justice Vicente L. Yap with the concurrence of Justices Mercedes Gozo-Dadole and Pampio A. Abarintos.

[3]Id. at 111-112. Penned by Justice Vicente L. Yap with the concurrence of Justices Pampio A. Abarintos and

Enrico A. Lanzas.

[4] Rollo, pp. 7-8.

[5]Id. at 8.

[6] Ibid.

[7] CA rollo, pp. 42-58.

[8] Id. at 45.

[9] Id. at 69.

[10]Petitioner's (herein respondent) Memorandum before the Court of Appeals, id. at 69-70.

[11] Id. at 32-35.

[12]Id. at 15-16.

[13] Id. at 16.

[14] Id. at 13-17.

[15] Id. at 18-20.

[16]Id. at 19.

[17] Id. at 2-11.

[18] Id. at 84, 88.

[19] Id. at 89.

[20]Ibid.

[21] Rollo, pp. 9-10.

[22] Id. at 8.

[23] Ibid.

[24] CA rollo, p. 40.

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