

## TWENTIETH DIVISION

**[ CA-G.R. SP NO. 08480, January 12, 2015 ]**

**RENATO C. TIEMPO, PETITIONER, VS. NATIONAL LABOR  
RELATIONS COMMISSIONS, 7<sup>TH</sup> DIVISION, COCA COLA  
BOTTLERS PHILS. INC. ET. AL., RESPONDENTS.**

### **D E C I S I O N**

#### **QUIJANO-PADILLA, J.:**

This is a Petition for Certiorari under Rule 65 of the Rules of Court assailing the following issuances of the National Labor Relations Commission (NLRC) in NLRC Case No. VAC-09-000554-2013, to wit: (1) Decision<sup>[1]</sup> dated November 29, 2013 affirming the decision<sup>[2]</sup> of the labor arbiter dated August 16, 2013; and (2) Resolution<sup>[3]</sup> dated February 26, 2014 denying petitioner's motion for reconsideration.

#### **The Antecedents**

Petitioner Renato C. Tiempo (Tiempo) was a licensed mechanical engineer who graduated *cum laude* at the University of San Jose Recoletos in Cebu City. He began working for private respondent Coca Cola Bottlers Philippines, Inc. (Coke) on February 15, 1998. He started as sales office assistant at Coke Mandaue City Plant. In September 2010, he passed the qualifying exam for supervisory position. Thereafter, he attended the company's Cadet Training Program (CTP), a training program for would-be supervisors, and graduated on February 18, 2011. He was elected president of their batch and became a recipient of a leadership award.

After graduating from the CTP, Tiempo was deployed at Coke Iloilo plant (Coke Iloilo) as maintenance supervisor. However, upon reporting for work thereat, he was temporarily assigned as production supervisor. He received a monthly salary of P29,744.00 plus housing allowance of P23,000.00 for five months. On April 20, 2011, Tiempo was transferred to the engineering section as engineering supervisor. He was very effective and he performed well in his position. Bernard Engada (Engada), Coke Iloilo plant manager, recognized Tiempo's effort and allegedly approved in November 2011 the latter's request for Job Upgrade Level (job upgrade request) from job grade (JG) 10 to JG 11.

According to Tiempo, the documents for his job upgrade request were immediately forwarded to private respondent Marlon Ventulan (Ventulan), the officer-in-charge of the Human Resource Management (HRM) of Coke Ilo-ilo. Per company precedent, the approval of the job upgrade request by the production manager and the plant operation manager was already good as a promotion because the main office would only confirm the action of the plant supervisor.

Unfortunately, however, there was no action on Tiempo's job upgrade request within the month of December 2011, hence, he made verbal follow-ups with Ventulan. He also made written inquiries and verifications but Ventulan failed to give a definite reply. On April 1, 2012, Ventulan told Tiempo of the supposed company memorandum pertaining to "NO MOVEMENT FOR UPGRADING OF JOB LEVEL."

Later, however, Tiempo was surprised to learn that on February 15, 2012, Coke Iloilo hired a new process supervisor in the person of Lorilee Casa with JG 11 and entry monthly salary of P38,971.00.<sup>[4]</sup> This made Tiempo suspect that Ventulan did not forward his job upgrade request to the main office and that the latter just kept it in his files. Tiempo, however, did not have the means to verify his suspicion. Thus, he sent an e-mail to the Regional Human Resource Director Anna Marie Transmonte (Transmonte) on September 14, 2012 to ask for assistance. Transmonte replied and assured him that she would settle the matter.

In the later part of September 2012, Tiempo learned that two of his batch mates in the CTP were promoted. Joseph Boticas (Boticas) and Japriel Samaniego (Samaniego) were both promoted to JG11 in January and April 2012, respectively and their salaries were increased to P38,971.00. Tiempo became all the more aggrieved since before the CTP, he already held a position that was classified as exempt group, while Boticas and Samaniego were just a rank and file employee, and an outsider, respectively. Yet, the two got promoted ahead of him.

Tiempo confronted Ventulan about the situation through e-mail but he got no reply. Subsequently, Tiempo was surprised that his salary for October 20, 2012 suddenly increased from P30,934.00 to P33,613.00. During their meeting on October 31, 2012, Ventulan conveyed to Tiempo the congratulatory memorandum<sup>[5]</sup> dated October 29, 2012 stating that Tiempo was already promoted from JG 10 to JG 11. Despite his promotion, Tiempo still felt ill-treated since his new salary of P33,613.00 was lower than that of his batchmates in the CTP who were receiving P38,971.00. According to Tiempo, his salary did not follow the 2008 Merit Increase Guidelines. Consequently, he sought clarification on the disparity from Ventulan but the latter failed to give a reasonable explanation. Tiempo did not also receive feedback from the head office, hence he filed with the labor arbiter this case for wage and promotion discrimination, damages and attorney's fees.

In the Position Paper<sup>[6]</sup> it submitted with the labor arbiter, Coke denied Tiempo's allegations. Coke averred that after undergoing the CTP, Tiempo was documented as a supervisor starting July 1, 2011 with JG 10. It was the company's policy that an employee may be upgraded to a higher job grade once every 12 months, or a year after the date of his last upgrading. In Tiempo's case, he was eligible for another upgrading on July 1, 2012.

Tiempo's upgrading assessment form was approved and signed by his superiors, Engada and plant operations manager, Ramey Clavecillas (Clavecillas) only on January 25, 2012. Engada wrote the date beside his signature. It was given final approval by Region Operations Director Angel Becerial only on March 2012.

Sometime between March to April 2012, however, the head office instructed all site Human Resource Business Partners (HRBP) that all JG 10 supervisors would be centrally upgraded in order to standardize the application of compensation policies

pursuant to "Project Everest," a salary reorganization program being implemented at that time. Hence, when Tiempo made follow-ups on his job upgrade request, Ventulan told him to wait as the head office would be the one to initiate the upgrading.

According to Coke, prior to Project Everest, those who were upgraded to JG11 received a minimum salary of P38,971.00. However, thereafter, there were changes in the salary adjustments because the company already took into account the employee's performance, internal equity and external competitiveness, as well as the affordability of the employee's salary. Hence, the employee needs to have an average rating of successful performance in his evaluation to qualify for job upgrade. Then, there would be a salary analysis in order to maintain internal equity in determining the employee's new salary rate. If the employee's current salary fell within the established range, there would be no immediate adjustment to his monthly basic pay; but if his salary was below the established range, the employee's salary would be adjusted according to the result of the salary analysis. The salary recommendation was evaluated against a set of comparable employees who were in the same level and with similar tenure. When comparing salaries, the company also looked at the total population of employees in the same job grade across all functions.

In late September 2012, the head office gave the HRBP the go signal for job upgrading of qualified JG 10 supervisors to JG 11. After making a salary analysis, Tiempo was given an 8.66% increase in his salary, which pay was within the acceptable range received by supervisors. Tiempo was upgraded to JG 11 together with other supervisors effective October 16, 2012.

Tiempo, however complained of his salary rate as his CTP batch mates Boticas and Samaniego were given a salary rate of P38,971.00 when they were respectively upgraded in January and April 2012. Coke explained to Tiempo that he was not similarly situated with Boticas and Samaniego since they were assigned at Sta. Rosa, Laguna and Meycuayan, Bulacan plants, respectively. Also, Tiempo's two CTP batch mates were production supervisors and their work was very different from Tiempo's post as engineering supervisor. Aside from holding different duties and responsibilities, Boticas' and Samaniego's job upgrading were approved prior to Project Everest and before changes in compensation policy took effect. Coke, through its personnel, namely: Ventulan, Transmonte and Senior HR Manager Mary Grace Perez, explained these things to Tiempo, but the latter rejected the explanation and demanded that he be similarly paid with Boticas and Samaniego.

After evaluating the parties' respective positions, the labor arbiter ruled in Coke's favor and dismissed Tiempo's complaint for lack of cause of action.

Tiempo appealed to the NLRC but the NLRC affirmed the labor arbiter's ruling *in toto*. In denying Tiempo's appeal, the NLRC declared that Coke made no discrimination in promotion since Tiempo was actually promoted to the job grade he applied for. The NLRC did not sustain Tiempo's claim that he was already promoted in November 2011 when plant manager Engada allegedly approved his job upgrade request. The NLRC pointed to the evidence that Tiempo's job upgrading assessment form was signed by Engada and Clavecillas only on January 25, 2012 and given final approval by the Region Operations Director only on March 2012. The NLRC disregarded Tiempo's claim that the date written beside Engada's signature was

forged as it found no anomaly in perusing the form. Also, the NLRC rejected Tiempo's claim of "company precedent" in insisting that his promotion was approved in November 2011, the time when Engada allegedly approved his job upgrade request, since Tiempo had not provided even a single evidence to substantiate this alleged precedents.

The NLRC declared that Tiempo only acquired a vested right to his promotion on October 16, 2012, the date it was made effective by Coke. Although his promotion was given final approval on March 2012 yet, it was only conveyed to him *via* a congratulatory memorandum on October 29, 2012. According to the NLRC, a promotion was essentially a contract in that Tiempo was the offerer who submitted his request for promotion, while Coke was the offeree, being the recipient of the offer. The NLRC used Article 1319<sup>[7]</sup> of the Civil Code in adjudging that the contract between the parties was perfected only the moment Coke's acceptance came to Tiempo's knowledge since it was only at such time that there was a manifestation of concurrence between the offer made by Tiempo and the acceptance by Coke.

The NLRC also refused to grant Tiempo's requested salary adjustment and ruled that he could not claim a vested right to the salaries prevailing prior to Project Everest. According to the NLRC, it was within Coke's prerogative to undergo the restructuring of certain aspects of its company operations. Moreover, Tiempo had not even shown that Coke made the restructuring in bad faith or that he was maliciously singled out by Coke in the manner by which his promotion was effected or salary was determined.

Tiempo moved for reconsideration<sup>[8]</sup> but the NLRC denied his motion. Aggrieved, Tiempo brought this petition on the following grounds that:

THE NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT TOTALLY IGNORED AND DISREGARDED THE PROVISION OF THE CIVIL CODE OF THE PHILIPPINES UNDER ARTICLE 1315 THAT "CONTRACTS ARE PERFECTED BY MERE CONSENT, AND FROM THAT MOMENT THE PARTIES ARE BOUND NOT ONLY TO THE FULFILLMENT OF WHAT HAS BEEN EXPRESSLY STIPULATED BUT ALSO TO ALL THE CONSEQUENCES WHICH, ACCORDING TO THEIR NATURE, MAY BE IN KEEPING WITH GOOD FAITH, USAGE AND LAW.

THE NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT UNDULY ACCORDED WEIGHT ON THE SELF SERVING CLAIM OF RESPONDENTS THAT THE PROMOTION OF PETITIONER WAS PUT ON HOLD DUE TO PROJECT EVEREST DESPITE THE ABSENCE OF WRITTEN MEMORANDUM.

THE NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT REFUSED TO GRANT PETITIONER THE EFFECTIVITY OF HIS PROMOTION ON THE DATE IT WAS APPROVED AND DENY HIS ENTITLEMENT FOR SALARY DIFFERENTIAL.

### **This Court's Ruling**