

DAVAO INTEGRATED PORT AND STEVEDORING SERVICES CORPORATION, PETITIONER, VS. ALFREDO C. OLVIDA, IN HIS CAPACITY AS VOLUNTARY ARBITRATOR, AND THE ASSOCIATION OF TRADE UNIONS (ATU-...

G.R. No. 93983. June 29, 1992

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

This petition for certiorari with prayer for the issuance or a temporary restraining order impugns the decision dated May 19, 1990 of the Voluntary Arbitrator, Alfredo C. Olvida, in "Association of Trade Unions (ATU--TUCP) vs. Davao Integrated Port and Stevedoring Services Corporation" (Case No. AC-220-RBX1-03-001-90 in the National Conciliation and Mediation Board, Regional Branch XI, Davao City).

The controversy centers on the interpretation of two provisions of the five-year Collective Bargaining Agreement (effective April 15, 1989 up to April 14, 1994) between the petitioner, Davao Integrated Port and Stevedoring Services Corporation (or "DIPSSC"), and the respondent, Association of Trade Unions (ATU-TUCP) (the Union, for short). Those provisions are:

"1. ARTICLE VIII - SICK, VACATION AND EMERGENCY LEAVES.

Section 4 - Emergency Leaves. The Company agrees to grant a maximum or six (6) days Emergency Leave with pay per calendar year to all regular field workers, covered by this agreement who have rendered at least six months of service (including overtime) per calendar year, are members of the Regular Labor Pool, upon prior approval by the company. Said Emergency Leave is not cumulative (sic) nor commutable," (pp. 46-47, Rollo; Emphasis supplied.)

"ARTICLE XVII - SPECIAL PROVISIONS.

Section 4 - Union Education and Training Fund. The Company agrees to contribute twelve thousand (P12,000.00) pesos per year to the union Education and Training Fund," (p. 48, Rollo.)

The controversy arose when petitioner, through its new Assistant General Manager Benjamin Marzo, insisted that the above provisions are to be interpreted as:

1. Under Article VIII, Section 4 (Emergency Leave) – that before the intermittent field workers who are members of the Regular Labor Pool can avail of the six (6) days Emergency Leave provided in this provision, the workers must have rendered at least six months or service per calendar year regardless of their employment status (i.e., regular or probationary). Thus, all regular (non-intermittent) field workers, who belong to the Regular Labor Pool must have rendered at least six months of service per calendar year to be entitled to the six days Emergency Leave pay. Petitioner pointed out that the phrase "per calendar year" is used twice in Section 4, the first of which modifies the word "pay" and the second modifies the phrase "who have rendered at least six months of service." (pp. 130-131.) The entitlement and enjoyment of the emergency leave must be strictly

availed in the calendar year on which the six months service was rendered.

2. Under Article XVII, Section 4 (Union Education and Training Fund) - petitioner required that the Union should first prepare and submit a seminar program before it can avail of the Education and Training Fund of P12,000.00 per annum.

After due hearing, respondent Arbitrator rendered a decision on May 19, 1990, upholding the union's interpretations of Article VIII, Section 4 and Article XVII, Section 4, of the Collective Bargaining Agreement. The dispositive portion of the decision reads:

"1. The first sentence of Article VIII, Section 4 which read: 'The Company agrees to grant maximum of six (6) days Emergency Leave with pay per calendar year to all regular field workers' - refers to all non-intermittent regular field workers who reported for work everyday and therefore the requirement of six (6) months or 1,248 hours does not apply: whereas, the next sentences which stated the following: 'covered by this agreement who have rendered at least six months (including overtime) per calendar year, are members of the Regular Labor Pool, upon prior approval by the company.' – refers to intermittent workers/members of the Regular Labor Pool, whose work depends upon the arrival of vessels in the wharf and therefore must comply [with] the requirement in the agreement, and so before it can avail of the six (6) days Emergency Leave with pay must first rendered at least six months (including overtime) per calendar year. Once the 1,248 hours (6 months) is complied subject workers can avail the benefit anytime an Emergency occurred and the same condition of 1,248 hours shall no longer apply in the succeeding calendar years.

"2. With respect to the other provision of Article XVII, Section 4 of the new CBA - Union Education and Training Fund - since the language of the agreement is clear and simple the respondent company shall comply [with] its obligation by contributing to the Union Education and Training Fund the amount of Twelve Thousand (P12,000.00) pesos per year at the beginning of each and every year and/or P1,000.00 at the end of each and every month during the lifetime of the CBA at the option of the respondent company. Any post signing condition impose by either of the parties that may affect the spontaneous implementation or Article XVII, Section 4 is foreign to the language of the contract." (pp. 139-140, Rollo.)

In this petition for certiorari, petitioner assails the respondent Arbitrator's construction of Section 4, Article VII (on emergency leave) and Section 4, Article XVII (on the Union Education and Training Fund) of the CBA.

After deliberating on the divergent views of the parties on the aforementioned controversial provisions of the CBA, the Court finds the petitioner's interpretation of Section 4, Article VIII (emergency leave) more logical than the Arbitrator's and the Union's. The provision of the CBA is clear: (1) the employee must be a member of the Regular Labor Pool; (2) he is entitled to only six (6) days emergency leave with pay per calendar year; and (3) he must have rendered service for at least six (6) months during the year when he took his emergency leave. The emergency leave may be staggered or it may last for any number of days as emergencies arise but the employee is entitled only to six (6) days of emergency leave "with pay" per year. Since the emergency leave is allowed to enable the employee to attend to an emergency in his family or household, it may be taken at any time during the calendar year but he must render at least six months service for that year to be entitled to collect his wages for the six (6) days of his emergency leave. Since emergencies are unexpected and unscheduled happenings, it would be absurd to require the employee to render six (6) months service before being entitled to take a six-day-emergency leave with pay for it would mean that no emergency leave can be taken by an employee during the first six months of a calendar year.

With regard to the provision on Union Education and Training Fund in Section 4, Article XVII of the CBA, the petitioner's requirement that the Union submit a seminar program for each calendar year before it may claim the company's P12,000 yearly donation to the fund, is not warranted by the terms of the CBA. The Arbitrator did not abuse his discretion in ruling that the respondent company should comply with its obligation to contribute to the

Union Education and Training Fund the amount of Twelve Thousand (P12,000.00) pesos per year by paying said amount to the Union at the beginning of each and every year, or contributing P1,000.00 at the end of each and every month during the lifetime of the CBA, at the option of the company. As correctly observed by the Arbitrator, the employer's demand for the submission of a seminar program "is foreign to the language of the contract" with the union.

WHEREFORE, the petition for certiorari is GRANTED, Section 4, Article VIII of the CBA is interpreted to mean that any employee who is a member of the Regular Labor Pool is entitled to six (6) days emergency leave with pay per calendar year provided he has rendered at least six (6) months service during the year when he took his emergency leave. The decision of the respondent Voluntary Arbitrator is AFFIRMED in other respects. No costs.

SO ORDERED.

Cruz, (Chairman), Medialdea, and Bellosillo, JJ., concur.

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