

## SECOND DIVISION

[ G.R. No. 109977, September 05, 1997 ]

**UNIVERSITY OF PANGASINAN, PETITIONER, VS. HONORABLE MA. NIEVES R. CONFESOR, IN HER OFFICIAL CAPACITY AS THE SECRETARY OF DEPARTMENT OF LABOR AND EMPLOYMENT, AND UNIVERSITY OF PANGASINAN FACULTY UNION, RESPONDENTS.**

### DECISION

**ROMERO, J.:**

In this petition for certiorari, the Order of then Secretary of Labor Ruben Torres dated October 10, 1991 affirming the monetary claims awarded to herein private respondent faculty union, as well as the resolutions dated February 17, 1992 and April 20, 1993, denying petitioner's motions for reconsideration for lack of merit thereof, are assailed for having been issued with grave abuse of discretion.

On August 7, 1986, the University of Pangasinan Faculty Union (Union) presented its demands and grievances to the University of Pangasinan (UPang), herein petitioner, with a notice that the Union will go on strike if said demands are not met within thirty days.

Conciliation and mediation proceedings proved futile in resolving their dispute.

On September 15, 1986, the Union went on strike. Two days later, UPang questioned the legality of the strike before the Ministry of Labor and Employment (now the Department of Labor and Employment or DOLE) and prayed that the dispute be certified to the National Labor Relations Commission (NLRC) and a Return to Work Order be issued. Accordingly, then Minister of Labor Augusto S. Sanchez issued the Return-to-Work Order on September 18, 1986.

After the Regional Office of the Department of Labor and Employment conducted hearings and received evidence for the parties, the Regional Director recommended that the Union's claims for salary differentials for school years (SYs) 1974-1981 be dismissed on the ground of prescription and that the salary differential claims for SY 1982-1983 to SY 1987-1988 in the total amount of P36,444,018.29 be chargeable against the 60% incremental proceeds of tuition fee increases.<sup>[1]</sup>

On October 5, 1989, the Secretary of Labor rendered a decision adopting the recommendations of the Regional Director as stated above ordering, however, a recomputation of the salary differentials due. The dispositive portion of this decision reads as follows:

WHEREFORE, except for the modifications stated above, the findings of facts and recommendations of the Regional Director below is (sic) hereby

adopted as our own.

The following claims are dismissedd:

1. Non-satisfaction of the judgment of the Supreme Court in the case G.R. No. 63122 concerning claims for salary differential under P.D. 451 and ECOLA for SY 1981-1982; and
2. Claims for salary differential pursuant to P.D. 451 and alleged erroneous computation of 13th month pay for the SY 1974-1975 up to 1980-1981.

The School is directed to restore the mode of computation of the salaries of faculty members to the usual monthly basis effective school year 1989-1990.

The Regional Director below is directed to recompute and to submit the outcome thereof to this office within fifteen (15) days from receipt of this Decision, the claims for salary differential under P.D. 451 and the alleged erroneous computation of the 13th month pay for the periods beginning SY 1982-1983 up to 1987-1988 in the light of the decision of the Supreme Court that increases in wages and allowances either granted in compliance with law, collective bargaining agreement or unilaterally by the employer shall be considered compliance with P.D. 451 and chargeable to the 60% share of the employees of the incremental proceeds from any tuition fee increases.

The School is directed to pay the complainants their COLAs during the semestral breaks of the school years 1982-1983; 1983-1984; and 1984-1985; chargeable against the 60% share of the employees in the incremental proceeds of the tuition pay increases.

SO ORDERED."<sup>[2]</sup> (Emphasis supplied.)

On November 2 and 21, 1989, on account of the Order for recomputation, a team of Labor Employment Officers supervised the actual verification and examination of the records and found deficiencies in the amount of P1,485,915.80.

On September 28, 1990, the Regional Director submitted another recomputation in the aggregate amount of P4,705,819.34 ordering UPang to pay its 242 employees deficiencies due as salary differentials under P.D. 451 and 13th month pay beginning SYs 1982 up to 1988 and COLAs for semestral breaks for SY 1982 up to 1985.

The third and final recomputation totalling P6,840,700.15 was presented on June 25, 1991<sup>[3]</sup> based on the following assumptions:

- 1) The share of the employees in the 60% incremental proceeds in tuition fee increases have been integrated into their wages from SY 1974-'75, it being the mandate and effectivity of P.D. 451;
- 2) The unpaid ECOLA during semestral breaks from SY 1982-'83 up to 1985-'86 have been computed by multiplying the number of unpaid days with the applicable ECOLA per day;

3) That the monthly rates of the covered employees from SY 1974-'75 up to 1987-'88 have been determined per directive of the Secretary in his Order dated October 5, 1989 and subsequently used in the computation; and

4) That the total computed deficiencies due to the employees amount to Six Million Eight Hundred Forty Thousand Seven Hundred and 15/100 pesos (P6,840,700.15). The breakdown of the individual shares of the employees is hereto attached.

Based on this last recomputed amount, former Labor Secretary Ruben D. Torres issued the disputed Order on October 10, 1991, the dispositive portion of which reads:

WHEREFORE, the petitioner University of Pangasinan is hereby ordered to pay the amount of SIX MILLION EIGHT HUNDRED FORTY THOUSAND SEVEN HUNDRED PESOS 15/100 (P6,840,700.15), chargeable against the 60% share of the employees from the tuition increases, to the 242 employees listed in pages 375 to 378 of the record of this case, within ten (10) days from receipt hereof. Let the entire records of this case be remanded to the Regional Office for immediate enforcement of this Decision.

SO ORDERED."<sup>[4]</sup>

Petitioner's first and second motions for reconsideration were denied on February 17, 1992<sup>[5]</sup> and April 20, 1993,<sup>[6]</sup> respectively. Hence, the instant petition for certiorari.

Petitioner argues that the Secretary of Labor committed grave abuse of discretion in concurring with the recomputation made by the Regional Director because the same is grounded upon a misapprehension of the laws (Presidential Decree No. 451 and Batas Pambansa Blg. 232) involved. In particular, the entire 60% incremental proceeds of the tuition fee increases should not be distributed as salary increases alone. Further, it claims that even assuming arguendo that the 60% incremental proceeds were distributed as salary increases integrable into the basic salary of the employees, to grant the increases retroactively from SY 1974-1975 would violate the rule on prescription of money claims under the Labor Code.

The Union, on the other hand, asserts that under P.D. No. 451, allowances and fringe benefits should be taken from sources other than the 60% incremental proceeds of tuition fee increases which should be spent exclusively for salary increases.

We find merit in this petition.

The old rule with respect to the utilization of tuition fee increases for salary increases is established in Presidential Decree No. 451, the law authorizing the Secretary of Education and Culture to regulate the imposition of tuition and other school fees.<sup>[7]</sup> Rule V, Section 1 of the Implementing Rules and Regulations issued pursuant to his authority under P.D. No. 451 states that at least sixty percent of the total incremental proceeds from the increase in tuition fee and/ or other school