

## THIRD DIVISION

[ G.R. No. 99859, September 20, 1996 ]

**PHILIPPINE SCOUT VETERANS SECURITY & INVESTIGATION  
AGENCY, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS  
COMMISSION AND PORPING REGALADO, RESPONDENTS.**

### DECISION

**PANGANIBAN, J.:**

Does the Labor Code, prior to its amendment by Republic Act No. 7641,<sup>[1]</sup> authorize the payment of retirement pay in the absence of a provision therefor in a collective bargaining agreement or other applicable employment contract?

The instant petition for certiorari seeks to nullify the Decision of the National Labor Relations Commission<sup>[2]</sup> promulgated January 10, 1991, in NLRC Case No. 00-05-02236-89, entitled *"Porping Regalado vs. Phil. Scout Veterans Security & Investigation Agency, Inc. and/or Col. Cesar Sa Macalalad"*, affirming the labor arbiter's<sup>[3]</sup> award of retirement pay to private respondent.

#### The Antecedent Facts

Private respondent worked for the petitioner as a security guard since September 1963 until his retirement at the age of 60 on March 20, 1989, with a monthly salary of P1,480.00. He formally requested petitioner for payment of his retirement pay, but petitioner refused, stating that it would give him financial assistance instead, without specifying the amount, which offer was refused by the private respondent.

On May 11, 1989, private respondent filed a complaint for non-payment of retirement benefits against petitioner, docketed as NLRC Case No. 00-05-02236-89. Petitioner, in its position paper, alleged that private respondent was not entitled to retirement pay since there was no company policy which provided for nor any collective bargaining agreement granting it.

On September 19, 1989, the arbiter rendered his decision in favor of private respondent.<sup>[4]</sup> Inasmuch as his ratiocination may be indicative of the mind-set of our labor officialdom, we quote the same below:

"It is admitted that it is provided in Article 287 of the Labor Code that in case of retirement, the employee shall be entitled to receive such retirement benefits as he may have earned under existing laws and any CBA or other agreement. Since there is no CBA nor company policy granting the same, we have to look into other articles of the Labor Code. Article 283 of the Labor Code requires employer to give separation pay to employees who were retrenched at the rate of one month salary for every year of service when the termination is a result of installation of

labor saving device and one-half month pay for every year of service in case of retrenchment due to prevent losses (sic), closure or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses. Article 284 of the Labor Code also requires employer to pay an employee his separation pay at the rate of one-half month salary for every year of service when terminated due to incurable disease. An analysis of this article will reveal that it is the intention of the Code to provide same financial assistance to these people who are dislocated either because of loss of employment or due to disease and yet, an employee who retires and ironically whose company does not have any CBA nor policy providing for retirement pay will not receive any retirement pay for him to augment and supply his needs during his old age. This matter has to be correct(ed) and it will be an injustice if such retirement pay will be denied to complainant. After all, the company has benefitted from the service of the employee, hence, it is only fitting for the company to provide him some funds for his old age. Also, equity demands that in cases where there is no CBA nor company policy providing a retirement pay, an employer must pay its employee the needed retirement pay.

WHEREFORE, judgment is hereby rendered ordering the respondent Phil. Scout Veterans Security and Investigation Agency, Inc. to pay complainant his retirement pay at the rate of one-half month salary for every year of service, a fraction of at least six (6) months considered as one year of service."

Petitioner appealed to the respondent National Labor Relations Commission, which in its now-assailed Decision<sup>[5]</sup> affirmed the arbiter:

"An employee is entitled to retirement benefits even in the absence of a company retirement plan or collective bargaining agreement. This is the import of Article 287 of the Labor Code, as amended, and implemented by Sections 13 and 14, Rule I, Book V (sic) of the Rules Implementing the Labor Code. Thus in a case, this Commission (1st Division) ruled:

'With respect to the award of retirement benefits, the contention of respondent-appellant that complainant is not entitled to his claim of retirement benefits or to his termination or separation pay because he was not retired under the bonafide retirement plan or under an individual or collective bargaining agreement or under company policy, is highly untenable because Rule I, Sections 13 and 14, Book VI of the Rules Implementing the Labor Code taken together clearly states that, with or without a retirement plan, individual or collective bargaining agreement or company policy, an employee who retires or is retired at the age of sixty (60) or over, is entitled to termination pay equivalent to one-half month salary for every year of service, a fraction of at least six (6) months being considered as one whole year.

Moreover, if social justice and compassion to labor demand that termination pay be granted to victims of mechanization, redundancy, retrenchment to avoid losses and which are, from the standpoint of affected employees usually temporary contingency that do not prevent

them from sooner or later being gainfully employed again, we feel that there is far greater need to cushion retired employees from the difficulties attendant to old age and permanent idleness. And in protecting retired employees, we are also protecting their dependents. This is the essence of social justice. (Angel T. Tolentino vs. Standard Wood Products Company, Inc., NLRC Case No. NCR-5-3847-82, NLRC First Division, Promulgated July 8, 1987.)"

Petitioner moved for reconsideration but respondent Commission denied the same for lack of merit. Hence, this recourse.

This Court issued a temporary restraining order on June 10, 1991, enjoining respondent Commission and its representatives from enforcing its January 10, 1991 Decision. In a Manifestation in Lieu of Comment dated July 25, 1991, the Solicitor General agreed with the petitioner's position.

### **The Issues**

Petitioner alleges that respondent Commission acted with grave abuse of discretion:

A

"x x x IN APPLYING THE PROVISIONS OF ARTICLE 283 AND ARTICLE 284 OF THE LABOR CODE OF THE PHILIPPINES, AS AMENDED, AS THE LAW THAT PROVIDE FOR RETIREMENT PAY TO PRIVATE RESPONDENT.

B

x x x IN ISSUING THE QUESTIONED RESOLUTION WHICH RESULTED IN ADMINISTRATIVE LEGISLATION."

In a nutshell, the issue here is whether or not private respondent is legally entitled to retirement benefits.

### **The Court's Ruling**

The main contention of both petitioner and the Solicitor General is that there is no contractual nor statutory basis for the grant of retirement pay, hence, said award is improper.

The petition is impressed with merit.

The applicable provisions of the Labor Code on the matter of retirement are Art. 287 of the Labor Code, and Sections 13 and 14(a) of Rule I, Book VI of the Implementing Rules, which read as follows:

"Article 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