

GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS. APOLONIO AYROSO AND THE COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G.R. No. 34632, February 21, 1980

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

Petitioner, the Government Service Insurance System (hereinafter referred to as GSIS), seeks the review by certiorari of the Order of the Court of Industrial Relations or the CIR, dated October 26, 1971 and its Resolution en banc of January 6, 1972, dismissing the motion for reconsideration filed by the GSIS. The CIR order in question directed the GSIS

"To extend promotional appointments to intervenor Apolonio Ayroso, Epifanio Cancaida, Jr., Jose Garcellano, Jr., Antonio Ordinario and Reynaldo Frayna as Field Insurance Representatives (Pay class 6) in the Field Service and Collection Department, GSIS, effective January 1, 1968." [1]

The GSIS claims that the respondent CIR committed grave abuse of discretion in:

1. dismissing petitioner's motion for reconsideration;
2. ordering petitioner to issue promotional appointments to its employees;
3. not giving petitioner a chance to submit all its evidence. [2]

The facts of this case as can be gleaned from the aforecited Order [3] of the CIR are as follows:

On November 12, 1970, Apolonio Ayroso filed a petition as an intervenor in Case No. 87-IPA entitled, "GSIS Employees Association-PAGE vs. Government Service Insurance System alleging that he had been a Junior Field Service Representative (pay class 5) in the GSIS since January 3, 1961 and that there were five (5) vacant positions of Field Service Representative (pay class 6) which the management intended to fill up with candidates less qualified than him. He thus prayed the CIR to order the GSIS to appoint him to any of the five (5) mentioned vacancies.

The GSIS filed an opposition on the grounds, among others, that the existing collective bargaining agreement between the GSIS and the GSISEA-CUGCO

"provides that proposals for promotion shall be commented upon by the Department Manager concerned and the GSISEA district representative; that the GSISEA district representative recommended to the vacant positions Epifanio Cancaida, Jr., Jose Garcellano, Jr., Herminigildo Cagurangan, Antonio Ordinario and Reynaldo Frayna; that these recommendations were approved by the Board of Trustees in its Resolution No. 1712 of October 16, 1969 and that this Resolution has not yet been confirmed due to protests lodged against these several proposed promotions." [4]

On August 10, 1971, a Memorandum [5] for the Board of Trustees of the GSIS was issued, wherein it was stated

that Ayroso was being recommended to fill the position of Field Insurance Representative (pay class 6) vacated by Cagurangan who had been promoted. In spite of this recommendation which was brought to the CIR's attention, the Court still found Ayroso's petition meritorious. Hence, the order directing Ayroso's promotion. The CIR found that with the exception of Frayna, Ayroso had the highest rating based on the GSIS points system of promotions,[6] namely: Frayna, 48.8 points; Ayroso, 47.8 points; Cagurangan, 47.4 points; Ordinario, 46.1 points; Cancaida, 45.0 points; Garcellano, 43.3 points. Besides being a first grade civil service eligible, Ayroso, the Court noted, was also the recipient of a bronze award for meritorious services rendered to the Field Service and Collection Department.[7]

From this decision, the GSIS filed a motion for recon-sideration on November 2, 1971, on the ground that the Order of the CIR was "contrary to facts, the law and judicial pre-cedents." [8] The GSIS also stated that it was reserving its right to file, within the reglementary period, the arguments in support of its motion.

On January 6, 1972, the CIR en banc issued a Resolution dismissing the GSIS motion for reconsideration for being pro forma, since the "supporting arguments to the motion for reconsideration appear to have been filed beyond the regle-mentary period of four (4) days as provided by Section 17(a) of the Rules of this Court." [9] Thereafter, the GSIS filed a notice of appeal on January 20, 1972, manifesting its intention to raise the "legality and validity of the afore-said Order and Resolution en banc." Hence, this petition for review on certiorari which was given due course in the Court's Resolution of April 14, 1972.

It is the petitioner's contention that the matter of extending appointments and/or promotion must be left to the discretion of the management and the Board of Trustees of the GSIS. While it has been held that the "right to select and appoint employees is the prerogative of the employer," [10] this may be availed of without liability, provided this is exercised, in the words of Justice Juvenal K. Guerrero,

"in good faith for the advancement of the employer's interest, and not for the purpose of defeating or circumventing the rights of the employees under special laws or under valid agreements, and provided further that such prerogatives, are not exercised in a malicious, harsh, oppressive, vindictive or wanton manner, or out of malice or spite." [11]

In this connection, it is significant to note that a Memo-randum agreement [12] dated October 16, 1969 was entered into by the GSIS and the GSIS Employees Association (GSISEA-CUGCO), which provided, among others, that the recommendation of the Committee on Personnel Affairs on the filling up of vacant and/or positions from pay classes (1) to (6) shall be favorably acted upon by the Board of Trustees taking into consideration existing rules and regulations of the system on promotions as embodied in the CBA. This particular agreement was the subject of a CIR order dated October 16, 1969, [13] the dispositive portion of which reads:

"IN VIEW OF THE FOREGOING, and by way of reiteration, any actuation or implementation arising or relative to any of the aforementioned Memorandum involving rank-and-file employees of the GSIS, which currently embraces (sic) employees under Pay Classes 1 to 6, inclusive, shall first be subject to the approval of this Court before such action shall be implemented or effected by the management of said GSIS." (Underscoring supplied)

In the meeting of GSIS Board of Trustees of October 16, 1969, the Board also resolved to approve under Resolution No. 1712 the recommendations for the appointment of employees from Pay Classes 1 to 6 . . . subject to the stipulation enumerated therein, one of which was:

"2. All appointments approved by the Board shall take effect on the dates recom-mended by the Committee on Personnel Affairs in its aforementioned memoranda and said ap-pointments shall be submitted to the CIR in compliance with its Order dated October 16, 1969 under Case No. 87-IPA, 1969." [14]

By this action of the GSIS and by virtue of an earlier CIR order in the main case quoted above, the GSIS, was bound to seek the approval of the Court of Industrial Relations for nominations to positions in Pay Classes 1 to 6 which Ayroso's petition sought. The GSIS thus limited its own management prerogative under the Memorandum Agreement and the above-stated Board Resolution No. 1712. For petitioner to argue therefore that by compelling GSIS to extend promotional appointments to an employee, the CIR is depriving the GSIS of its rights and power under its charter, is futile. In any case, looking at respondent Ayroso's qualifications vis-a-vis the other candidates, particularly his rating of 47.8 points in the GSIS points system of promotions, the CIR cannot be said to have "committed grave abuse of discretion" when it ordered Ayroso's appointment. Likewise, considering Ayroso's qualifications, the GSIS cannot validly argue as it does, that its funds are "trust funds" which "should not be dissipated by granting indiscriminately salary increase to undeserving personnel whose efficiency ratings are poor." [15]

As to petitioner's contention that the grant of salary increases shall be subject to availability of GSIS funds, it is pertinent to note that the minutes of the meeting of the GSIS Board of Trustees held on June 29, 1972, stated that the Board "authorized an appropriation in an amount necessary for the purpose, chargeable against the proper fund." [16] This authorization was made in connection with Board Resolution No. 588 confirming the appointments to positions under Job Levels (or pay classes 1 to 6) approved in the aforecited Board Resolution No. 1712 of the October 16, 1969 meeting. The list attached to the minutes of June 29, 1972 meeting containing the names of confirmed appointments for which the appropriation was made did not carry Ayroso's name although those of Cagurangan, Garcellano, Ordinario and Frayna were included.

Regarding the first assignment of error, that the CIR committed grave abuse of discretion in dismissing its motion for reconsideration, petitioner claims that Sections 15, 16, and 17, Rules of the CIR and not Sec. 17-A, of the same, apply, Sections 15, 16, and 17, Rules of the CIR, deal with motions for reconsiderations in general while Section 17-A, with these motions in certified cases only. Section 15 provides that:

"Section 15. The movant shall file the motion, in six copies, within five (5) days from the date on which he receives notice of the order or decision, object of the motion for reconsideration, the same to be verified under oath with respect to the correctness of the allegations of fact, and serving a copy thereof, personally or by registered mail, on the adverse party. The latter may file an answer, in six (6) copies, duly verified under oath.

"Section 16. Both the motion and the answer shall be submitted with arguments supporting the same. If the arguments can not be submitted simultaneously with said motion, upon notice to the Court, the movant shall file same within ten (10) days from the date of the filing of his motion for reconsideration. The adverse party shall also file his answer within ten (10) days from the receipt by him of a copy of the arguments submitted by the movant.

"Section 17. After an answer to the motion is registered, or after ten (10) days from the receipt of the arguments in support of said motion have been filed, the motion shall be deemed submitted for resolution of the Court in banc, unless it is considered necessary to hear oral argument, in which case the Court shall issue the corresponding order or notice to that effect.

"Sec. 17-A. Time of Filing in Certified Cases.

"In cases which are certified by the President to the court as a labor dispute in an industry indispensable to the national interest, the aggrieved party may file a motion for reconsideration in six (6) copies duly verified under oath together with the arguments in support thereof within a period of four (4) days without extension from receipt of a decision or order together with the proof of service of one (1) copy thereof upon the adverse party.

"The adverse party may file his answer or opposition with arguments also in six (6) copies duly verified under oath within four (4) days also without extension from receipt of movant's arguments. (Approved, May 27,

1965)

"Failure to observe the above-specified periods shall be sufficient cause for dismissal of the motion for reconsideration or striking out of the answer and/or the supporting arguments, as the case may be. (Approved, April 20, 1951)"

While petitioner concedes that the original case docketed as Case No. 87-IPA was certified by the President, this intervention, filed by Ayroso, petitioner argues, was an "incident that arose afterwards and is not covered by what was certified by the President." [17] According to petitioner, the rationale of the rule requiring motions for reconsiderations being filed within (4) days together with the supporting arguments, which is the "urgency of terminating a case involving an industry indispensable to the national interest" does not obtain in this instance. [18] Petitioners have a strained interpretation of the law on motions for reconsideration before the CIR. To follow petitioner's thinking will result in applying a set of rules to the main case and another set to an incidental petition arising out of the main case. This Court cannot see why Section 17-A which sets down the rule on motions for reconsideration in cases certified by the President [19] should not extend to Ayroso's petition, considering that the CIR acquired jurisdiction over the latter precisely because it was an offshoot of the main case. As can be made out from Ayroso's petition, he prayed for leave "to intervene in the incidental case relative to protested or contested promotions of personnel in the GSIS."

As to petitioner's contention that Section 17-A, CIR Rules is "unconstitutional" because within the period of four (4) days without extension it is very hard for counsel to confer with his client, go over the case, formulate arguments, etc., [20] resulting in deprivation of due process, it is significant to note that Commonwealth Act No. 103, the law creating the CIR empowered the CIR to adopt its own rules of procedure. [21] It is therefore well within the powers of the CIR to formulate rules in its discretion to carry out the purpose of the enabling Act, which is "to afford protection to labor." To the extent that the CIR is empowered to act, it is, in the words of the then Justice (now Chief Justice) Fernando, "called upon to do so with promptitude and dispatch . . . to avoid unnecessary delay which works against the rights of labor." [22] With this purpose in mind and considering also the principle underlying R.A. No. 875 under which the main cause was certified, which is to promote industrial peace, the four-day period fixed by the CIR in Section 17-A is not unreasonable at all. Moreover, in a certified case, the Industrial Court's powers become more expanded in scope. [23] Therefore, in dismissing the instant motion for reconsideration because it was filed beyond the reglementary period of four (4) days as provided in Section 17-A, Rules of the CIR, as stated in the Resolution en banc, the CIR did not commit a grave abuse of discretion. As has been held in the recent case of *National Waterworks Sewerage Authority vs. NWSA Consolidated Unions, et al.* [24]

"the uniform rule adhered to in IPA cases is that motions for reconsiderations together with supporting arguments should be filed within four (4) days from a party's receipt of the basic order or decision."

Further, in *Manila Metal Caps and Tin Cans Manufacturing Co., Inc., vs. Court of Industrial Relations, et al.*, this Court held that [25]

"the no-extension policy or rule of the Rules of the Court of Industrial Relations in the case of the motion for reconsideration and the filing of the memorandum supporting its arguments must be observed."

Likewise, this Court has ruled in a number of CIR cases that failure to observe the periods for filing the motion for reconsideration and the supporting arguments is sufficient cause for dismissing the motion. [26]

IN VIEW OF THE FOREGOING, the Order and Resolution en banc appealed from are hereby affirmed.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Fernandez, Guerrero, and Melencio-Herrera, JJ., concur.

[1] p. 34, Rollo.

[2] p. 6, Petitioner's Brief.

[3] pp. 31-34, Rollo.

[4] Annex "B" to petition, pp. 23-26, Rollo.

[5] p. 40, Original Record.

[6] Exhibit "C", "C-1", "C-2", pp. 20-22, Id.

[7] p. 33, Rollo.

[8] p. 37, Id.

[9] Annex "P", to petition, p. 48, Rollo.

[10] Government Service Insurance System vs. Government Service Insurance System Supervisors' Union, L-39575, August 31, 1978, 85 SCRA 90.

[11] p. 104, Id.

[12] Referred to in the Minutes of the Meeting of the Board of Trustees of GSIS held on October 16, 1969, Exhibit "E", pp. 25-28, Original Record.

[13] According to the Minutes of the same Record meeting, this Order resolved the Motions filed by Benedicto Prudon's faction, which manifested, among others, that "if management will fill up the vacant positions without first seeking the approval of this Court as enjoined in the Order" promulgated on March 5, 1969, "the petitioner will have no alternative but to strike again." p. 27, Id.

[14] p. 30, Id.

[15] p. 12, Petitioner's Brief.

[16] p. 126-130, Rollo.

[17] p. 9, Petitioner's Brief.

[18] p. 8, id.

[19] Section 10 Labor Disputes in Industries Indispensable to the National Interest. - When in the opinion of the President of the Philippines there exists a labor dispute in an industry indispensable to the national interest and when such labor dispute is certified by the President of the Court of Industrial Relations, and said Court may cause to be issued a restraining order forbidding the employees to strike or the employer to lockout the employees, pending an investigation by the Court, and if no other solution to the dispute is found the Court may issue an order fixing the terms and conditions of employment.

[20] p. 10, Petitioner's Brief.

[21] Sec. 20, CA No. 103 partly states: "The Court of Industrial Relations shall adopt its rules of procedure and

shall have such other powers as generally pertain to a court of justice..."

[22] Philippine Charity Sweepstakes Employees Association-PAFLU, Hermilio Rosal, et al. vs. Court of Industrial Relations and Philippine Charity Sweepstakes Office, 46 SCRA 754-757 (1972).

[23] Philippine Air Lines Employees Association (PALEA) vs. Court of Industrial Relations, 74 SCRA 100, 104 (1976); Feati University v. Hon. Jose S. Bautista, etc., et al., 18 SCRA 1191 (1961); Rizal Cement Workers Union (FFU) v. Court of Industrial Relations, 6 SCRA 841 (1962).

[24] 79 SCRA 246 (1971).

[25] 8 SCRA 552, 558 (1963).

[26] Bien, et al. vs. Castillo, et. al., 97 Phil. 956 (1955); Pangasinan Employees, Laborers and Tenant Association vs. Judge Martinez, et al., 108 Phil. 89 (1960); Luzon Stevedoring Co., Inc., et al. vs. Court of Industrial Relations, 8 SCRA 447 (1963); Manila Metal Caps & Tin Cans Manufacturing Co., Inc. vs. Court of Industrial Relations and Manila Metal Caps and Tin Cans Labor Union (PAFLU), 8 SCRA 552 (1963).

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