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FIRST DIVISION

[G.R. No. 118586, September 28, 1998]

SCHERING EMPLOYEES' LABOR UNION, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (SECOND DIVISION), SCHERING-PLOUGH CORPORATION AND EPITACIO TITONG, RESPONDENTS.

D E C I S I O N

QUISUMBING, J.:

This special civil action for certiorari under Rule 65 of the Rules of Court seeks to annul the Resolution[1] promulgated on February 21, 1994 by public respondent National Labor Relations Commission (NLRC) in NLRC NCR CA No. 004243-93; NLRC NCR Case No. 00-05-02773-92 and its Order[2] dated October 12, 1994 which denied petitioner's motion for reconsideration.

Petitioner Schering Empoyees Labor Union (SELU) is a duly organized labor union representing the employees of herein private respondent Schering-Plough Corporation (SPC). Private respondent Epitacio Titong is the president of said corporation and was impleaded in this suit in that capacity.

The factual and procedural antecedents of this case are as follows:

Effective March 20, 1989, company employees were entitled to retirement benefits equivalent to 1.5 (as the "salary credit formula") of a month's compensation for every year of credited service (the "tenure") upon completion of at least 5 years of service.[3] The percentages of benefits are graduated in a schedule (called "vesting schedule") contained in the Retirement Plan[4] depending on the tenure of an employee. To illustrate, retirement benefits would be computed based on the following factors:

Completed Years of Credited Service (tenure)	**Percentage of Accured Retirement Benefit (vesting schedule)**	**Salary Credit Formula[5]**
below 5 years	nil	nil
5 years	30%	1.5
6	35%	1.5
xxx	xxx	xxx
9 and above	100%	1.5

The computation is: Monthly Compensation x Tenure x Vesting Schedule x Salary Credit Formula.

On June 13, 1990, private respondent (SPC) and the petitioner (SELU) included as one of the stipulations in their collective bargaining agreement (CBA) that the "Company and the Union shall jointly undertake the improvement of the present Retirement Plan within nine (9) months from the effectivity of this Agreement".[6]

On May 25, 1992, petitioner filed a complaint before the National Capital Region Arbitration Branch of public respondent NLRC for alleged violation of the abovementioned provision in the CBA. Petitioner prayed that, after due notice and hearing, private respondents be declared "guilty of reneging its contractual obligation and to order the same for the full improvement and implementation of the retirement plan in compliance with the essence and substance of the agreement."[7] The case was assigned to Labor Arbiter Jesus N. Rodriguez, Jr.

On July 13, 1992, petitioner filed a Motion to Withdraw the complaint on the following grounds:[8]

> "1. That during the conference held on 29 June 1992, both representatives of complainant SELU and the respondents agreed to settle the issue in the above-entitled case;
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> "2. That both parties agreed that the retirement plan be implemented effective 16 July 1992 providing for an improvement of the plan to 155% per year of service up to 15 years, and 160% per year of service for more than fifteen years without vesting schedules;
>
> "3. That in accordance with the said agreement the issues submitted for resolution to this Honorable Office has now become moot and academic."

The Labor Arbiter issued an Order dated July 14, 1992 granting the motion and dismissed the case as follows:

> "Acting upon the motion to dismiss filed by the Union President Mr. Gilbert Gorospe, and assisted by Mr. Emmanuel S. Durante, authorized representative of the union, on the ground:
>
> "1. That the parties agreed that the retirement plan be implemented effective July 16, 1992, providing for an improvement of the plan to 155% per year of service up to fifteen years, and 160% per year of service for more than fifteen years without vesting schedules.
>
> "WHEREFORE, said motion being well-taken, the same is GRANTED, and as prayed for, this case is ordered DISMISSED.
>
> "SO ORDERED."[9]

On August 27, 1992, private respondents filed a Motion to Amend the Order of July 14, 1992 seeking to remove the phrase "without vesting schedules" which the order had quoted from the Union's Motion to Withdraw, asserting that the Company never agreed to the removal of the vesting schedules in the Retirement Plan, and that the amendment on the Retirement Plan pertains only to the salary credit formula.

On November 10, 1992, the Labor Arbiter granted private respondents' motion, and

the phrase "without vesting schedules" was deleted. Petitioner appealed this order to herein public respondent NLRC, which, in a Resolution dated February 21, 1994, dismissed the said appeal and affirmed the order of the Labor Arbiter. It held that the first "Order could not have resolved or concluded any question on vesting schedules since the same has not yet been submitted much more litigated before the Labor Arbiter before the withdrawal of the complaint." Thus, it found that "the Labor Arbiter did not err nor abuse his discretion in issuing its amendatory Order of November 10, 1992 and deleting the phrase 'without vesting schedules'."[10]

Petitioner's motion for reconsideration of the said resolution was denied by public respondent NLRC in a Resolution dated October 12, 1994.

Hence, the instant petition for certiorari.

> Petitioner raises the following grounds for its petition:
>
> I. RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION IN SUSTAINING THE LABOR ARBITER'S ORDER AMENDING A FINAL AND EXECUTORY ORDER.
>
> II.PETITIONER WAS DEPRIVED OF PROCEDURAL DUE PROCESS WHEN RESPONDENT NLRC ACCEPTED THE UNILATERAL REPRESENTATION OF THE PRIVATE RESPONDENTS THAT THE VESTING SCHEDULE IN THE RETIREMENT PLAN IS MAINTAINED.[11]

Anent the first ground, petitioner alleges that the Order dated July 14, 1992, being final and executory, cannot be further amended or corrected except for clerical errors or mistakes. It submits that the public respondent committed grave abuse of discretion in sustaining the view that a judgment is final and executory only if there is an adjudication or trial on the merits with respect to the issues presented.

As to the second ground, petitioner alleges that if the matter regarding the "vesting schedule" was still contentious, it was highly irregular for the public respondent to have rejected petitioner's position and to have accepted private respondents' submission without trial.

Private respondents, by way of Comment[12], argue that the question on "vesting schedules" in the Retirement Plan had already become moot and academic when the "vesting schedules" were carried over in the new CBA[13] entered into by petitioner union and respondent corporation on August 16, 1993.

Private respondents likewise assert that there was no abuse of discretion because the Order of July 14, 1992 of the Labor Arbiter was not an adjudication on the merits of the case which would foreclose amendments after its finality. They add that the order dated November 10, 1992, had merely corrected that of July 14, 1992 which had quoted from the allegations of the motion to withdraw complaint filed by petitioner the phrase "without vesting schedules."

Anent the second ground, they allege that there was no deprivation of procedural due process since there was no agreement between SPC and SELU to abrogate the vesting schedules. There was also no proof submitted to show such abrogation, according to the private respondents.