

EN BANC

[G.R. NO. 168780, November 23, 2007]

BACOLOD CITY WATER DISTRICT, PETITIONER, VS. JUANITO H. BAYONA, RESPONDENT.

DECISION

CARPIO, J.:

The Case

This is a petition for review^[1] of the Decision^[2] promulgated on 28 February 2005 by the Court of Appeals (appellate court) in CA-G.R. SP No. 62275. The appellate court's decision affirmed Civil Service Commission (CSC) Resolution No. 001281^[3] dated 26 May 2000 and CSC Resolution No. 002606^[4] dated 20 November 2000. The appellate court declared that the CSC did not violate Bacolod City Water District's (BACIWA) right to due process when it failed to notify BACIWA of Juanito H. Bayona's (Bayona) letter requesting reinstatement, back salaries, and other benefits. Moreover, the appellate court affirmed CSC's subsequent declaration that BACIWA should reinstate Bayona and pay his back salaries and other benefits.

The Facts

The appellate court stated the facts as follows:

In the case of Davao Water District, et al. vs. Civil Service Commission (CSC), the Supreme Court declared that a water district is a corporation created pursuant to Presidential Decree No. 198, known as the Provincial Water Utilities Act of 1973, as amended. As such, its officers and employees should seek coverage under the Civil Service Law and not the Labor Code. This decision was promulgated on September 13, 1991, and obtained finality on March 12, 1992.

Unaware of said ruling, Bacolod City Water District (BACIWA) and its employees entered into a Collective Bargaining Agreement (CBA) on October 1, 1991, to govern their employer-employee relationship until September 30, 1996. To resolve the conflict on whether or not to apply the jurisprudence mentioned above or the provisions of the CBA, a tripartite committee consisting of the Secretary of Budget and Management, the chairman of the CSC and the administrator of the Local Water Utilities Administration met on September 10, 1993. In the process, said committee issued guidelines and agreed that, "all benefits provided under the duly existing CBAs entered into prior to March 12, 1992, the date of the official entry of judgment of said Supreme Court ruling, shall continue up to the Respective Expiry Dates of the benefits or CBAs, whichever comes earlier."

On May 16, 1994, an employee of BACIWA by the name of Juanito H. Bayona reached the age of sixty (60). He was the manager of the General Services Division and had been with BACIWA for the past thirteen (13) years. Earlier, in a letter addressed to the Civil Service Provincial Office, he sought clarification on the applicable retirement age for the employees of BACIWA. On February 9, 1993, Director Ramon Naces replied that water district employees could retire at age sixty-five because a "retirement plan should be liberally construed and administered in favor of the person intended to be benefited thereby."^[5]

Section 2 of Article XVI of the CBA between BACIWA's Union and BACIWA provides:

The DISTRICT shall have to compulsorily retire any employee when the latter reaches the age of sixty (60) years, unless extended by the Board with the employee's consent when the exigency of his services so require.^[6]

Nonetheless, the Board of Directors of BACIWA passed Resolution No. 046, series of 1995 conditionally extending the term of Bayona until 31 December 1995. This extension could be shortened by the implementation of the salary standardization, or by the exercise of the discretion of the Board of Directors.

In a letter dated 14 August 1995, fifteen months after his 60th birthday and four months before the expiry of his extended term, Bayona asked the CSC to determine the compulsory retirement age of BACIWA personnel. Resolution No. 964918, dated 5 August 1996, quoted from Bayona's letter as follows:

With your most kind indulgence, please allow me to elevate to your good office a query regarding the compulsory retirement age of BACIWA personnel, in view of the conflicting provisions of our CBA which provides a compulsory retirement age of 60 yrs. and that of the Civil Service Law which is 65 years.

x x x

While I do not wish to question the opinion given by the Civil Service Commission Regional Office in Iloilo, that Division Managers in BACIWA are placed within the scope of rank and file and should therefore be under the coverage of the existing CBA, yet I am still inclined to believe that even as rank and file employee, we [sic] can also avail of the provision of the CSC on compulsory retirement age of 65, because as a law, it was adopted and made part of our CBA, as provided under Section 6, Art. XXVIII of the said CBA. It is therefore for this reason that lead me to believe that any BACIWA personnel can either avail a compulsory retirement age of 60 or that of 65 years, as both compulsory retirement age likewise embodied in the CBA.^[7]

Juliana B. Carbon, BACIWA Officer-in-Charge, informed Bayona on 29 November 1995 that Board Resolution No. III, series of 1995 amended the date of Bayona's retirement from 31 December 1995 to 30 November 1995. Bayona was then given retirement pay and separated from the service.

On 16 January 1996, Commissioner Thelma P. Gaminde sent the following reply to Bayona's 14 August 1995 letter:

Please be informed that terms and conditions of employment in government are subject to Civil Service law and rules and regulations and such conditions may not be ignored unless there is an express provision of law granting certain exemptions. Thus, while the CBA may constitute the law between the parties, said terms and conditions should still conform with existing laws on the same subject matter. As applied to your case, the provisions of P.D. 1146 otherwise known as the Revised Government Service Insurance Act of 1977 providing for a compulsory retirement age of sixty-five (65) years with at least fifteen (15) years of service should prevail. This is true with other Civil Service rules providing a similar provision which shall prevail over the terms and conditions of your CBA.^[8]

On 4 March 1996, Bayona wrote another letter to the CSC. Now considered retired from service, Bayona informed the CSC about his request to BACIWA for his immediate reinstatement.

Based on your letter dated January 16, 1996 in response to my request for an official opinion regarding the compulsory retirement age for Bacolod City Water District (BACIWA) personnel, I requested the BACIWA Board and Management for my immediate reinstatement effective December 1, 1995 as I was forced to retire last November 30, 1995 inspite of my request to be allowed to retire on a later date in order to enable me to complete and comply with the minimum requirement of fifteen (15) years of service required under P.D. 1146, not to mention that I am only 61 years old.

x x x

Todate, I have not received a reply to my request for reinstatement. I was verbally informed by the Personnel Officer that maybe the Board and Management of BACIWA will be referring the matter to the Civil Service Commission there in Manila, as they possibly must have considered your response to be only an opinion without any binding effect and as such they may be [sic] would like to seek for an official ruling of the Commission en banc. They could have overlooked the request for an official opinion and it follows that your response to me should be considered as official and not only as an ordinary personal opinion.

Please allow me therefore to request for a ruling, a resolution, an order or whatever thing that is needed to effect my reinstatement, if such is still necessary.^[9]

In Resolution No. 964918 dated 5 August 1996, the CSC stated that although a contract is the law between the parties, the same must not be contrary to law, morals, good customs, public order, or public policy. The CBA cannot shorten the employees' term of office fixed by law, which is the age of 65 years. Thus, the compulsory retirement age of 65 years as provided in Section 11(b) of Presidential Decree No. 1146 (PD 1146) applies to BACIWA employees. Section 2 of Article XVI

of the CBA merely gives the employee an option to retire at the age of 60 years. The dispositive portion of Resolution No. 964918 reads:

WHEREFORE, it is hereby ruled that the compulsory retirement age for personnel of the Bacolod City Water District is sixty-five (65) years with an option to retire earlier at age sixty (60) years.^[10]

BACIWA filed a motion for reconsideration. Because there was no mention of Bayona in the dispositive portion of Resolution No. 964918, BACIWA asked whether the CSC's ruling that the compulsory retirement age for BACIWA personnel is 65 years, with an option to retire earlier at 60 years, applies specifically to Bayona, who reached 60 years on 16 May 1994 when the CBA between BACIWA and its union was still existing and yet to expire on 30 September 1996. BACIWA insisted that the compulsory retirement age of BACIWA employees which is 65 years, with an option to retire at age 60, should be made applicable only after 30 September 1996, the expiry of the CBA.

In Resolution No. 973564 dated 5 August 1997, the CSC declared that BACIWA's motion for reconsideration was devoid of merit. The CSC ruled that BACIWA's retirement plan, as stated in the CBA, violates PD 1146, an existing law. The CBA cannot shorten the employees' term of office fixed by law. There was still no mention of Bayona in the dispositive portion of Resolution No. 973564, which reads:

WHEREFORE, the instant motion of Bacolod City Water District is hereby denied. Accordingly, the CSC Resolution No. 964918 dated August 5, 1996 stands.^[11]

BACIWA filed a petition for review before the appellate court, docketed as CA-G.R. SP No. 45369. In a decision dated 29 March 1999, the appellate court affirmed CSC Resolution Nos. 964918 dated 5 August 1996 and 973564 dated 5 August 1997. In the body of its decision, the appellate court stated that the compulsory retirement age for Bayona is 65 years. Despite this pronouncement, the dispositive portion of the appellate court's decision still made no mention of Bayona's reinstatement. Pertinent portions of the appellate court's decision read:

In the case of public employees like Bayona, there is a law fixing the compulsory retirement age at 65 years which is P.D. 1146 (Revised Government Service Insurance Act of 1977).

In 1977, P.D. 1146 was promulgated decreeing that the compulsory retirement age of officers and members of the civil service is 65 years old. On February 20, 1984, the Supreme Court in *Baguio Water District v. Trajano*, 127 SCRA 730 already ruled that a water district is a corporation created pursuant to a special law – P.D. 198, as amended, and as such its officers and employees are covered by the Civil Service Law. This ruling was reiterated in *Hagonoy Water District v. NLRC*, 165 SCRA 272 and *Tanja[y] Water District v. Gabaton*, 172 SCRA 253.

Consequently, when the CBA was executed and made effective on October 1, 1991, [BACIWA] and the Union of which respondent Bayona was a member were conclusively presumed to know that: a) respondent Bayona and his co-officers and employees in BACIWA were members of the civil service; and, b) the compulsory retirement age of members of

the civil service as decreed by law is 65 years old, and yet, the parties stipulated for a lower compulsory retirement age.

The vital issue then is: What is the nature of the law fixing the compulsory retirement age of members of the civil service at 65 years? This Court holds that [the] law, PD 1146, is mandatory in character and tenor. The fixing of compulsory retirement age for public officers and employees is certainly most impressed with public interest for the age at which a public employee is retired affects his physical, mental, emotional, and financial well-being. The state as *parens patriae* fixed the compulsory retirement age of members of its personnel to ensure their welfare as well as the good of the State. The chosen age is based upon vital considerations like, among others, the general physical and mental health of the employee, his productivity or creativity; economic benefit to the employee and the financial constraints of the government agency concerned. It is clear to this Court that the fixing of the compulsory retirement age at 65 is a public policy.

Can the statutorily fixed compulsory retirement age be lowered by a CBA between the union of employees belonging to the civil service and the government-owned and controlled corporation? Negative is the answer.

x x x x

[T]his Court holds that the CBA lowering the compulsory retirement age of the officers and employees of BACIWA from the statutorily fixed 65 years is null and void because: a) PD 1146 gives Bayona a right to be compulsorily retired at age 65 and he cannot waive that right because such waiver is contrary to public policy; and, b) it is a fundamental principle that an existing law is in legal contemplation a part of a contract so that PD 1146 is a part of the CBA, hence the latter violated the law by lowering the compulsory retirement age fixed by PD 1146.

x x x x

This Court, therefore, finds no reversible error in the appealed decision.

WHEREFORE, for lack of merit, the appeal is DISMISSED and the appealed Decision is AFFIRMED.^[12]

Bayona still was not reinstated. In view of the rulings in CSC Resolution Nos. 964918 and 973564 and in CA-G.R. SP No. 45369, Bayona, in a letter dated 6 May 1999, again requested the CSC for an order specifically declaring his reinstatement and payment of back salaries and other benefits from 1 January 1996 up to 16 May 1999.

The Ruling of the CSC

In Resolution No. 001281 dated 26 May 2000, the CSC admitted that Bayona's reinstatement and payment of back salaries and other benefits were never mentioned in the dispositive portions of CSC Resolution Nos. 964918 and 973564. The CSC then declared that when it issued these resolutions, it was with the