

**CEBU OXYGEN & ACETYLENE CO., INC. (COACO), PETITIONER,
VS. SECRETARY FRANKLIN M. DRILON OF THE DEPARTMENT OF
LABOR AND EMPLOYMENT, ASSISTANT REGIONAL DIRECTOR
CANDIDO CUMBA OF T...**

G.R. No. 82849. August 02, 1989

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The principal issue raised in this petition is whether or not an Implementing Order of the Secretary of Labor and Employment (DOLE) can provide for a prohibition not contemplated by the law it seeks to implement.

The undisputed facts are as follows:

Petitioner and the union of its rank and file employees, Cebu Oxygen Acetylene and Central Visayas Employees Association (COAVEA) entered into a collective bargaining agreement (CBA) covering the years 1986 to 1988. Pursuant thereto, the management gave salary increases as follows:

"ARTICLE IV - SALARIES/RICE RATION

"Section 1. The COMPANY agrees that for and during the three (3) year effectivity of this AGREEMENT, it will grant to all regular covered employees the following salary increases:

Salaries:

1) For the first year which will be paid on January 14, 1986 - P200 to each covered employee.

IT IS HEREBY EXPRESSLY AGREED AND UNDERSTOOD THAT THIS PAY INCREASE SHALL BE CREDITED AS PAYMENT TO ANY MANDATED GOVERNMENT WAGE ADJUSTMENT OR ALLOWANCE INCREASES WHICH MAY BE ISSUED BY WAY OF LEGISLATION, DECREE OR PRESIDENTIAL EDICT COUNTED FROM THE ABOVE DATE TO THE NEXT INCREASE.

2. For the second year which will be paid on January 16, 1987 - P200 to each covered employee.

IT IS HEREBY EXPRESSLY AGREED AND UNDERSTOOD THAT THIS PAY INCREASE SHALL BE CREDITED AS PAYMENT TO ANY MANDATED GOVERNMENT WAGE ADJUSTMENT OR ALLOWANCE INCREASES WHICH MAY BE ISSUED BY WAY OF LEGISLATION, DECREE OR PRESIDENTIAL EDICT COUNTED FROM THE ABOVE DATE TO THE NEXT INCREASE.

3) For the third year which will be paid on January 16, 1988 - P300 to each covered employee.

IT IS HEREBY EXPRESSLY AGREED AND UNDERSTOOD THAT THIS PAY INCREASE SHALL BE CREDITED AS PAYMENT TO ANY MANDATED GOVERNMENT WAGE ADJUSTMENT OR ALLOWANCE INCREASES WHICH MAY BE ISSUED BY WAY OF LEGISLATION, DECREE OR

PRESIDENTIAL EDICT COUNTED FROM THE ABOVE DATE TO THE NEXT INCREASE.

IF THE WAGE ADJUSTMENT OF ALLOWANCE INCREASES DECREED BY LAW, LEGISLATION OR PRESIDENTIAL EDICT IN ANY PARTICULAR YEAR SHALL BE HIGHER THAN THE FOREGOING INCREASES IN THAT PARTICULAR YEAR, THEN THE COMPANY SHALL PAY THE DIFFERENCE."

On December 14, 1987, Republic Act No. 6640 was passed increasing the minimum wage, as follows:

"Sec. 2. The statutory minimum wage rates of workers and employees in the private sector, whether agricultural or non-agricultural, shall be increased by ten pesos (P10.00) per day, except non-agricultural workers and employees outside Metro Manila who shall receive an increase of eleven pesos (P11.00) per day: Provided, that those already receiving above the minimum wage up to one hundred pesos (P100.00) shall receive an increase of ten pesos (P10.00) per day. Excepted from the provisions of this Act are domestic helpers and persons employed in the personal service of another."

The Secretary of Labor issued the pertinent rules implementing the provisions of Republic Act No. 6640. Section 8 thereof provides:

"Section 8. Wage Increase Under Individual/Collective Agreements. - No wage increase shall be credited as compliance with the increase prescribed herein unless expressly provided under valid individual written/collective agreements; and, provided further, that such wage increase was granted in anticipation of the legislated wage increase under the act. Such increases shall not include anniversary wage increases provided on collective agreements."

In sum, Section 8 of the implementing rules prohibits the employer from crediting anniversary wage increases negotiated under a collective bargaining agreement against such wage increases mandated by Republic Act No. 6640.

Accordingly, petitioner credited the first year increase of P200.00 under the CBA and added the difference of P61.66 (rounded to P62.00) and P31.00 to the monthly salary and the 13th month pay, respectively, of its employees from the effectivity of Republic Act No. 6640 on December 14, 1987 to February 15, 1988.

On February 22, 1988, a Labor and Employment Development Officer, pursuant to Inspection Authority No. 058-88, commenced a routine inspection of petitioner's establishment. Upon completion of the inspection on March 10, 1988, and based on payrolls and other records, he found that petitioner committed violations of the law as follows:

1. Underpayment of Basic Wage per R.A. No. 6640 covering the period of two (2) months representing 208 employees who are not receiving wages above P100/day prior to the effectivity of R.A. No. 6640 in the aggregate amount of EIGHTY THREE THOUSAND AND TWO HUNDRED PESOS (P83,200.00); and
2. Underpayment of 13th month pay for the year 1987, representing 208 employees who are not receiving wages above P100/day prior to the effectivity of R.A. No. 6640 in the aggregate amount of FORTY EIGHT THOUSAND AND FORTY EIGHT PESOS (P48,048.00).

On April 7, 1988, respondent Assistant Regional Director, issued an Order instructing petitioner to pay its 208 employees the aggregate amount of P131,248.00, computed as follows:

Computation sheet of differentials due to COACO-Cebu Workers.

Salary Differentials:

"a) From December 14/87 to February 15/88

= P200.00/mo. x 2 months

= P400.00

= P400 x 208 employees (who are not receiving above P100/day as wages before the effectivity of R.A. No. 6640)

= P83,200.00

“b) 13th month pay differentials of the year 1987:

= P231.00 x 208 employees (who are not receiving above P100/day as wages before the effectivity of R.A. No. 6640)

= P 48, 048.00

Total = P131,248.00

In sum, the Assistant Regional Director ordered petitioner to pay the deficiency of P200.00 in the monthly salary and P231.00 in the 13th month pay of its employees for the period stated.

Petitioner protested the Order of the Regional Director on the ground that the anniversary wage increases under the CBA can be credited against the wage increase mandated by Republic Act No. 6640. Hence, petitioner contended that inasmuch as it had credited the first year increase negotiated under the CBA, it was liable only for a salary differential of P62.00 and a 13th month pay differential of P31.00. Petitioner argued that the payment of the differentials constitutes full compliance with Republic Act No. 6640. Apparently, the protest was not entertained.

Petitioner brought the case immediately to this Court without appealing the matter to the Secretary of Labor and Employment. On May 9, 1988, this Court issued a temporary restraining order enjoining the Assistant Regional Director from enforcing his Order dated April 7, 1988.[1]

The thrust of the argument of petitioner is that Section 8 of the rules implementing the provisions of Republic Act No. 6640 particularly the provision excluding anniversary wage increases from being credited to the wage increase provided by said law is null and void on the ground that the same unduly expands the provisions of the said law.

This petition is impressed with merit.

Public respondents aver that petitioner should have first appealed to the Secretary of Labor before going to court. It is fundamental that in a case where only pure questions of law are raised, the doctrine of exhaustion of administrative remedies cannot apply because issues of law cannot be resolved with finality by the administrative officer. Appeal to the administrative officer of orders involving questions of law would be an exercise in futility since administrative officers cannot decide such issues with finality.[2] The questions raised in this petition are questions of law. Hence, the failure to exhaust administrative remedies cannot be considered fatal to this petition.

As to the issue of the validity of Section 8 of the rules implementing Republic Act No. 6640, which prohibits the employer from crediting the anniversary wage increases provided in collective bargaining agreements, it is a fundamental rule that implementing rules cannot add or detract from the provisions of law it is designed to implement. The provisions of Republic Act No. 6640, do not prohibit the crediting of CBA anniversary wage increases for purposes of compliance with Republic Act No. 6640. The implementing rules cannot provide for such a prohibition not contemplated by the law.

Administrative regulations adopted under legislative authority by a particular department must be in harmony with the provisions of the law, and should be for the sole purpose of carrying into effect its general provisions. The law itself cannot be expanded by such regulations. An administrative agency cannot amend an act of Congress.[3]

Thus petitioner's contention that the salary increases granted by it pursuant to the existing CBA including anniversary wage increases should be considered in determining compliance with the wage increase mandated by Republic Act No. 6640, is correct. However, the amount that should only be credited to petitioner is the wage increase for 1987 under the CBA when the law took effect. The wage increase for 1986 had already accrued in favor of the employees even before the said law was enacted.

Petitioner therefor correctly credited its employees P62.00 for the differential of two (2) months increase and P31.00 each for the differential in 13th month pay, after deducting the P200.00 anniversary wage increase for 1987 under the CBA.

Indeed, it is stipulated in the CBA that in case any wage adjustment or allowance increase decreed by law, legislation or presidential edict in any particular year shall be higher than the foregoing increase in that particular year, then the company (petitioner) shall pay the difference.

WHEREFORE, the petition is hereby GRANTED. The Order of the respondent Assistant Regional Director dated April 7, 1988 is modified in that petitioner is directed to pay its 208 employees so entitled the amount of P62.00 each as salary differential for two (2) months and P31.00 as 13th month pay differential in full compliance with the provisions of Republic Act No. 6640. Section 8 of the rules implementing Republic 6640, is hereby declared null and void in so far as it excludes the anniversary wage increases negotiated under collective bargaining agreements from being credited to the wage increase provided for under Republic Act No. 6440. This decision is immediately executory.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

[1] Pages 36 and 37, Rollo.

[2] Pascual vs. Provincial Board of Nueva Ecija, 106 Phil. 466 (1959); Mondano vs. Silvosa, 97 Phil. 143 (1955).

[3] Manuel vs. General Auditing Office, 42 SCRA 660 (1971).

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