

DENTECH MANUFACTURING CORPORATION AND JACINTO LEDESMA IN HIS CAPACITY AS GENERAL MANAGER, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, CCLU, BENJAMIN MARBELLA, ARMANDO ...

G.R. No. 81477. April 19, 1989

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The principal issue in this Petition is whether or not the private respondents are entitled as a matter of right to a 13th month pay.

The herein petitioner Dentech Manufacturing Corporation is a domestic corporation organized under Philippine laws. Before the firm became a corporate entity, it was known as the J. L. Ledesma Enterprises, a sole proprietorship owned by the herein petitioner Jacinto Ledesma. At present, he is the president and general manager of the corporation as well as the owner of the controlling interest thereof. The firm is engaged in the manufacture and sale of dental equipment and supplies.

The herein private respondents Benjamin Marbella, Armando Torno, Juanito Tajan, Jr. and Joel Torno are members of the Confederation of Citizens Labor Union, a labor organization registered with the Department of Labor and Employment. They used to be the employees of the petitioner firm, working therein as welders, upholsterers and painters. They were already employed with the company when it was still a sole proprietorship. They were dismissed from the firm beginning February 14, 1985.

On June 26, 1985, the private respondents filed a Complaint with the arbitration branch of the respondent National Labor Relations Commission (NLRC) against the petitioners for, among others, illegal dismissal and violation of Presidential Decree No. 851.[1] They were originally joined by another employee, one Raymundo Labarda, who later withdrew his Complaint.

At first, they only sought the payment of their 13th month pay under Presidential Decree No. 851 as well as their separation pay, and the refund of the cash bond they filed with the company at the start of their employment. Later on, they sought their reinstatement as well as the payment of their 13th month pay and service incentive leave pay, and separation pay in the event that they are not reinstated. It is alleged in the Complaint and Position Paper accompanying the same that they were dismissed from the firm for pursuing union activities.[2]

On the other hand, the petitioners alleged in their Position Paper that the private respondents were not dismissed from the firm on account of their union activities. They maintained that the private respondents abandoned their work without informing the company about their reasons for doing so and that, accordingly, the private respondents are not entitled to service incentive leave pay and separation pay.

The petitioners also argued that the private respondents are not entitled to a 13th month pay. They maintained that each of the private respondents receive a total monthly compensation of more than P1,000.00 and that under

Section 1 of Presidential Decree No. 851, such employees are not entitled to receive a 13th month pay. The petitioners likewise alleged that the company is in bad financial shape and that pursuant to Section 3 of the Decree, the firm is exempted from complying with the provisions of the Decree.[3]

A hearing was conducted to allow the parties to further ventilate their views. Thereafter, the labor arbiter assigned to the case rendered a Decision dated January 28, 1987, the pertinent portions of which are as follows --

"Noticeable in this case is that complainants initially made manifest their lack of intent to seek reinstatement and their preference to collect their separation pay. Towards the end of (the) proceedings this was changed to preference for reinstatement xxx. On the other hand, respondent has indicated with sufficient clarity even at the inception of the case that it is charging complainant with abandonment and is willing to accept them back to work. In short, while complainants supposedly wanted to report for work and respondents, supposedly xxx willing to accept them back to work, we cannot imagine why the parties never achieved (an) understanding on this aspect.

"In line with the above manifestation of the parties, we hereby order the reinstatement of complainants. We also find respondent's contention for exemption in the payment of (the) 13th month pay as without validity (sic). The ceiling of P1,000.00 a month in the matter of 13th month pay has been removed and complainants are entitled to receive from respondents at least the unprescribed 13th month pay for the last three years based on their uncontroverted pleadings. This order includes the money value of the service incentive leave pay of complainants and the cash bond xxx.

" xxx.

"Premises considered, judgment is hereby rendered ordering respondents to reinstate complainants to their former positions, without backwages and to pay them the following amounts:

1. Benjamin Marbella - P3,921.00

2. Armando Torno - 3,828.00

3. Juanito Tajan, Jr. - 3,270.00

4. Joel Torno - P 878 00

P11,897.00

"x x x.

"All other claims are hereby dismissed."[4]

Both parties filed their respective appeals with the NLRC. The petitioners maintained that no provision of law was cited in the Decision of the labor arbiter to support the view therein that the 13th month pay ceiling of P1,000.00 had been duly eliminated. The petitioners went on to reiterate that the firm is in bad financial shape and is, therefore, exempted from complying with the provisions of Presidential Decree No. 851. The petitioners added that the refund of the cash bond filed by the private respondents should not have been ordered by the labor arbiter inasmuch as the proceeds of the same had already been given by the company to a certain carinderia[5] to pay for the outstanding accounts of the private respondents therein.[6]

In a Resolution dated November 4, 1987, the Third Division of the NLRC affirmed the Decision of the labor arbiter. The pertinent portions thereof are as follows--

"The award of 13th month pay to the complainants is assailed by the respondents for the reason that no provision of law was cited in the decision supporting the statement that the ceiling of 13th month pay (sic) has been removed.

"For the record, Memorandum Order No. 28 issued by President Corazon C. Aquino modified Presidential Decree No. 851 to the extent that all employers are xxx (now) required to pay all their rank-and-file employees 13th month pay, thus in effect removing from exclusion from entitlement to the (sic) 13th month pay those employees who were receiving a basic salary of more than P1,000.00 a month.

"At any rate, the simple assertion of the respondent that it is in financial distress and thus exempt (sic) from payment of 13th month pay (sic) to the complainants is not in itself sufficient to evade payment of the 13th month pay to which complainants were entitled prior to the commencement of the respondent's financial problems.

"The cash bond required of complainants is likewise in direct contravention to (sic) the provisions of Article 114 of the Labor Code, as amended. Thus, the refund of the cash bond appears to be in order."[7]

On January 29, 1988, the petitioners elevated the case to this Court by way of the instant Petition. The private respondents, however, decided not to challenge the Resolution of the NLRC.

The main pleading is erroneously captioned "Petition For Review On Certiorari." This error notwithstanding, and in the interest of justice, this Court resolved to treat the instant Petition as a special civil action for certiorari under Rule 65 of the Rules of Court on account of a number of jurisdictional issues raised by the petitioners.

The petitioners reiterate their contention that the private respondents abandoned their work. In support of this claim, they call attention to the alleged testimony of the general manager of the petitioner firm.[8] The petitioners likewise maintain that the company is a financially distressed firm exempted from complying with the provisions of Presidential Decree No. 851.[9]

The petitioners also contend that Memorandum Order No. 28 cited by the NLRC cannot apply to the case at bar. They point out that the said Memorandum Order was signed into law only in 1986, long after the case was instituted with the NLRC and, accordingly, the same cannot be given a retroactive effect.[10] It is likewise the position of the petitioners that the refund of the cash bond filed by the private respondents is improper inasmuch as the proceeds of the same had already been given to a certain carinderia to pay for the outstanding accounts of the private respondents therein.[11]

As instructed by the Court, the respondents filed their respective comments on the Petition. In seeking the dismissal of the Petition, the Solicitor General points out that each of the private respondents is actually paid less than P1,000.00 a month and that, accordingly, they are entitled to a 13th month pay pursuant to Presidential Decree No. 851. The Solicitor General also argues that under the rules and regulations implementing the said Decree, a distressed employer shall qualify for exemption from the requirements of the Decree only upon prior authorization from the Secretary of Labor and Employment. The Solicitor General manifests that no such prior authorization had been obtained by the petitioner firm. The Solicitor General likewise maintains that the P1,000.00 ceiling recited in Presidential Decree No. 851 has been eliminated by Presidential Decree No. 1364, promulgated on May 1, 1978.[12]

As to the refund of the cash bond filed by the private respondents, the Solicitor General submits that such cash bond required from the private respondents is disallowed under Article 114 of the Labor Code.[13]

After the parties submitted other supplementary pleadings, the Court resolved to give due course to the Petition, and to consider the case submitted for decision.

The Petition is devoid of merit.

Presidential Decree No. 851 was signed into law in 1975 by then President Ferdinand Marcos. Under the original provisions of Section 1 thereof, all employees are required to pay all their employees receiving a basic salary of

not more than P1,000.00 a month, regardless of the nature of their employment, a 13th month pay not later than December 24 of every year. Under Section 3 of the rules and regulations implementing said Presidential Decree financially distressed employers, i., e., those currently incurring substantial losses, are not covered by the Decree. Section 7 thereof requires, however, that such distressed employers must obtain the prior authorization of the Secretary of Labor and Employment before they may qualify for such exemption.

On May 1, 1978, Presidential Decree No. 1364 was signed into law.[14] The Decree enjoined the Department of Labor and Employment to stop accepting applications for exemption under, inter alia, Presidential Decree No. 851.

On August 13, 1986, President Corazon C. Aquino issued Memorandum Order No. 28 which modified Section 1 of Presidential Decree No. 851. The said issuance eliminated the P1,000.00 salary ceiling.

From the foregoing, it clearly appears that the petitioners have no basis to claim that the company is exempted from complying with the pertinent provisions of the law relating to the payment of 13th month compensation.

The P1,000.00 salary ceiling provided in Presidential Decree No. 851 pertains to basic salary, not total monthly compensation. The petitioners admit that the private respondents work only five days a week and that they each receive a basic daily wage of P40.00 only. A simple computation of the basic daily wage multiplied by the number of working days in a month results in an amount of less than P1,000.00. Thus, there is no basis for the contention that the company is exempted from the provision of Presidential Decree No. 851 which mandated the payment of 13th month compensation to employees receiving less than P1,000.00 a month.

Even assuming, arguendo, that the private respondents are each paid a monthly salary of over P1,000.00, the company is still not in a position to claim exemption. The rules and regulations implementing Presidential Decree No. 851 provide that a distressed employer shall qualify for exemption from the requirements of the Decree only upon prior authorization from the Secretary of Labor and Employment. As correctly pointed out by the Solicitor General, no such prior authorization had been obtained by the petitioner firm.

The refund of the cash bond filed by the private respondents is in order. Article 114 of the Labor Code prohibits an employer from requiring his employees to file a cash bond or to make deposits, subject to certain exceptions, to wit --

"Art. 114. Deposits for loss or damage.-- No employer shall require his worker to make deposits from which deductions shall be made for the reimbursement of loss of or damage to tools, materials, or equipment supplied by the employer, except when the employer is engaged in such trades, occupations or business where the practice of making deductions or requiring deposits is a recognized one, or is necessary or desirable as determined by the Secretary of Labor in appropriate rules and regulations."

The petitioners have not satisfactorily disputed the applicability of this provision of the Labor Code to the case at bar. Considering further that the petitioners failed to show that the company is authorized by law to require the private respondents to file the cash bond in question, the refund thereof is in order.

The allegation of the petitioners to the effect that the proceeds of the cash bond had already been given to a certain carinderia to pay for the accounts of the private respondents therein does not merit serious consideration. As correctly observed by the Solicitor General, no evidence or receipt has been shown to prove such payment.

Accordingly, the Court is not convinced that the respondent National Labor Relations Commission committed a grave abuse of discretion amounting to loss of jurisdiction in affirming the Decision of the labor arbiter.

WHEREFORE, in view of the foregoing, the instant Petition is hereby DISMISSED for lack of merit. We make

no pronouncement as to costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Presidential Decree No. 851 provides for the payment of the so-called 13th month pay to specified employees. The Decree was signed into law on December 16, 1975.

[2] Pages 11 to 18, Rollo.

[3] Pages 19 to 26, Rollo.

[4] Pages 34 and 35 Rollo.

[5] A carinderia is a modest cafeteria.

[6] Page 38, Rollo.

[7] Pages 44 and 45, Rollo

[8] Pages 4 and 5, Petition; pages 5 and 6, Rollo.

[9] Page 6, Petition; page 7, Rollo.

[10] Pages 5 and 6, Petition; pages 6 and 7, Rollo.

[11] Page 6, Petition; page 7, Rollo.

[12] Pages 64 to 66, Rollo.

[13] Presidential Decree No. 442, as amended.

[14] The Decree carries the descriptive title "Abolishing Exemptions Under Presidential Decrees 525, 1123, 851 and 928."

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