

THIRD DIVISION

[G.R. No. 100701, March 28, 2001]

**PRODUCERS BANK OF THE PHILIPPINES, PETITIONER, VS.
NATIONAL LABOR RELATIONS COMMISSION AND PRODUCERS
BANK EMPLOYEES ASSOCIATION,^[1] RESPONDENTS.**

D E C I S I O N

GONZAGA-REYES, J.:

Before us is a special civil action for *certiorari* with prayer for preliminary injunction and/or restraining order seeking the nullification of (1) the decision of public respondent in NLRC-NCR Case No. 02-00753-88, entitled "Producers Bank Employees Association v. Producers Bank of the Philippines," promulgated on 30 April 1991, reversing the Labor Arbiter's dismissal of private respondent's complaint and (2) public respondent's resolution dated 18 June 1991 denying petitioner's motion for partial reconsideration.

The present petition originated from a complaint filed by private respondent on 11 February 1988 with the Arbitration Branch, National Capital Region, National Labor Relations Commission (NLRC), charging petitioner with diminution of benefits, non-compliance with Wage Order No. 6 and non-payment of holiday pay. In addition, private respondent prayed for damages.^[2]

On 31 March 1989, Labor Arbiter Nieves V. de Castro found private respondent's claims to be unmeritorious and dismissed its complaint.^[3] In a complete reversal, however, the NLRC^[4] granted all of private respondent's claims, except for damages.^[5] The dispositive portion of the NLRC's decision provides -

WHEREFORE, premises considered, the appealed Decision is, as it is hereby, SET ASIDE and another one issued ordering respondent-appellee to pay complainant-appellant:

1. The unpaid bonus (mid-year and Christmas bonus) and 13th month pay;
2. Wage differentials under Wage Order No. 6 for November 1, 1984 and the corresponding adjustment thereof; and
3. Holiday pay under Article 94 of the Labor Code, but not to exceed three (3) years.

The rest of the claims are dismissed for lack of merit.

SO ORDERED.

Petitioner filed a Motion for Partial Reconsideration, which was denied by the NLRC in a Resolution issued on 18 June 1991. Hence, recourse to this Court.

Petitioner contends that the NLRC gravely abused its discretion in ruling as it did for the succeeding reasons stated in its Petition -

1. On the alleged diminution of benefits, the NLRC gravely abused its discretion when (1) it contravened the Supreme Court decision in *Traders Royal Bank v. NLRC, et al.*, G.R. No. 88168, promulgated on August 30, 1990, (2) its ruling is not justified by law and Art. 100 of the Labor Code, (3) its ruling is contrary to the CBA, and (4) the so-called "company practice invoked by it has no legal and moral bases" (p. 2, Motion for Partial Reconsideration, Annex "H");
2. On the alleged non-compliance with Wage Order No. 6, the NLRC again gravely abused its discretion when it patently and palpably erred in holding that it is "more inclined to adopt the stance of appellant (private respondent UNION) in this issue since it is more in keeping with the law and its implementing provisions and the intendment of the parties as revealed in their CBA" without giving any reason or justification for such conclusions as the stance of appellant (private respondent UNION) does not traverse the clear and correct finding and conclusion of the Labor Arbiter.

Furthermore, the petitioner, under conservatorship and distressed, is exempted under Wage Order No. 6.

Finally, the "wage differentials under Wage Order No. 6 for November 1, 1984 and the corresponding adjustment thereof" (par. 2, dispositive portion, NLRC Decision), has prescribed (p. 12, Motion for Partial Reconsideration, Annex "H").

3. On the alleged non-payment of legal holiday pay, the NLRC again gravely abused its discretion when it patently and palpably erred in approving and adopting "the position of appellant (private respondent UNION)" without giving any reason or justification therefor which position does not squarely traverse or refute the Labor Arbiter's correct finding and ruling (p. 18, Motion for Partial Reconsideration, Annex "H").^[6]

On 29 July 1991, the Court granted petitioner's prayer for a temporary restraining order enjoining respondents from executing the 30 April 1991 Decision and 18 June 1991 Resolution of the NLRC.^[7]

Coming now to the merits of the petition, the Court shall discuss the issues *ad seriatim*.

Bonuses

As to the bonuses, private respondent declared in its position paper^[8] filed with the NLRC that -

1. Producers Bank of the Philippines, a banking institution, has been providing several benefits to its employees since 1971 when it started its operation. Among the benefits it had been regularly giving is a mid-year bonus equivalent to an employee's one-month basic pay and a Christmas bonus equivalent to an employee's one whole month salary (basic pay plus allowance);
2. When P.D. 851, the law granting a 13th month pay, took effect, the basic pay previously being given as part of the Christmas bonus was applied as compliance to it (P.D. 851), the allowances remained as Christmas bonus;
3. From 1981 up to 1983, the bank continued giving one month basic pay as mid-year bonus, one month basic pay as 13th month pay but the Christmas bonus was no longer based on the allowance but on the basic pay of the employees which is higher;
4. In the early part of 1984, the bank was placed under conservatorship but it still provided the traditional mid-year bonus;
5. By virtue of an alleged Monetary Board Resolution No. 1566, the bank only gave a one-half (1/2) month basic pay as compliance of the 13th month pay and none for the Christmas bonus. In a tabular form, here are the bank's violations:

YEAR	MID-YEAR BONUS	CHRISTMAS BONUS	13 TH MO. PAY
previous years	one mo. basic	one mo. basic	one mo. basic
1984	[one mo. basic]	- none -	one-half mo. basic
1985	one-half mo. basic	- none -	one-half mo. basic
1986	one-half mo. basic	one-half mo. basic	one mo. basic
1987	one-half mo. basic	one-half mo. basic	one mo. basic

Private respondent argues that the mid-year and Christmas bonuses, by reason of their having been given for thirteen consecutive years, have ripened into a vested right and, as such, can no longer be unilaterally withdrawn by petitioner without violating Article 100 of Presidential Decree No. 442^[9] which prohibits the diminution or elimination of benefits already being enjoyed by the employees. Although private respondent concedes that the grant of a bonus is discretionary on the part of the employer, it argues that, by reason of its long and regular concession, it may become part of the employee's regular compensation.^[10]

On the other hand, petitioner asserts that it cannot be compelled to pay the alleged bonus differentials due to its depressed financial condition, as evidenced by the fact that in 1984 it was placed under conservatorship by the Monetary Board. According to petitioner, it sustained losses in the millions of pesos from 1984 to 1988, an assertion which was affirmed by the labor arbiter. Moreover, petitioner points out

that the collective bargaining agreement of the parties does not provide for the payment of any mid-year or Christmas bonus. On the contrary, section 4 of the collective bargaining agreement states that -

Acts of Grace. Any other benefits or privileges which are not expressly provided in this Agreement, even if now accorded or hereafter accorded to the employees, shall be deemed purely acts of grace dependent upon the sole judgment and discretion of the BANK to grant, modify or withdraw.^[11]

A bonus is an amount granted and paid to an employee for his industry and loyalty which contributed to the success of the employer's business and made possible the realization of profits. It is an act of generosity granted by an enlightened employer to spur the employee to greater efforts for the success of the business and realization of bigger profits.^[12] The granting of a bonus is a management prerogative, something given in addition to what is ordinarily received by or strictly due the recipient.^[13] Thus, a bonus is not a demandable and enforceable obligation,^[14] except when it is made part of the wage, salary or compensation of the employee.^[15]

However, an employer cannot be forced to distribute bonuses which it can no longer afford to pay. To hold otherwise would be to penalize the employer for his past generosity. Thus, in *Traders Royal Bank v. NLRC*,^[16] we held that -

It is clear x x x that the petitioner may not be obliged to pay bonuses to its employees. The matter of giving them bonuses over and above their lawful salaries and allowances is entirely dependent on the profits, if any, realized by the Bank from its operations during the past year.

From 1979-1985, the bonuses were less because the income of the Bank had decreased. In 1986, the income of the Bank was only 20.2 million pesos, but the Bank still gave out the usual two (2) months basic mid-year and two months gross year-end bonuses. The petitioner pointed out, however, that the Bank weakened considerably after 1986 on account of political developments in the country. Suspected to be a Marcos-owned or controlled bank, it was placed under sequestration by the present administration and is now managed by the Presidential Commission on Good Government (PCGG).

In light of these submissions of the petitioner, the contention of the Union that the granting of bonuses to the employees had ripened into a company practice that may not be adjusted to the prevailing financial condition of the Bank has no legal and moral bases. Its fiscal condition having declined, the Bank may not be forced to distribute bonuses which it can no longer afford to pay and, in effect, be penalized for its past generosity to its employees.

Private respondent's contention, that the decrease in the mid-year and year-end bonuses constituted a diminution of the employees' salaries, is not correct, for bonuses are not part of labor standards in the same class

as salaries, cost of living allowances, holiday pay, and leave benefits, which are provided by the Labor Code.

This doctrine was reiterated in the more recent case of Manila Banking Corporation v. NLRC^[17] wherein the Court made the following pronouncements -

By definition, a "bonus" is a gratuity or act of liberality of the giver which the recipient has no right to demand as a matter of right. It is something given in addition to what is ordinarily received by or strictly due the recipient. The granting of a bonus is basically a management prerogative which cannot be forced upon the employer who may not be obliged to assume the onerous burden of granting bonuses or other benefits aside from the employee's basic salaries or wages, especially so if it is incapable of doing so.

xxx xxx xxx

Clearly then, a bonus is an amount given ex gratia to an employee by an employer on account of success in business or realization of profits. How then can an employer be made liable to pay additional benefits in the nature of bonuses to its employees when it has been operating on considerable net losses for a given period of time?

Records bear out that petitioner Manilabank was already in dire financial straits in the mid-80's. As early as 1984, the Central Bank found that Manilabank had been suffering financial losses. Presumably, the problems commenced even before their discovery in 1984. As earlier chronicled, the Central Bank placed petitioner bank under comptrollership in 1984 because of liquidity problems and excessive interbank borrowings. In 1987, it was placed under receivership and ordered to close operation. In 1988, it was ordered liquidated.

It is evident, therefore, that petitioner bank was operating on net losses from the years 1984, 1985 and 1986, thus, resulting to its eventual closure in 1987 and liquidation in 1988. Clearly, there was no success in business or realization of profits to speak of that would warrant the conferment of additional benefits sought by private respondents. No company should be compelled to act liberally and confer upon its employees additional benefits over and above those mandated by law when it is plagued by economic difficulties and financial losses. No act of enlightened generosity and self-interest can be exacted from near empty, if not empty coffers.

It was established by the labor arbiter^[18] and the NLRC^[19] and admitted by both parties^[20] that petitioner was placed under conservatorship by the Monetary Board, pursuant to its authority under Section 28-A of Republic Act No. 265,^[21] as amended by Presidential Decree No. 72,^[22] which provides -

Sec. 28-A. Appointment of conservator. - Whenever, on the basis of a report submitted by the appropriate supervising and examining department, the Monetary Board finds that a bank is in a state of continuing inability or unwillingness to maintain a condition of solvency