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FIRST DIVISION

[G.R. NO. 159828, April 19, 2006]

KASAPIAN NG MALAYANG MANGGAGAWA SA COCA-COLA (KASAMMA-CCO)-CFW LOCAL 245, PETITIONER, VS. THE HON. COURT OF APPEALS AND COCA-COLA BOTTLERS' PHILS., INC., RESPONDENTS.

D E C I S I O N

CHICO-NAZARIO, J.:

Before Us is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Civil Procedure assailing the Decision[1] of the Court of Appeals which affirmed the Decision[2] of public respondent National Labor Relations Commission (NLRC) dismissing petitioner's complaint against private respondent for violations of the Memorandum of Agreement (MOA)/Collective Bargaining Agreement (CBA), nonpayment of overtime pay and 13th month pay, illegal dismissal, unfair labor practice, recovery of moral and exemplary damages and attorney's fees.

On 30 June 1998, the CBA for the years 1995-1998 executed between petitioner union and private respondent company expired. As the duly certified collective bargaining agent for the rank-and-file employees of private respondent's Manila and Antipolo plants, petitioner submitted its demands to the company for another round of collective bargaining negotiations. However, said negotiations came to a gridlock as the parties failed to reach a mutually acceptable agreement with respect to certain economic and non-economic issues.

Thereafter, petitioner filed a notice of strike on 11 November 1998 with the National Conciliation and Mediation Board (NCMB), National Capital Region, on the ground of CBA negotiation deadlock. With the aim of resolving the impasse, several conciliation conferences were conducted but to no avail as the parties failed to reach a settlement. On 19 December 1998, petitioner held the strike in private respondent's Manila and Antipolo plants.

Subsequently, through the efforts of NCMB Administrator Buenaventura Magsalin, both parties came to an agreement settling the labor dispute. Thus, on 26 December 1998, both parties executed and signed a MOA providing for salary increases and other economic and non-economic benefits. It likewise contained a provision for the regularization of contractual, casual and/or agency workers who have been working with private respondent for more than one year. Said MOA was later incorporated to form part of the 1998-2001 CBA and was thereafter ratified by the employees of the company.

Pursuant to the provisions of the MOA, both parties identified 64 vacant regular positions that may be occupied by the existing casual, contractual or agency employees who have been in the company for more than one year. Fifty-eight (58)

[3] of those whose names were submitted for regularization passed the screening and were thereafter extended regular employment status, while the other five failed the medical examination and were granted six months within which to secure a clean bill of health. Within the six-month period, three[4] of the five employees who have initially failed in the medical examination were declared fit to work and were accorded regular employment status. Consequently, petitioner demanded the payment of salary and other benefits to the newly regularized employees retroactive to 1 December 1998, in accord with the MOA. However, the private respondent refused to yield to said demands contending that the date of effectivity of the regularization of said employees were 1 May 1999 and 1 October 1999. Thus, on 5 November 1999, petitioner filed a complaint before the NLRC for the alleged violations of the subject MOA by the private respondent.

Meanwhile, a certification election was conducted on 17 August 1999 pursuant to the order of the Department of Labor and Employment (DOLE) wherein the KASAMMA-CCO Independent surfaced as the winning union and was then certified by the DOLE as the sole and exclusive bargaining agent of the rank-and-file employees of private respondent's Manila and Antipolo plants for a period of five years from 1 July 1999 to 30 June 2004. On 23 August 1999, the KASAMMA-CCO Independent demanded the renegotiation of the CBA which expired on 30 June 1998. Such request was denied by private respondent on the contention that there was no basis for said demand as there was already an existing CBA which was negotiated and concluded between petitioner and private respondent, thus, it was untimely to reopen the said CBA which was yet to expire on 30 June 2001.

On 9 December 1999, despite the pendency of petitioner's complaint before the NLRC, private respondent closed its Manila and Antipolo plants resulting in the termination of employment of 646 employees. On the same day, about 500 workers were given a notice of termination effective 1 March 2000 on the ground of redundancy. The affected employees were considered on paid leave from 9 December 1999 to 29 February 2000 and were paid their corresponding salaries. On 13 December 1999, four days after its closure of the Manila and Antipolo plants, private respondent served a notice of closure to the DOLE.

As a result of said closure, on 21 December 1999, petitioner amended its complaint filed before the NLRC to include "union busting, illegal dismissal/illegal lay-off, underpayment of salaries, overtime, premium pay for holiday, rest day, holiday pay, vacation/sick leaves, 13th month pay, moral and exemplary damages and attorney's fees."

On 14 January 2000, KASAMMA-CCO Independent filed a notice of strike due to unfair labor practice with the NCMB-NCR. Failing to arrive at an amicable settlement of the labor dispute with the private respondent, KASAMMA-CCO Independent held a strike from 9 March 2000 to 4 May 2000. On 4 May 2000, the Secretary of Labor issued an order assuming jurisdiction over the labor dispute subject of the strike and certified the case to the NLRC for compulsory arbitration.

On 9 July 2001, the NLRC rendered its Decision dismissing the complaint for lack of merit. According to the Commission:

> Evaluating, with utmost caution, both parties' contrasting factual version, supporting proofs, related legal excerpts and applicable jurisprudential

citations, we discern that, under the Memorandum of Agreement (MOA) dated December 26, 1998, the 61 regularized employees are not entitled to their claims for the P60.00 per day salary increase, mid-year gratuity pay of P5,000.00, one sack of rice, and overtime and thirteenth month differentials effective December 1, 1998 onward.

Initially, under the MOA, only the employees who were regular on July 1998 and continued being such upon the signing of the MOA on December 26, 1998 deserve retroactive payment of the MOA benefits amounting to a lump sum of P35,000.00.

This entitlement springs from the following pertinent provisions of the MOA:

> "All covered employees who were **regular as of July 1, 1998 and upon the signing of this Agreement shall each be entitled to a lump sum in the amount of THIRTY FIVE THOUSAND PESOS (P35,000.00)** which shall, subject to the ratification of the employees within the bargaining unit, be released on or before 31 December 1998.
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> "The aforesaid amount shall be **in lieu of the wage increase as well as THE Operation Performances Incentive** DESCRIBED UNDER Item 11(B) hereof, **all premium pay, the 13th month and 14th month pay differentials, sick leave and vacation leave credits for the period July 1, 1998 to December 31, 1999**." Underscoring supplied)

In the case at bar, since the 61 regularized employees were regularized only on May 1, 1999 and October 1, 1999, as the case may be, they therefore have no right whatsoever to claim entitlement to the MOA benefits.

Moreover, CFW Local 245's insistence that the 61 regularized employees became regular on December 1, 1998 is *non sequitor.* It merely flows from its specious interpretation of the MOA provisions. The MOA does not provide that non-regular employees who would be deployed to fill up vacant plantilla positions covered by the 1998 and 1999 manpower budget of CCBPC should be automatically considered regular effective December 1, 1998. What the MOA stipulates are that: 1) effective December 1, 1998, non-regular employees who have been occupying the position to be filled up for at least one year shall be given priority in filling up the positions; and 2) that in that case, they will not undergo the company's regular recruitment procedures, like interviews and qualifying examinations.

The only importance of the date of December 1, 1998 is its being the reckoning date from which the one year employment requirement should be computed. Consequently, under the MOA, only the non-regular employees who had worked with the company for at least a year counted retroactively from December 1, 1998 should be given priority in the filling up of vacant plantilla positions.

Anyway, even assuming *ex gratia argumenti* that the 61 regularized employees were regularized effective December 1, 1998, they, still, are not entitled to the MOA benefits. As discussed above, only employees who were regular on July 1, 1998 and were still so until the signing of the MOA on December 26, 1998 could be covered by the retroactivity clause.

Furthermore, entitling the 61 regularized employees to the MOA benefits would certainly infringe the well-entrenched principle of "no-work-no-pay". Since such employees started becoming regular only on May 1, 1999 and October 1, 1999, as the case may be, it would thus be most unfair to require CCBPI to pay them for their unworked period, for they would certainly, be unjustly enriched at the expense of CCBPI.

We also hold that the allegedly redundant six hundred thirty-nine (639) employees were not illegally dismissed.

Initially, there was just cause for the employees' dismissal.

It bears to stress that, aimed at 1) attaining efficiency and cost effectiveness, 2) maximizing its production capacity and 3) ensuring that its customers obtain products manufactured only under the most stringent quality standards of CCBPI's modern, technologically advanced production plants, CCBPI conducted an extensive study on the operational mechanics of its Manila and Antipolo plants.

From this study, it was established that there was inadequate water supply at CCBPI's Manila and Antipolo plants. As a consequence, the company was constrained to transport water from several sources to its production line in Manila in 1998 and 1999. Worse, it was discovered that the quality of water supply was fast deteriorating due to the rise of its salt level. This reality prompted the company to reduce its production capacity. Moreover, the bottling process of treating this water of decadent quality resulted in higher production costs. Under these twin conditions, the company could not thus efficiently continue on with its operations.

The study also reveals the decadent state of the production equipment of CCBPI's Manila and Antipolo Plants. Their production lines were among the oldest and hence, had very low line efficiency. In comparison with the line efficiency of 71.18% of the company's other plants, the Manila and Antipolo Plants had only efficiency ratings of 61.09% and 58.39%, respectively. Whereas the other production lines had an average wastage rating of 1.01%, the twin plants had a higher average wastage ratings of 2.05% and 1.77%, respectively. The company's production studies in 1998 and 1999 likewise reveal substantial issues on Good Manufacturing Practice (GMP) and process control for such plants.

From this study, the impracticability of rehabilitating the twin plants was also found out. Although the problems cited may be remedied by way of a major reconstruction, this would, however, entail an investment of huge capital. Further, the congestion of the twin plants' sites would render impracticable such a major reconstruction. Besides, there was utter lack

of effective solution to the retrograding water supply.

The foregoing significant facts are substantially evidenced by the Technical Evaluation of Production Requirements, Annex "20", CCBPI's Rejoinder; Affidavit of its Operations Manager dated 3 March 2000, Annex "1", its Position Paper dated 20 July 2000; and Certification dated May 21, 2001 of Mr. Bruce A. Herbert, its Sur-Rejoinder.

To solve the problems cited, however, CCBPI, as soundly recommended by the study, integrated the production capacities of the different CCBPI modern and technologically advanced production facilities. This imperative integration indispensably prompted CCBPI to close, its production lines at the Manila and Antipolo Plants.

This measure taken by CCBPI indeed draws jurisprudential justification from the following sound pronouncement of the Supreme Court:

> "Business enterprises today are faced with the pressures of economic recession, stiff competition and labor unrest. Thus, businessmen are always pressured to adopt certain changes and programs in order to enhance their profits and protect their investments. Such changes may take various forms. Management may even choose to close a branch, department, a plant, or a shop." (Philippine Engineering Corp. vs. CR, 41 SCRA 89)

Urgently propelled by this closure, CCBPI inevitably redundated the services of 639 employees based at the Manila and Antipolo Plants. The fact that their services became superfluous or in excess of what were reasonably demanded by the actual requirements of the company as a consequence of the closure certainly shows the undertone of good faith on CCBPI's part in resorting to the redundation measure.

Well in support of this urgent economic measure taken is the following postulation of the Supreme Court in the case of Wiltshire File Co., Inc. vs. NLRC, et al., 193 SCRA 665:

> "We believe that redundancy, for purposes of our Labor Code, exists **where the services of an employee are in excess of what is reasonably demanded by the actual requirements of the enterprise. Succinctly put, a position is redundant where it is a superfluity, and superfluity of a position or positions may be the outcome of** a number of facets, such as over hiring of workers, decreased volume of business, or dropping of a particular product line or service activity previously manufactured or undertaken by the enterprises. The employer has no legal obligation to keep in its payroll more employees than are necessary for the operation of its business.
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> "x x x.
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> "x x x The characterization of (the employee's) service as no