

NATIONAL FEDERATION OF LABOR UNIONS (NAFLU), AND FLORANTE ONGBUECO, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, AND UNION AJINOMOTO, INC., RESPONDENTS.

G.R. No. 90739. October 03, 1991

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

Florante Ongbueco was an OIC and First Production Staff Engineer[1] or the private respondent, Union Ajinomoto, Inc. (Ajinomoto, for brevity). Sometime in September 1982, the Bureau of Energy (BEU, for brevity), pursuant to B.P. 73, otherwise known as the Omnibus Energy Conservation Law, required Ajinomoto to appoint an employee who would act as its Energy Manager.[2] The duties and responsibilities of the Energy Manager were outlined, thus:

1. Design, plan, implement, monitor, and evaluate energy conservation programs and activities of his establishment.
2. Organize an energy conservation committee or the like in his establishment and to head such committee.
3. Submit energy consumption reports and energy conservation programs to the Bureau of Energy Utilization.
4. Cooperate with the Ministry of Energy in the conduct of energy utilization efficiency.
5. Train his employer's personnel on energy conservation as part of the company's energy conservation education effort.[3]

This order was followed by a letter[4] dated April 25, 1983 reminding Ajinomoto to submit its Quarterly Energy Consumption Reports, as provided for by the said B. P. 73.

The task of preparing the required reports in conformance with BEU's April 25, 1983 letter was thus assigned to Engr. Ongbueco from then on, plus he was given the additional assignment of preparing all the reports required by the BEU.

In a succeeding correspondence,[5] the BEU requested Ajinomoto to submit the name and bio-data of the employee it had designated as its Energy Manager. And, in compliance with this directive, Ajinomoto, on December 8, 1983, appointed Engr. Ongbueco as Energy Manager.[6]

Thereafter, by using the form attached to the letter, as advised, Ajinomoto furnished the BEU with the name and bio-data of its newly appointed Energy Manager, Florante Ongbueco.

Ajinomoto deemed it unnecessary to provide Engr. Ongbueco with a salary increase since his designation as Energy Manager supposedly did not entail additional responsibilities other than the preparation of the required consumption reports which he had already been attending to even prior to his appointment.[7] For nearly three

years, Engr. Ongbueco performed his role as Energy Manager. The arrangement remained undisturbed.

However, on July 7, 1986, Engr. Ongbueco filed a complaint^[8] with the National Labor Relations Commission (NLRC, for brevity) for underpayment of salary from December 1983, and on September 22, 1986, an amended complaint,^[9] claiming that his promotion to the rank of Energy Manager, entitled him to a corresponding salary increase.

On November 27, 1987, Labor Arbiter Donato Quinto, Jr. rendered judgment in favor of the petitioner, Engr. Ongbueco. The dispositive portion of the decision reads:

WHEREFORE, in the light of the foregoing premises, judgment is hereby rendered declaring complainant to have been properly promoted with his appointment as Energy Manager and consequently ordering respondent to properly adjust the salary of herein complainant commensurate to the position he was appointed and promoted [sic], in accordance with respondent [sic] pay scale level, but not lower than the rank of Section Head.

SO ORDERED.^[10]

Private respondent Ajinomoto appealed to the NLRC, whose Fourth Division affirmed, on May 6, 1988, the Labor Arbiter's decision.^[11] Ajinomoto's subsequent motion for reconsideration was denied by a resolution issued by the same Fourth Division on June 16, 1988.^[12] Still not satisfied, Ajinomoto filed a Second Motion for Reconsideration with a Prayer to Refer the Case to the Commission En Banc.^[13] During its pendency however, the Secretary of the Department of Labor and Employment issued Administrative Order 36, pursuant to R. A. 6715, ordering the cessation of holding En Banc sessions for the purpose of hearing and disposing cases, and authorizing the NLRC to discharge its adjudicating functions through its respective Divisions.

The present case was then re-raffled and assigned to the Second Division of the NLRC which entertained the motion. On September 29, 1989, the Second Division rendered a decision^[14] reversing and setting aside the decision and the resolution of the Fourth Division. The Second Division disposed as follows:

WHEREFORE, the appealed decision is hereby Reversed and Set Aside and a new one entered dismissing the complaint for underpayment for lack of merit.^[15]

Hence, this special civil action for certiorari.

The present action is basically anchored on the petitioner's supposition that his position as Energy Manager is of a permanent nature considering the continuing policy of the State regarding energy conservation, and constitutes a promotion in rank from a rank-and-file level to a managerial position.^[16] Consequently, he asks for what he presumes a corresponding salary increase. He supports his demand by citing numerous energy conservation awards received by Ajinomoto, for instance, The Don Emilio Abello Award for three consecutive years, supposedly all made possible through his actual efforts, "God-Given talent and ability."^[17]

The petitioner then invokes the oft-repeated pronouncement that doubts in the interpretation and implementation of the labor laws should be resolved in favor of labor^[18] in justifying his allegation that even if B.P. 73 does not state a salary nor an increase in the salary of the employee to be appointed as an energy manager, it would not have been the intention of the law-making authority to do injustice to the employee concerned.^[19] Thus, he claims that the ambiguity created by B.P. 73 should be resolved in his favor.

Finally, he asserts that the labor arbiter is vested with the power to order an increase in his (the petitioner's) salary by reason of his (the petitioner's) promotion to the rank of Energy Manager. To support his contention, the petitioner quotes Article 217[*] of the Labor Code:

Art. 217. Jurisdiction of Labor Arbiters and the Commission. (a) The Labor Arbiters shall have the original and exclusive jurisdiction to hear and decide x x x, the following cases x x x;

x x x x x x x x

3. All money claims of workers, including those based on non-payment or underpayment of wages, overtime compensation, separation pay and other benefits provided by law or appropriate agreement, except claims for employees compensation, social security, medicare and maternity benefits;

x x x x x x x x

The respondents, on the other hand, have a common defense. They argue that there is no particular labor law nor contract of employment upon which the petitioner may anchor his claim for a salary increase. And although the duties and responsibilities of the Energy Manager have been outlined, the petitioner was appointed as Energy Manager, not to design and implement an energy conservation program for the company, as an effective scheme was already well in place even prior to the enactment of B.P. 73, but merely to comply with the law requiring the appointment of an Energy Manager.[20]

The respondents also aver that the petitioner could not have been promoted to managerial level as he was not vested with any powers and prerogatives of a managerial employee.[21] His appointment as Energy Manager was simply a lateral movement rather than a scalar ascent.

At length, the respondents insist that the matter of salary increases is entirely a management prerogative which should be addressed to the sound discretion of the employer, and is consequently outside the jurisdiction of the labor arbiter.[22]

The issue to be resolved in the instant case is simple — whether or not the petitioner is entitled to a salary increase upon his assumption of office as an Energy Manager.

We believe not.

It is a well-settled rule that labor laws do not authorize interference with the employer's judgment in the conduct of his business. The determination of the qualifications and fitness of workers for hiring and firing, promotion or reassignment, are exclusive prerogatives of management. The Labor Code and its implementing Rules do not vest in the Labor Arbiters nor in the different Divisions of the NLRC (nor in the courts) managerial authority. The employer is free to determine, using his own discretion and business judgment, all elements of employment, "from hiring to firing," except in cases of unlawful discrimination or those which may be provided for by law. There is none in the instant case.

We agree with the respondents that the petitioner was not promoted, but he was merely given the functional title of Energy Manager to comply with B.P. 73, as distinguished from his official title of Staff Engineer. There is no showing that he has ceased from performing his duties as Staff Engineer. Of primordial consideration is not the nomenclature or title given to the employee, but the nature of his functions. There is no substantial proof that the petitioner was vested with any of the powers and prerogatives of a managerial employee, as defined by the Labor Code.

However, in *gratia argumenti* that indeed the petitioner was promoted in rank, it does not necessarily follow that he is entitled to a corresponding salary increase. The petitioner should have been aware of this fact since he even cited the case of *Millares v. Subido*[23] in his Memorandum,[24] in which this Court, speaking through Acting Chief Justice J.B.L. Reyes, said:

Promotion, on the other hand, is the advancement from one position to another with an increase in duties and

responsibilities as authorized by law, and usually accompanied by an increase in salary. (*Italics supplied*)[25]

The word usually simply means that not all promotions may be accompanied by a corresponding salary increase, notwithstanding the increase in duties and responsibilities of the employee.

Our pronouncement in *Dosch vs. NLRC*, [26] citing the *Millares* case, *supra*, is well-defined.

It has been held that promotion denotes a scalar ascent of an officer or an employee to another position, higher either in rank or salary. (*Italics supplied*).[27]

Again the phrase either in rank or salary plainly means that a promotion may denote an advancement merely in rank without an equivalent increase in salary.

Undoubtedly, a subsequent increase in salary, granting that there indeed was a promotion, is non-sequitur.

Moreover, we have already specifically ruled that the matter of salary increases is a management prerogative. In *Batongbacal v. Associated Bank*, (1988), [28] we had this to say:

There is a semblance of discrimination in this aspect of the bank's organizational set-up but we are not prepared to preempt the employer's prerogative to grant salary increases to its employees. [29]

An employer's exercise of management prerogatives, with or without reason, does not, per se, constitute unjust discrimination. Unless there is a showing of grave abuse of discretion, we can not substitute our discretion and judgment for that which is clearly and exclusively management's prerogatives. To do so would take away from the employer what rightly belongs to him.

On the issue of jurisdiction, we agree with the petitioner that the Labor Arbiter and the Commission have jurisdiction over all money claims of workers, including underpayment of wages. Art. 217(a)(6) of the Labor Code, as amended, can not be any clearer:

Art. 217. Jurisdiction of Labor Arbiter and the Commission. (a) Except as otherwise provided under this Code, the Labor Arbiters shall have original and exclusive jurisdiction to hear and decide x x x, the following cases involving all workers, whether agricultural or non-agricultural:

x x x x x x x x

(6) Except claims for Employees Compensation, Social Security, Medicare and Maternity benefits, all other claims, arising from employer-employee relations, x x x involving an amount exceeding five thousand pesos (P5,000.00) regardless of whether or not accompanied with a claim for reinstatement.

x x x x x x x x

(*Italics supplied*)

Definitely, this is within the province of the labor arbiter, the total salary differential claimed by the petitioner, being more than one million pesos (P1,762,031.00, excluding damages and attorney's fees). [30] Our ruling in *Servando's, Inc. v. Secretary of Labor* [31] explicitly defines the Code:

"x x x the exclusive jurisdiction to hear and decide employees' claims arising from employer-employee relations, exceeding the aggregate amount of P5,000.00 for each employee is vested in the Labor Arbiter (Article 217 [a] [6])."

However, before the labor arbiter or the Commission can favorably act on these claims, the said claims must be based on law or appropriate agreement. Otherwise, this would be a violation of the free will of management to conduct its own business affairs. The labor arbiter, absent a showing of grave abuse of discretion on the part of the

employer, should have a ground where he can base his findings. Evidently, there is no law nor agreement upon which the petitioner may justify his demand for a salary increase. Neither has the employer committed a grave abuse of discretion.

The petitioner's contention — that the ambiguity created by B.P. 73 in failing to provide for a salary (or a salary increase, as the case may be) for the Energy Manager to be appointed should be resolved in his favor — is misplaced and must likewise fail. The law is very clear. The fact that B.P. 73 did not provide for a salary for the Energy Manager simply means that the law left that matter to the discretion of the employer, consonant with existing jurisprudence. Otherwise, it would have been very easy to insert a salary scale for the position of Energy Manager in the said law. Where the law is clear, there is no need for interpretation nor construction, but merely application.

Besides, it would be stretching one's imagination too far if one considers B.P. 73 as a labor law — where doubts are resolved in favor of labor. B.P. 73 is a law concerning the promotion of energy conservation. Its provision on the appointment of an Energy Manager is merely incidental and does not change the nature of the law, from a law on energy conservation to a labor law.

However, while we continuously affirm our enduring sympathy for the welfare of the laborers, especially the low-salaried but modest rank-and-file whose talents, efforts, patience, and dedication have often gone unrewarded, we can not trample upon the rights of employers in their exercise of what clearly are management prerogatives. The employer's inherent right to control and manage his/her affairs efficiently and effectively must, likewise, be respected.

WHEREFORE, the petition is DISMISSED there being no grave abuse of discretion committed by the NLRC.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] Rollo, 129

[2] Id., 23.

[3] Id., 22.

[4] Id., 24.

[5] Id., 25.

[6] Id., 143.

[7] Id., 361.

[8] Id., 26.

[9] Id., 28.

[10] Id., 56.

[11] Decision penned by Commissioner Musib M. Buat, concurred in by Presiding Commissioner Ernesto Ladrido III and Commissioner Braulio S. Dayday.

[12] Rollo, 93-95.

[13] *Id.*, 98-114.

[14] Decision penned by Commissioner Oscar N. Abella, concurred in by Commissioner Domingo H. Zapanta; Presiding Commissioner Daniel M. Lucas dissented.

[15] *Rollo*, 140.

[16] *Id.*, 321.

[17] *Id.*, 331.

[18] *Id.*, 334.

[19] *Id.*, 339.

[*] Article 217 of the Labor Code has been repeatedly amended, the latest of which was by Sec. 9 of R.A. 6715 which took effect on March 21, 1989. The quoted portions however do not reflect the amendments introduced by Sec. 9 of R.A. 6715.

[20] *Rollo*, 366.

[21] *Id.*, 293.

[22] *Id.*, 374

[23] No. L-23281, August 10, 1967, 20 SCRA 954.

[24] *Rollo*, 335.

[25] 20 SCRA 954, 962, citing Sec. 1, Rule VII, Civil Service Rules.

[26] No. 51182, July 5, 1983, 123 SCRA 296.

[27] 123 SCRA 296, 311.

[28] No. 72977, December 21, 1988, 168 SCRA 600.

[29] 169 SCRA 600, 609.

[30] Annex "A" of Petitioner's Memorandum.

[31] G.R. No. 85840, June 5, 1991.

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