

THIRD DIVISION

[G.R. No. 198783, April 15, 2013]

**ROYAL PLANT WORKERS UNION, PETITIONER, VS. COCA-COLA
BOTTLERS PHILIPPINES, INC.-CEBU PLANT, RESPONDENT.**

DECISION

MENDOZA, J.:

Assailed in this petition is the May 24, 2011 Decision^[1] and the September 2, 2011 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 05200, entitled *Coca-Cola Bottlers Philippines, Inc.-Cebu Plant v. Royal Plant Workers Union*, which nullified and set aside the June 11, 2010 Decision^[3] of the Voluntary Arbitration Panel (*Arbitration Committee*) in a case involving the removal of chairs in the bottling plant of Coca-Cola Bottlers Philippines, Inc. (CCBPI).

The Factual and Procedural Antecedents

The factual and procedural antecedents have been accurately recited in the May 24, 2011 CA decision as follows:

Petitioner Coca-Cola Bottlers Philippines, Inc. (CCBPI) is a domestic corporation engaged in the manufacture, sale and distribution of softdrink products. It has several bottling plants all over the country, one of which is located in Cebu City. Under the employ of each bottling plant are bottling operators. In the case of the plant in Cebu City, there are 20 bottling operators who work for its Bottling Line 1 while there are 12-14 bottling operators who man its Bottling Line 2. All of them are male and they are members of herein respondent Royal Plant Workers Union (ROPWU).

The bottling operators work in two shifts. The first shift is from 8 a.m. to 5 p.m. and the second shift is from 5 p.m. up to the time production operations is finished. Thus, the second shift varies and may end beyond eight (8) hours. However, the bottling operators are compensated with overtime pay if the shift extends beyond eight (8) hours. For Bottling Line 1, 10 bottling operators work for each shift while 6 to 7 bottling operators work for each shift for Bottling Line 2.

Each shift has rotations of work time and break time. Prior to September 2008, the rotation is this: after two and a half (2 ½) hours of work, the bottling operators are given a 30-minute break and this goes on until the shift ends. In September 2008 and up to the present, the rotation has changed and bottling operators are now given a 30-minute break after

one and one half (1 ½) hours of work.

In 1974, the bottling operators of then Bottling Line 2 were provided with chairs upon their request. In 1988, the bottling operators of then Bottling Line 1 followed suit and asked to be provided also with chairs. Their request was likewise granted. Sometime in September 2008, the chairs provided for the operators were removed pursuant to a national directive of petitioner. This directive is in line with the "I Operate, I Maintain, I Clean" program of petitioner for bottling operators, wherein every bottling operator is given the responsibility to keep the machinery and equipment assigned to him clean and safe. The program reinforces the task of bottling operators to constantly move about in the performance of their duties and responsibilities.

With this task of moving constantly to check on the machinery and equipment assigned to him, a bottling operator does not need a chair anymore, hence, petitioner's directive to remove them. Furthermore, CCBPI rationalized that the removal of the chairs is implemented so that the bottling operators will avoid sleeping, thus, prevent injuries to their persons. As bottling operators are working with machines which consist of moving parts, it is imperative that they should not fall asleep as to do so would expose them to hazards and injuries. In addition, sleeping will hamper the efficient flow of operations as the bottling operators would be unable to perform their duties competently.

The bottling operators took issue with the removal of the chairs. Through the representation of herein respondent, they initiated the grievance machinery of the Collective Bargaining Agreement (CBA) in November 2008. Even after exhausting the remedies contained in the grievance machinery, the parties were still at a deadlock with petitioner still insisting on the removal of the chairs and respondent still against such measure. As such, respondent sent a Notice to Arbitrate, dated 16 July 2009, to petitioner stating its position to submit the issue on the removal of the chairs for arbitration. Nevertheless, before submitting to arbitration the issue, both parties availed of the conciliation/mediation proceedings before the National Conciliation and Mediation Board (NCMB) Regional Branch No. VII. They failed to arrive at an amicable settlement.

Thus, the process of arbitration continued and the parties appointed the chairperson and members of the Arbitration Committee as outlined in the CBA. Petitioner and respondent respectively appointed as members to the Arbitration Committee Mr. Raul A. Kapuno, Jr. and Mr. Luis Ruiz while they both chose Atty. Alice Morada as chairperson thereof. They then executed a Submission Agreement which was accepted by the Arbitration Committee on 01 October 2009. As contained in the Submission Agreement, the sole issue for arbitration is whether the removal of chairs of the operators assigned at the production/manufacturing line while performing their duties and responsibilities is valid or not.

Both parties submitted their position papers and other subsequent pleadings in amplification of their respective stands. Petitioner argued that the removal of the chairs is valid as it is a legitimate exercise of

management prerogative, it does not violate the Labor Code and it does not violate the CBA it contracted with respondent. On the other hand, respondent espoused the contrary view. It contended that the bottling operators have been performing their assigned duties satisfactorily with the presence of the chairs; the removal of the chairs constitutes a violation of the Occupational Health and Safety Standards, the policy of the State to assure the right of workers to just and humane conditions of work as stated in Article 3 of the Labor Code and the Global Workplace Rights Policy.

Ruling of the Arbitration Committee

On June 11, 2010, the Arbitration Committee rendered a decision in favor of the Royal Plant Workers Union (*the Union*) and against CCBPI, the dispositive portion of which reads, as follows:

Wherefore, the undersigned rules in favor of ROPWU declaring that the removal of the operators chairs is not valid. CCBPI is hereby ordered to restore the same for the use of the operators as before their removal in 2008.^[4]

The Arbitration Committee ruled, among others, that the use of chairs by the operators had been a company practice for 34 years in Bottling Line 2, from 1974 to 2008, and 20 years in Bottling Line 1, from 1988 to 2008; that the use of the chairs by the operators constituted a company practice favorable to the Union; that it ripened into a benefit after it had been enjoyed by it; that any benefit being enjoyed by the employees could not be reduced, diminished, discontinued, or eliminated by the employer in accordance with Article 100 of the Labor Code, which prohibited the diminution or elimination by the employer of the employees' benefit; and that jurisprudence had not laid down any rule requiring a specific minimum number of years before a benefit would constitute a voluntary company practice which could not be unilaterally withdrawn by the employer.

The Arbitration Committee further stated that, although the removal of the chairs was done in good faith, CCBPI failed to present evidence regarding instances of sleeping while on duty. There were no specific details as to the number of incidents of sleeping on duty, who were involved, when these incidents happened, and what actions were taken. There was no evidence either of any accident or injury in the many years that the bottling operators used chairs. To the Arbitration Committee, it was puzzling why it took 34 and 20 years for CCBPI to be so solicitous of the bottling operators' safety that it removed their chairs so that they would not fall asleep and injure themselves.

Finally, the Arbitration Committee was of the view that, contrary to CCBPI's position, line efficiency was the result of many factors and it could not be attributed solely to one such as the removal of the chairs.

Not contented with the Arbitration Committee's decision, CCBPI filed a petition for review under Rule 43 before the CA.

Ruling of the CA

On May 24, 2011, the CA rendered a contrasting decision which nullified and set aside the decision of the Arbitration Committee. The dispositive portion of the CA decision reads:

WHEREFORE, premises considered, the petition is hereby GRANTED and the Decision, dated 11 June 2010, of the Arbitration Committee in AC389-VII-09-10-2009D is NULLIFIED and SET ASIDE. A new one is entered in its stead SUSTAINING the removal of the chairs of the bottling operators from the manufacturing/production line.^[5]

The CA held, among others, that the removal of the chairs from the manufacturing/production lines by CCBPI is within the province of management prerogatives; that it was part of its inherent right to control and manage its enterprise effectively; and that since it was the employer's discretion to constantly develop measures or means to optimize the efficiency of its employees and to keep its machineries and equipment in the best of conditions, it was only appropriate that it should be given wide latitude in exercising it.

The CA stated that CCBPI complied with the conditions of a valid exercise of a management prerogative when it decided to remove the chairs used by the bottling operators in the manufacturing/production lines. The removal of the chairs was solely motivated by the best intentions for both the Union and CCBPI, in line with the "I Operate, I Maintain, I Clean" program for bottling operators, wherein every bottling operator was given the responsibility to keep the machinery and equipment assigned to him clean and safe. The program would reinforce the task of bottling operators to constantly move about in the performance of their duties and responsibilities. Without the chairs, the bottling operators could efficiently supervise these machineries' operations and maintenance. It would also be beneficial for them because the working time before the break in each rotation for each shift was substantially reduced from two and a half hours (2 ½) to one and a half hours (1 ½) before the 30-minute break. This scheme was clearly advantageous to the bottling operators as the number of resting periods was increased. CCBPI had the best intentions in removing the chairs because some bottling operators had the propensity to fall asleep while on the job and sleeping on the job ran the risk of injury exposure and removing them reduced the risk.

The CA added that the decision of CCBPI to remove the chairs was not done for the purpose of defeating or circumventing the rights of its employees under the special laws, the Collective Bargaining Agreement (CBA) or the general principles of justice and fair play. It opined that the principles of justice and fair play were not violated because, when the chairs were removed, there was a commensurate reduction of the working time for each rotation in each shift. The provision of chairs for the bottling operators was never part of the CBAs contracted between the Union and CCBPI. The chairs were not provided as a benefit because such matter was dependent upon the exigencies of the work of the bottling operators. As such, CCBPI could withdraw this provision if it was not necessary in the exigencies of the work, if it was not contributing to the efficiency of the bottling operators or if it would

expose them to some hazards. Lastly, the CA explained that the provision of chairs to the bottling operators cannot be covered by Article 100 of the Labor Code on elimination or diminution of benefits because the employee's benefits referred to therein mainly involved monetary considerations or privileges converted to their monetary equivalent.

Disgruntled with the adverse CA decision, the Union has come to this Court praying for its reversal on the following

GROUND

I

THAT WITH DUE RESPECT, THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN HOLDING THAT A PETITION FOR REVIEW UNDER RULE 43 OF THE RULES OF COURT IS THE PROPER REMEDY OF CHALLENGING BEFORE SAID COURT THE DECISION OF THE VOLUNTARY ARBITRATOR OR PANEL OF VOLUNTARY ARBITRATORS UNDER THE LABOR CODE.

II

THAT WITH DUE RESPECT, THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN NULLIFYING AND SETTING ASIDE THE DECISION OF THE PANEL OF VOLUNTARY ARBITRATORS WHICH DECLARED AS NOT VALID THE REMOVAL OF THE CHAIRS OF THE OPERATORS IN THE MANUFACTURING AND/OR PRODUCTION LINE.

In advocacy of its positions, the Union argues that the proper remedy in challenging the decision of the Arbitration Committee before the CA is a petition for certiorari under Rule 65. The petition for review under Rule 43 resorted to by CCBPI should have been dismissed for being an improper remedy. The Union points out that the parties agreed to submit the unresolved grievance involving the removal of chairs to voluntary arbitration pursuant to the provisions of Article V of the existing CBA. Hence, the assailed decision of the Arbitration Committee is a judgment or final order issued under the Labor Code of the Philippines. Section 2, Rule 43 of the 1997 Rules of Civil Procedure, expressly states that the said rule does not cover cases under the Labor Code of the Philippines. The judgments or final orders of the Voluntary Arbitrator or Panel of Voluntary Arbitrators are governed by the provisions of Articles 260, 261, 262, 262-A, and 262-B of the Labor Code of the Philippines.

On the substantive aspect, the Union argues that there is no connection between CCBPI's "I Operate, I Maintain, I Clean" program and the removal of the chairs because the implementation of the program was in 2006 and the removal of the chairs was done in 2008. The 30-minute break is part of an operator's working hours and does not make any difference. The frequency of the break period is not advantageous to the operators because it cannot compensate for the time they are made to stand throughout their working time. The bottling operators get tired and exhausted after their tour of duty even with chairs around. How much more if the chairs are removed?