

## THIRD DIVISION

[ G.R. No. 131247, January 25, 1999 ]

### PRUBANKERS ASSOCIATION, PETITIONER, VS. PRUDENTIAL BANK & TRUST COMPANY, RESPONDENT

#### DECISION

##### PANGANIBAN, J.:

Wage distortion presupposes an increase in the compensation of the lower ranks in an office hierarchy without a corresponding raise for higher-tiered employees in the same region of the country, resulting in the elimination or the severe diminution of the distinction between the two groups. Such distortion does not arise when a wage order gives employees in one branch of a bank higher compensation than that given to their counterparts in other regions occupying the same pay scale, who are not covered by said wage order. In short, the implementation of wage orders in one region but not in others does not in itself necessarily result in wage distortion.

#### The Case

Before us is a Petition for Review on Certiorari, challenging the November 6, 1997 Decision<sup>[1]</sup> of the Court of Appeals in CA-GR SP No. 42525. The dispositive portion of the challenged Decision reads:

"WHEREFORE, the petition is GRANTED. The assailed decision of the Voluntary Arbitration Committee dated June 18, 1996 is hereby REVERSED and SET ASIDE for having been issued with grave abuse of discretion tantamount to lack of or excess of jurisdiction, and a new judgment is rendered finding that no wage distortion resulted from the petitioner's separate and regional implementation of Wage Order No. VII-03 at its Cebu, Mabolo and P. del Rosario branches."

The June 18, 1996 Decision of the Voluntary Arbitration Committee,<sup>[2]</sup> which the Court of Appeals reversed and set aside, disposed as follows:

"WHEREFORE, it is hereby ruled that the Bank's separate and regional implementation of Wage Order No. VII-03 at its Cebu, Mabolo and P. del Rosario branches created a wage distortion in the Bank nationwide which should be resolved in accordance with Art. 124 of the Labor Code."<sup>[3]</sup>

#### The Facts

The facts of the case are summarized by the Court of Appeals thus:

"On November 18, 1993, the Regional Tripartite Wages and Productivity Board of Region V issued Wage Order No. RB 05-03 which provided for a Cost of Living Allowance (COLA) to workers in the private sector who

ha[d] rendered service for at least three (3) months before its effectivity, and for the same period [t]hereafter, in the following categories: SEVENTEEN PESOS AND FIFTY CENTAVOS (P17.50) in the cities of Naga and Legaspi; FIFTEEN PESOS AND FIFTY CENTAVOS (P15.50) in the municipalities of Tabaco, Daraga, Pili and the city of Iriga; and TEN PESOS (P10.00) for all other areas in the Bicol Region.

"Subsequently on November 23, 1993, the Regional Tripartite Wages and Productivity Board of Region VII issued Wage Order No. RB VII-03, which directed the integration of the COLA mandated pursuant to Wage Order No. RO VII-02-A into the basic pay of all workers. It also established an increase in the minimum wage rates for all workers and employees in the private sector as follows: by Ten Pesos (P10.00) in the cities of Cebu, Mandaue and Lapulapu; Five Pesos (P5.00) in the municipalities of Compostela, Liloan, Consolacion, Cordova, Talisay, Minglanilla, Naga and the cities of Davao, Toledo, Dumaguete, Bais, Canlaon, and Tagbilaran.

"The petitioner then granted a COLA of P17.50 to its employees at its Naga Branch, the only branch covered by Wage Order No. RB 5-03, and integrated the P150.00 per month COLA into the basic pay of its rank-and-file employees at its Cebu, Mabolo and P. del Rosario branches, the branches covered by Wage Order No. RB VII-03.

"On June 7, 1994, respondent Prubankers Association wrote the petitioner requesting that the Labor Management Committee be immediately convened to discuss and resolve the alleged wage distortion created in the salary structure upon the implementation of the said wage orders. Respondent Association then demanded in the Labor Management Committee meetings that the petitioner extend the application of the wage orders to its employees outside Regions V and VII, claiming that the regional implementation of the said orders created a wage distortion in the wage rates of petitioner's employees nationwide. As the grievance could not be settled in the said meetings, the parties agreed to submit the matter to voluntary arbitration. The Arbitration Committee formed for that purpose was composed of the following: public respondent Froilan M. Bacungan as Chairman, with Attys. Domingo T. Anonuevo and Emerico O. de Guzman as members. The issue presented before the Committee was whether or not the bank's separate and regional implementation of Wage Order No. 5-03 at its Naga Branch and Wage Order No. VII-03 at its Cebu, Mabolo and P. del Rosario branches, created a wage distortion in the bank nationwide.

"The Arbitration Committee on June 18, 1996 rendered the questioned decision."<sup>[4]</sup>

### **Ruling of the Court of Appeals**

In ruling that there was no wage distortion, the Court of Appeals held that the variance in the salary rates of employees in different regions of the country was justified by RA 6727. It noted that "the underlying considerations in issuing the wage orders are diverse, based on the distinctive situations and needs existing in each region. Hence, there is no basis to apply the salary increases imposed by

Wage Order No. VII-03 to employees outside of Region VII.” Furthermore, the Court of Appeals ruled that “the distinctions between each employee group in the region are maintained, as all employees were granted an increase in minimum wage rate.”  
[5]

### **The Issues**

In its Memorandum, petitioner raises the following issues:[6]

#### **I**

Whether or not the Court of Appeals departed from the usual course of judicial procedure when it disregarded the factual findings of the Voluntary Arbitration Committee as to the existence of wage distortion.

#### **II**

Whether or not the Court of Appeals committed grave error in law when it ruled that wage distortion exists only within a region and not nationwide.

#### **III**

Whether or not the Court of Appeals erred in implying that the term ‘establishment’ as used in Article 125 of the Labor Code refers to the regional branches of the bank and not to the bank as a whole.”

The main issue is whether or not a wage distortion resulted from respondent’s implementation of the aforecited Wage Orders. As a preliminary matter, we shall also take up the question of forum-shopping.

### **The Court’s Ruling**

The petition is devoid of merit.[7]

#### **Preliminary Issue: Forum-Shopping**

Respondent asks for the dismissal of the petition because petitioner allegedly engaged in forum-shopping. It maintains that petitioner failed to comply with Section 2 of Rule 42 of the Rules of Court, which requires that parties must certify under oath that they have not commenced any other action involving the same issues in the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, they must state the status of the same; and if they should thereafter learn that a similar action or proceeding has been filed or is pending before the said courts, they should promptly inform the aforesaid courts or any other tribunal or agency within five days therefrom. Specifically, petitioner accuses respondent of failing to inform this Court of the pendency of NCMB-NCR-RVA-04-012-97 entitled “In Re: Voluntary Arbitration between Prudential Bank and Prubankers Association” (hereafter referred to as “voluntary arbitration case”), an action involving issues allegedly similar to those raised in the present controversy.

In its Reply, petitioner effectively admits that the voluntary arbitration case was already pending when it filed the present petition. However, it claims no violation of the rule against forum-shopping, because there is no identity of causes of action and issues between the two cases.

We sustain the respondent. The rule on forum-shopping was first included in Section 17 of the Interim Rules and Guidelines issued by this Court on January 11, 1983, which imposed a sanction in this wise: "A violation of the rule shall constitute contempt of court and shall be a cause for the summary dismissal of both petitions, without prejudice to the taking of appropriate action against the counsel or party concerned." Thereafter, the Court restated the rule in Revised Circular No. 28-91 and Administrative Circular No. 04-94. Ultimately, the rule was embodied in the 1997 amendments to the Rules of Court.

As explained by this Court in *First Philippine International Bank v. Court of Appeals*, [8] forum-shopping exists where the elements of *litis pendentia* are present, and where a final judgment in one case will amount to *res judicata* in the other. Thus, there is forum-shopping when, between an action pending before this Court and another one, there exist: "a) identity of parties, or at least such parties as represent the same interests in both actions, b) identity of rights asserted and relief prayed for, the relief being founded on the same facts, and c) the identity of the two preceding particulars is such that any judgement rendered in the other action, will, regardless of which party is successful amount to *res judicata* in the action under consideration; said requisites also constitutive of the requisites for *auter action pendant* or *lis pendens*." [9] Another case elucidates the consequence of forum-shopping: "[W]here a litigant sues the same party against whom another action or actions for the alleged violation of the same right and the enforcement of the same relief is/are still pending, the defense of *litis pendentia* in one case is a bar to the others; and, a final judgment in one would constitute *res judicata* and thus would cause the dismissal of the rest." [10]

The voluntary arbitration case involved the issue of whether the adoption by the Bank of regionalized hiring rates was valid and binding.

On the other hand, the issue now on hand revolves around the existence of a wage distortion arising from the Bank's separate and regional implementation of the two Wage Orders in the affected branches. A closer look would show that, indeed, the requisites of forum-shopping are present.

*First*, there is identity of parties. Both cases are between the Bank and the Association, acting on behalf of all its members. *Second*, although the respective issues and reliefs prayed for in the two cases are stated differently, both actions boil down to one single issue: the validity of the Bank's regionalization of its wage structure based on RA 6727. Even if the voluntary arbitration case calls for striking down the Bank's regionalized hiring scheme while the instant petition calls for the correction of the alleged wage distortion caused by the regional implementation of Wage Order No. VII-03, the ultimate relief prayed for in both cases is *the maintenance of the Bank's national wage structure*. Hence, the final disposition of one would constitute *res judicata* in the other. Thus, forum-shopping is deemed to exist and, on this basis, the summary dismissal of both actions is indeed warranted.

Nonetheless, we deem it appropriate to pass upon the main issue on its merit in view of its importance.

#### Main Issue: Wage Distortion

The statutory definition of wage distortion is found in Article 124 of the Labor Code, as amended by Republic Act No. 6727, which reads:

“Article 124. *Standards/Criteria for Minimum Wage Fixing* - xxx

“As used herein, a wage distortion shall mean a situation where an increase in prescribed wage results in the elimination or severe contraction of intentional quantitative differences in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinctions embodied in such wage structure based on skills, length of service, or other logical bases of differentiation.”

Elaborating on this statutory definition, this Court ruled: “Wage distortion presupposes a classification of positions and ranking of these positions at various levels. One visualizes a hierarchy of positions with corresponding ranks basically in terms of wages and other emoluments. Where a significant change occurs at the lowest level of positions in terms of basic wage without a corresponding change in the other level in the hierarchy of positions, negating as a result thereof the distinction between one level of position from the next higher level, and resulting in a parity between the lowest level and the next higher level or rank, between new entrants and old hires, there exists a wage distortion. xxx. The concept of wage distortion assumes an existing grouping or classification of employees which establishes distinctions among such employees on some relevant or legitimate basis. This classification is reflected in a differing wage rate for each of the existing classes of employees”<sup>[11]</sup>

Wage distortion involves four elements:

1. An existing hierarchy of positions with corresponding salary rates
2. A significant change in the salary rate of a lower pay class without a concomitant increase in the salary rate of a higher one
3. The elimination of the distinction between the two levels
4. The existence of the distortion in the same region of the country.

In the present case, it is clear that no wage distortion resulted when respondent implemented the subject Wage Orders in the covered branches. In the said branches, there was an increase in the salary rates of all pay classes. Furthermore, the hierarchy of positions based on skills, length of service and other logical bases of differentiation was preserved. In other words, the quantitative difference in compensation between different pay classes remained the same in all branches in the affected region. Put differently, the distinction between Pay Class 1 and Pay Class 2, for example, was not eliminated as a result of the implementation of the