



Republic of the Philippines
Supreme Court
Baguio City

THIRD DIVISION

RICARDO E. VERGARA, JR.,
Petitioner,

G.R. No. 176985

Present:

VELASCO, JR., J., Chairperson,
LEONARDO-DE CASTRO,*
PERALTA,
ABAD, and
LEONEN, JJ.

- versus -

COCA-COLA BOTTLERS
PHILIPPINES, INC.,
Respondent.

Promulgated:

April 1, 2013

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DECISION

PERALTA, J.:

Before Us is a petition for review on *certiorari* under Rule 45 of the Rules of Civil Procedure assailing the January 9, 2007 Decision¹ and March 6, 2007 Resolution² of the Court of Appeals (CA) in CA-G.R. SP No. 94622, which affirmed the January 31, 2006 Decision³ and March 8, 2006 Resolution⁴ of the National Labor Relations Commission (NLRC) modifying the September 30, 2003 Decision⁵ of the Labor Arbiter (LA) by deleting the sales management incentives in the computation of petitioner's retirement benefits.

* Designated Acting Member, in lieu of Associate Justice Jose Catral Mendoza, per Raffle dated February 22, 2010.

¹ Penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justices Jose Catral Mendoza (now a member of this Court Justice) and Ramon M. Bato, Jr., concurring; *rollo*, pp. 16-32.

² *Id.* at 34-35.

³ CA *rollo*, pp. 12-20.

⁴ *Id.* at 25-27.

⁵ *Id.* at 28-36.

Petitioner Ricardo E. Vergara, Jr. was an employee of respondent Coca-Cola Bottlers Philippines, Inc. from May 1968 until he retired on January 31, 2002 as a District Sales Supervisor (DSS) for Las Piñas City, Metro Manila. As stipulated in respondent's existing Retirement Plan Rules and Regulations at the time, the Annual Performance Incentive Pay of RSMs, DSSs, and SSSs shall be considered in the computation of retirement benefits, as follows: Basic Monthly Salary + Monthly Average Performance Incentive (which is the total performance incentive earned during the year immediately preceding \div 12 months) \times No. of Years in Service.⁶

Claiming his entitlement to an additional PhP474,600.00 as Sales Management Incentives (SMI)⁷ and to the amount of PhP496,016.67 which respondent allegedly deducted illegally, representing the unpaid accounts of two dealers within his jurisdiction, petitioner filed a complaint before the NLRC on June 11, 2002 for the payment of his "Full Retirement Benefits, Merit Increase, Commission/Incentives, Length of Service, Actual, Moral and Exemplary Damages, and Attorney's Fees."⁸

After a series of mandatory conference, both parties partially settled with regard the issue of merit increase and length of service.⁹ Subsequently, they filed their respective Position Paper and Reply thereto dealing on the two remaining issues of SMI entitlement and illegal deduction.

On September 30, 2003, the LA rendered a Decision¹⁰ in favor of petitioner, directing respondent to reimburse the amount illegally deducted from petitioner's retirement package and to integrate therein his SMI privilege. Upon appeal of respondent, however, the NLRC modified the award and deleted the payment of SMI.

Petitioner then moved to partially execute the reimbursement of illegal deduction, which the LA granted despite respondent's opposition.¹¹ Later, without prejudice to the pendency of petitioner's petition for *certiorari* before the CA, the parties executed a Compromise Agreement¹² on October 4, 2006, whereby petitioner acknowledged full payment by respondent of the amount of PhP496,016.67 covering the amount illegally deducted.

⁶ *Rollo*, p. 37.

⁷ Previously termed as Sales Performance Incentive (SPI).

⁸ Records, pp. 3-4, 22.

⁹ *Id.* at 16; CA *rollo*, p. 4.

¹⁰ *Id.* at 115-123.

¹¹ *Id.* at 347-349, 351-358, 369-373.

¹² *Id.* at 391-392.

The CA dismissed petitioner's case on January 9, 2007 and denied his motion for reconsideration two months thereafter. Hence, this present petition to resolve the singular issue of whether the SMI should be included in the computation of petitioner's retirement benefits on the ground of consistent company practice. Petitioner insistently avers that many DSSs who retired without achieving the sales and collection targets were given the average SMI in their retirement package.

We deny.

This case does not fall within any of the recognized exceptions to the rule that only questions of law are proper in a petition for review on *certiorari* under Rule 45 of the Rules of Court. Settled is the rule that factual findings of labor officials, who are deemed to have acquired expertise in matters within their respective jurisdiction, are generally accorded not only respect but even finality, and bind us when supported by substantial evidence.¹³ Certainly, it is not Our function to assess and evaluate the evidence all over again, particularly where the findings of both the CA and the NLRC coincide.

In any event, even if this Court would evaluate petitioner's arguments on its supposed merits, We still find no reason to disturb the CA ruling that affirmed the NLRC. The findings and conclusions of the CA show that the evidence and the arguments of the parties had all been carefully considered and passed upon. There are no relevant and compelling facts to justify a different resolution which the CA failed to consider as well as no factual conflict between the CA and the NLRC decisions.

Generally, employees have a vested right over existing benefits voluntarily granted to them by their employer.¹⁴ Thus, any benefit and supplement being enjoyed by the employees cannot be reduced, diminished, discontinued or eliminated by the employer.¹⁵ The principle of non-diminution of benefits is actually founded on the Constitutional mandate to protect the rights of workers, to promote their welfare, and to afford them full protection.¹⁶ In turn, said mandate is the basis of Article 4 of the Labor

¹³ *Honda Phils., Inc. v. Samahan ng Malayang Manggagawa sa Honda*, G.R. No. 145561, June 15, 2005, 460 SCRA 186, 191-192.

¹⁴ *University of the East v. University of the East Employees' Association*, G.R. No. 179593, September 14, 2011, 657 SCRA 637, 650.

¹⁵ *Eastern Telecommunications Philippines, Inc., v. Eastern Telecoms Employees Union*, G.R. No. 185665, February 8, 2012, 665 SCRA 516, 533; *University of the East v. University of the East Employees' Association*, *supra*; and *Arco Metal Products, Co., Inc. v. Samahan ng mga Manggagawa sa Arco Metal-NAFLU (SAMARM-NAFLU)*, G.R. No. 170734, May 14, 2008, 554 SCRA 110, 118.

¹⁶ *Eastern Telecommunications Philippines, Inc., v. Eastern Telecoms Employees Union*, *supra*; and *Arco Metal Products, Co., Inc. v. Samahan ng mga Manggagawa sa Arco Metal-NAFLU (SAMARM-NAFLU)*, *supra* note 15.

Code which states that “all doubts in the implementation and interpretation of this Code, including its implementing rules and regulations, shall be rendered in favor of labor.”¹⁷

There is diminution of benefits when the following requisites are present: (1) the grant or benefit is founded on a policy or has ripened into a practice over a long period of time; (2) the practice is consistent and deliberate; (3) the practice is not due to error in the construction or application of a doubtful or difficult question of law; and (4) the diminution or discontinuance is done unilaterally by the employer.¹⁸

To be considered as a regular company practice, the employee must prove by substantial evidence that the giving of the benefit is done over a long period of time, and that it has been made consistently and deliberately.¹⁹ Jurisprudence has not laid down any hard-and-fast rule as to the length of time that company practice should have been exercised in order to constitute voluntary employer practice.²⁰ The common denominator in previously decided cases appears to be the regularity and deliberateness of the grant of benefits over a significant period of time.²¹ It requires an indubitable showing that the employer agreed to continue giving the benefit knowing fully well that the employees are not covered by any provision of the law or agreement requiring payment thereof.²² In sum, the benefit must be characterized by regularity, voluntary and deliberate intent of the employer to grant the benefit over a considerable period of time.²³

¹⁷ *Arco Metal Products, Co., Inc. v. Samahan ng mga Manggagawa sa Arco Metal-NAFLU (SAMARM-NAFLU)*, *supra* note 15.

¹⁸ *Supreme Steel Corporation v. Nagkakaisang Manggagawa ng Supreme Independent Union (NMS-IND-APL)*, G.R. No. 185556, March 28, 2011, 646 SCRA 501, 527.

¹⁹ See *Eastern Telecommunications Philippines, Inc., v. Eastern Telecoms Employees Union*, *supra* note 15, at 532; *Supreme Steel Corporation v. Nagkakaisang Manggagawa ng Supreme Independent Union (NMS-IND-APL)*, *supra*, at 528; and *Metropolitan Bank and Trust Company v. National Labor Relations Commission*, G.R. No. 152928, June 18, 2009, 589 SCRA 376, 384.

²⁰ *Metropolitan Bank and Trust Company v. National Labor Relations Commission*, *supra*, at 385-386; *Arco Metal Products, Co., Inc. v. Samahan ng mga Manggagawa sa Arco Metal-NAFLU (SAMARM-NAFLU)*, *supra* note 15, at 119; and *Honda Phils., Inc. v. Samahan ng Malayang Manggagawa sa Honda*, *supra* note 13, at 195.

²¹ *Metropolitan Bank and Trust Company v. National Labor Relations Commission*, *supra* note 19, at 386.

²² See *Eastern Telecommunications Philippines, Inc., v. Eastern Telecoms Employees Union*, *supra* note 15, at 532; *University of the East v. University of the East Employees' Association*, *supra* note 14; and *Metropolitan Bank and Trust Company v. National Labor Relations Commission*, *supra* note 19.

²³ See *University of the East v. University of the East Employees' Association*, *supra* note 14, at 650-651.

Upon review of the entire case records, We find no substantial evidence to prove that the grant of SMI to all retired DSSs regardless of whether or not they qualify to the same had ripened into company practice. Despite more than sufficient opportunity given him while his case was pending before the NLRC, the CA, and even to this Court, petitioner utterly failed to adduce proof to establish his allegation that SMI has been consistently, deliberately and voluntarily granted to all retired DSSs without any qualification or conditions whatsoever. The only two pieces of evidence that he stubbornly presented throughout the entirety of this case are the sworn statements of Renato C. Hidalgo (Hidalgo) and Ramon V. Velazquez (Velasquez), former DSSs of respondent who retired in 2000 and 1998, respectively. They claimed that the SMI was included in their retirement package even if they did not meet the sales and collection qualifiers.²⁴ However, juxtaposing these with the evidence presented by respondent would reveal the frailty of their statements.

The declarations of Hidalgo and Velazquez were sufficiently countered by respondent through the affidavits executed by Norman R. Biola (Biola), Moises D. Escasura (Escasura), and Ma. Vanessa R. Balles (Balles).²⁵ Biola pointed out the various stop-gap measures undertaken by respondent beginning 1999 in order to arrest the deterioration of its accounts receivables balance, two of which relate to the policies on the grant of SMI and to the change in the management structure of respondent upon its re-acquisition by San Miguel Corporation. Escasura represented that he has personal knowledge of the circumstances behind the retirement of Hidalgo and Velazquez. He attested that contrary to petitioner's claim, Hidalgo was in fact qualified for the SMI. As for Velazquez, Escasura asserted that even if he (Velazquez) did not qualify for the SMI, respondent's General Manager in its Calamba plant still granted his (Velazquez) request, along with other numerous concessions, to achieve industrial peace in the plant which was then experiencing labor relations problems. Lastly, Balles confirmed that petitioner failed to meet the trade receivable qualifiers of the SMI. She also cited the cases of Ed Valencia (Valencia) and Emmanuel Gutierrez (Gutierrez), both DSSs of respondent who retired on January 31, 2002 and December 30, 2002, respectively. She noted that, unlike Valencia, Gutierrez also did not receive the SMI as part of his retirement pay, since he failed to qualify under the policy guidelines. The verity of all these statements and representations stands and holds true to Us, considering that petitioner did not present any iota of proof to debunk the same.

Therefore, respondent's isolated act of including the SMI in the retirement package of Velazquez could hardly be classified as a company

²⁴ Records, pp. 110-111.

²⁵ *Id.* at 140-142, 157-160.

practice that may be considered an enforceable obligation. To repeat, the principle against diminution of benefits is applicable only if the grant or benefit is founded on an express policy or has ripened into a practice over a long period of time which is consistent and deliberate; it presupposes that a company practice, policy and tradition favorable to the employees has been clearly established; and that the payments made by the company pursuant to it have ripened into benefits enjoyed by them.²⁶ Certainly, a *practice* or *custom* is, as a general rule, not a source of a legally demandable or enforceable right.²⁷ Company practice, just like any other fact, habits, customs, usage or patterns of conduct, must be proven by the offering party who must allege and establish specific, repetitive conduct that might constitute evidence of habit or company practice.²⁸

To close, We rule that petitioner could have salvaged his case had he step up to disprove respondent's contention that he miserably failed to meet the collection qualifiers of the SMI. Respondent argues that –

An examination of the Company's aged trial balance reveals that petitioner did not meet the trade receivable qualifier. On the contrary, the said trial balance reveals that petitioner had a large amount of uncollected overdue accounts. For the year 2001, his percentage collection efficiency for current issuance was at an average of 13.5% a month as against the required 70%. For the same, petitioner's collection efficiency was at an average of 60.25% per month for receivables aged 1-30 days, which is again, way below the required 90%. For receivables aged 31-60 days during said year, petitioner's collection efficiency was at an average of 56.17% per month, which is approximately half of the required 100%. Worse, for receivables over 60 days old, petitioner's average collection efficiency per month was a reprehensively low 14.10% as against the required 100%.²⁹

The above data was repeatedly raised by respondent in its Rejoinder (To Complainant's Reply) before the LA,³⁰ Memorandum of Appeal³¹ and Opposition (To Complainant-Appellee's Motion for Reconsideration)³² before the NLRC, and Comment (On the Petition),³³ Memorandum (For the Private Respondent),³⁴ and Comment (On the Motion for Reconsideration)³⁵

²⁶ *University of the East v. University of the East Employees' Association*, *supra* note 14.

²⁷ *Makati Stock Exchange, Inc. v. Campos*, G.R. No. 138814, April 16, 2009, 585 SCRA 120, 131.

²⁸ *Supreme Steel Corporation v. Nagkakaisang Manggagawa ng Supreme Independent Union (NMS-IND-APL)*, *supra* note 18, at 522.

²⁹ *Rollo*, pp. 68-69.

³⁰ Records, pp. 136-137.

³¹ *Id.* at 198.

³² *Id.* at 333.

³³ CA *rollo*, p. 134.

³⁴ *Id.* at 432-433.

³⁵ *Id.* at 480.

before the CA. Instead of frontally rebutting the data, petitioner treated them with deafening silence; thus, reasonably and logically implying lack of evidence to support the contrary.

WHEREFORE, the petition is **DENIED**. The January 9, 2007 Decision and March 6, 2007 Resolution of the Court of Appeals in CA-G.R. SP No. 94622, which affirmed the January 31, 2006 Decision and March 8, 2006 Resolution of the NLRC deleting the LA's inclusion of sales management incentives in the computation of petitioner's retirement benefits, is hereby **AFFIRMED**.

SO ORDERED.





DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ROBERTO A. ABAD
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.

Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO

Chief Justice