337 Phil. 659

FIRST DIVISION

[G.R. No. 115019, April 14, 1997]

PHILIPPINE SCOUT VETERANS SECURITY AND INVESTIGATION AGENCY AND/OR SEVERO SANTIAGO, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND MARIANO FEDERICO, RESPONDENTS.

D E C I S I O N

BELLOSILLO, J.:

MARIANO FEDERICO, private respondent, had been working with petitioners Philippine Scout Veterans Security and Investigation Agency and/or Severo Santiago as a security guard for twenty-three (23) years. On 16 September 1991 Federico, then already sixty (60) years old, tendered his so-called "letter of resignation" citing as his reasons physical disability to perform his duties and desire to spend the rest of his life in the province. It seems that the letter did not strictly refer to "resignation" but "withdrawal from occupation" because thereafter he sought alternative reliefs from petitioners, namely, termination pay corresponding to his years of service, or retirement benefits.

Petitioners rejected the claim for termination pay contending that respondent Federico voluntarily resigned. The claim for retirement benefits met the same fate there being no collective or individual agreement providing therefor.

On 4 December 1991 respondent Federico brought his grievance to the Labor Arbiter. However, the latter sustained the stand of petitioners. Hence on 25 August 1992 he ruled against Federico. Nevertheless, the termination of the proceedings did not leave respondent empty-handed. The Labor Arbiter directed petitioners to pay respondent P10,000.00, the amount they previously offered him, as financial assistance.[1]

On 28 December 1993 public respondent National Labor Relations Commission (NLRC) set aside on appeal the subject Decision, relying on Art. 287 of the Labor Code as amended by R.A. 7641 which, in the absence of a retirement plan or agreement providing for retirement benefits, grants retirement pay equivalent to fifteen (15) days for every year of service.[2] The amendment, which took effect on 7 January 1993, was thus retroactively applied in favor of respondent Federico. On 21 March 1994, NLRC denied reconsideration of the Decision.[3]

The question to be resolved is whether Art. 287 of the Labor Code as amended by R.A. 7641 may be applied retroactively to the complaint filed on 4 December 1991 by respondent Mariano Federico.

Petitioners argue that the amendment introduced by R.A. 7641 applies to employees of the private sector who retired beginning 7 January 1993, the date of its effectivity, and onwards. In the present case therefore respondent Federico, who

filed his complaint two (2) years prior to the effectivity of the law, cannot seek refuge in the provision. Besides, this Court in *Llora Motors, Inc. v. Drilon*[4] was faced with the same controversy. Its ruling thereon is now judicial precedent.

The Office of the Solicitor General contends that the matter of giving retroactive effect to social legislation has long been settled in the leading case of *Allied Investigation Bureau, Inc. v. Ople.*[5]

We grant the petition not on the basis of the arguments of petitioners but on recent jurisprudence. Article 287 then in force provided -

> Art. 287. Retirement. - Any employee may be retired upon reaching the retirement age established in the collective bargaining agreement or other applicable employment contract.
>
> In case of retirement, the employee shall be entitled to receive such retirement benefits as he may have earned under existing laws and any collective bargaining or other agreement *(underscoring supplied)*.

In *Allied,* private respondent had been an employee of petitioner since 1953. In 1976, having reached the age of sixty (60) years, he submitted to petitioner an application for retirement benefits which was subsequently approved although there was then no collective bargaining agreement or employer policy establishing an additional retirement plan for its employees. Controversy arose with respect to the method of computing the amount of retirement benefits. Instead of basing the amount upon private respondent's actual period of employment (from 1953 up to 1976), petitioner computed such amount starting with the date of the effectivity of the Labor Code (1 November 1974) up to 1976. The Labor Arbiter, the NLRC and the then Minister of Labor were one in the view that the computation should be on the basis of the length of service. This Court sustained the computation of public respondents since it found the comment of the Solicitor General in support thereof persuasive -

> x x x x in the computation thereof, public respondents acted judiciously in reckoning the retirement pay from the time private respondent started working with petitioner since respondent employee's application for retirement benefits and the company's approval of the same make express mention of Sections 13 and 14, Rule 1, Book VI of the Implementing Rules and Regulations of the Labor Code as the basis for retirement pay. Section 14 (a) of said rule provides that an employee who is retired pursuant to a *bona fide* retirement plan or in accordance with the applicable individual or collective agreement or established employer policy shall be entitled to all the retirement benefits provided therein or to termination pay equivalent to at least one-half month salary for every year of service, whichever is higher, a fraction of at least six (6) months being considered as one whole year x x x x This position taken by public respondents squares with the principle that social legislation should be interpreted in favor of workers in the light of the Constitutional mandate that the State shall afford protection to labor.

Quite differently, in Llora Motors, we set aside the grant of retirement benefits because of the absence of a collective bargaining agreement or other contractual