

ADRIANO DELA CONCEPCION AND 164 OTHERS, PETITIONERS, VS. MINDANAO PORTLAND CEMENT CORPORATION, MINISTER OF LABOR, RESPONDENTS.

G.R. No. 57078. February 20, 1984

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

Petitioners seek the reversal of the Resolution dated March 10, 1978 of the Minister of Labor affirming in toto the decision dated December 23, 1976 of the National Labor Relations Commission dismissing the complaint in NLRC Case No. 215-76 for Non-payment of Emergency Living Allowance (Violation of PD No. 525 and Letter of Instruction No. 174).

The Solicitor General was required to file comment but instead of submitting his comment on the petition, filed a manifestation that he cannot sustain the questioned decision and moved that he be relieved from the task of preparing such comment.

Petitioners allege in their complaint that the Proposed Salary Adjustment of Plant Employees of respondent Corporation was not in substantial compliance with PD 525 and LOI 174 since by mere glancing at the rate or amount of the alleged increase, ranging from a lowly sum of twenty-five (P0.25) centavos a day to fifty (P50.00) pesos a month, one can readily conclude that it was not really meant to take the place of the emergency allowance mandated by law. They however admitted that the company responded to the President's appeal to grant emergency living allowance of P50 each month, but only for a brief span of three (3) months, from February to May, 1974 and thereafter, it was cancelled pursuant to an Office Order No. 74-74 designated as "Salary Adjustment of Plant Employees.[1] In addition, petitioners averred that the said order was implemented to do away with the mandatory compliance with the presidential decree and letter of instruction, and that the salary adjustment which was purely a management increase based on "merit system" and "job efficiency of the workers," cannot be considered as a substitute for the emergency living allowance.

The Executive Labor Arbiter on December 23, 1976, dismissed the worker's complaint on a holding that the P50.00 emergency cost of living allowance can adequately be absorbed by the salary adjustment since it was categorically stated by the company that the said allowance was already incorporated to the basic salary.

The National Labor Relations affirmed in toto the arbiter's decision on appeal, thus prompting the workers to file the instant petition for certiorari raising lone issue of whether or not the salary adjustment granted to the workers can be considered as the emergency living allowance provided for under PD No. 525 in connection with letter of Instruction No. 174.

Petitioners assail the injustice and discrimination committed by respondent company, taking into account the rates of increases given which were very much below than what was mandated by the law. They likewise argued that the company failed to prove compliance with the decree and the letter of instruction.

Respondent company, on the other hand, countered that Office Order No. 74-74 was for dual purpose, first: to incorporate in the basic pay of the employees the emergency cost of living allowance, and second: to implement a merit increase to deserving employees in accordance with the recommendation of the respective department heads; that the incorporation of the emergency cost of living allowance is legal and proper since the Rules and Regulations Implementing PD 525 will yield the explicit, unmistakable and unequivocal intent of the lawmaker not to prohibit employers from incorporating into the basic pay the said allowance; that by the very nature of a merit increase, not all employees will get an increase because employees have varying competence and efficiency in their jobs and that it is highly incredible that the company will just simply cancel the allowance without incorporating the same in the basic pay, thereby courting criminal prosecution under the decree.

We find for the petitioners.

It is worth mentioning that as early as January 4, 1974, the President in his speech at the inauguration of the Central Bank Building, issued an appeal to employers in the private sector to adopt measures to augment the earnings of low-income workers who were greatly affected due to the increases in prices of prime commodities. Such appeal was reiterated by the President when he issued PD No. 390 granting emergency allowances to government employees where he stressed that there is need to alleviate the plight of low wage earners to meet the impact of the rising prices of commodities.

There is no dispute that the emergency cost of living allowance was granted to petitioners but for only a short period of time and it was cancelled by virtue of Office Order No. 74-74. It was claimed by respondent company that the allowance was incorporated into the basic salary of the employees and such incorporation is sanctioned by law. The NLRC heavily relied on the statement made by respondent company that the allowance was incorporated into the basic salary of the employees[2] although there is no showing that such incorporation was actually made. Petitioners have no access to the records and documents of the company, hence, the burden lies on the latter to prove compliance with the decree. We do not question the propriety of incorporating the allowance into the basic pay for that is not the issue at bar and besides, the incorporation is allowed by law.

Workers who belong to the low-income group should be amply protected by law from abuses committed by their employers. The maxim "Those who have less in life should have more in law" clearly applies to herein petitioners. Respondent company tried to circumvent the decree in the guise of salary adjustment and increases. Further, LOI 174 provides for certain guidelines in the implementation of the grant of the emergency cost of living allowance. Provision No. 7 of said LOI 174 allowed the crediting of the benefits to the employees as emergency allowance as long as they substantially conform with the guidelines set forth. Respondent company is capitalized at more than P1 million and under provision No. 3 of LOI 174, the emergency allowance recommended was P50.00 each. The salary increases made ranged from P0.25 a day to P/50.00 a month. As a whole, there was no substantial compliance with the provision. We also note that out of the 165 employers, only 42 were given increases. Such increases may not be credited as emergency cost of living allowance. Sec. 6 of the Interpretative Bulletin on LOI No. 174 specifically provides:

" SEC. 6. Allowances under LOI. – All allowances, bonuses, wage adjustments and other benefits given by employers to their employees shall be treated by the Department of Labor as in substantial compliance with the minimum standards set forth in LOI No. 174 if:

(a) they conform with at least the minimum allowances scales specified in the immediately preceding Section.
x x x"

The "immediately preceding section" referred to states:

"SEC. 5. Determination of Amount of Allowances. - In determining the amount of allowances that should be

given by employers to meet the recommended minimum standards, the LOI has classified employers into three general categories. As an implementation policy, the Department of Labor shall consider as sufficient compliance with the scales of allowances recommended by the LOI if the following monthly allowances are given by employers:

(a) P50.00 or higher where the authorized capital stock of the corporation, or the total assets in the case of other undertakings, exceeds P1 million."

x x x

Evidently, respondent company failed to show compliance with the decree and this being so, an affirmance of the assailed decision and resolution is not warranted. Time and again, the Court has upheld the constitutional mandate of protection to labor and therefore, employers who are more in an advantageous position than their employees, should be more compassionate to their worker's need for without them, businesses would cease to operate.

The findings of the NLRC are binding with the Court only if said findings are supported by substantial evidence. Such a circumstance is not obtaining in this case hence, the relief prayed for by petitioners must be granted.

ACCORDINGLY, the resolution dated March 10, 1978 of the Minister of Labor and the decision dated December 23, 1976 of the NLRC are hereby SET ASIDE. No Costs.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Guerrero, Abad Santos, and Escolin, JJ., concur.

Aquino, J., concurred. The employer should pay the petitioners mandated in LOI No. 174.

[1] p. 132, Rollo.

[2] Decision, p. 168, Rollo

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