THIRTEENTH DIVISION

[CA-G.R. SP NO. 129677, March 06, 2015]

PHILIPPINE SCHOOL OF BUSINESS ADMINISTRATION, INC. - QUEZON CITY/ATTY. BENJAMIN PAULINO/DR. JUAN LIM, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION (SIXTH DIVISION) AND LETICIA Q. PEREZ, RESPONDENTS.

DECISION

CORALES, J.:

This is a Petition for *Certiorari*[1] under Rule 65 of the Rules of Court with application for issuance of a temporary restraining order (TRO) and/or writ of preliminary injunction (WPI) against the December 17, 2012 Decision[2] and the February 13, 2013 Resolution[3] of the National Labor Relations Commission (NLRC) in NLRC LAC No. 08-002221-12. The assailed decision affirmed the June 27, 2012 Decision[4] of the Labor Arbiter ordering petitioners Philippine School of Business Administration-Quezon City (PSBA-QC) and Atty. Benjamin Paulino and Dr. Juan S. Lim, its President and Vice-President of Finance, respectively, to pay private respondent Leticia Q. Perez (Perez) the amount of P1,312,118.34 as retirement benefits. The challenged resolution denied petitioners' subsequent motion for reconsideration.

The Antecedents

Perez was an academic faculty member in PSBA-QC from November 1985 until her retirement on July 4, 2011. Pursuant to Section 3, Article XXI of the 2005-2010 Collective Bargaining Agreement (CBA) between PSBA-QC and PSBA Faculty Association, Quezon City, Inc., which provides that the one-half month pay is equivalent to annual basic salary/12 months divided by 2, the school computed Perez' retirement benefits, 13th month pay, and service award as follows:

Retirement Notice Received	:	July 4, 2011
Last Attendance	:	End of Summer, AY 2010-2011 (May 25, 2011)
Date Hired	:	Second Semester, AY 1985-1986 (November, 1985)
		x x x
Status	:	Regular Full-Time
		x x x
Number of Years in Service	:	25 yrs. & 1 mo. (301 months as per Service Record) or 25 years. (117.5%) Art. XXI, Sec. 3.d. Of 2005-2010 CBA

Schedule I - Annual Basic Salary - June, 2010 to May, 2011

P453,936.26

x x x

Actual School Calendar Days
Per Year

1st Semester	108 days
2nd Semester	108 "
Summer	36
Total	252 days
Divisor	247 days

Average Daily Salary = $\frac{\text{Annual Basic Salary}}{247 \text{ days}}$

$$\frac{P453,936.26}{247 \text{ days}} = P1,837.80/day$$

Average Monthly Salary = $\frac{\text{Annual Basic Salary}}{12 \text{ months}}$

$$\frac{P453,936.26}{12 \text{ months}} = P37,828.02/mo.$$

Components of one-half (½) month salary

a. One-half (½) month salary

$$\frac{P37,828.02}{2} = 15 \text{ days} \qquad P18,914.01$$

b. Cash Equivalent of five (5) days of Service Incentive Leave

P1,837.80 x 5 days   9,189.00

c. One-twelfth (1/12) of the 13th Month Pay
Annual Basic Salary less Summer pay x 110%/9 mos./12 mos.

(P436,007.23 x 110%/9 mos/12 mos.   2.5 days   <u>4,440.81</u>

TOTAL	22.5 days	P32,543.82
Add: 17.5% premium		<u>5,695.17</u>
One-half (½) month salary equivalent		P38,238.99
Multiply by number of years in service		<u>25 yrs</u>

Total Retirement Pay   P955,974.75
Less Withholding tax   <u>257,957.56</u>

Net Amount Due   **P698,017.19**

<div align="center">x x x</div>

Schedule 4 – Computation of 13th Month Pay – Y2011

Basic Salary – November, 2010 to March, 2011 x 110%/9 mos.

P148,341.18 x 110% / 9 mos.   **P 18,130.59**

Schedule 5 – Service Award Y2011

25 years of service   **P 8,000.00**[5]

Perez disputed PSBA-QC's computation. She also refused to accept the checks for her retirement benefits and sign the quitclaim which PSBA-QC required as condition for the release of benefits. She insisted that her one-half month pay should be computed using the formula "average daily salary x 15 days" used by PSBA-QC in computing the retirement benefits of Pacifica Camba (Camba), an academic faculty member who retired on June 21, 2010, instead of the formula "annual basic salary/12 months divided by 2". She further claimed that she had been employed by PSBA-QC for 25 years and seven (7) months or 26 years thereby entitling her to a 22.5% premium and a retirement benefit of P1,312,118.34 computed as follows:

a. Average Daily Salary   = Annual Basic Salary/247 days
                                     = P453,936.26/247 days
                                     = P1,837.80

COMPUTATION OF ONE HALF (½) MONTH SALARY:
a. Average Daily Salary x 15 days
    = P1,837.80 x 15 days
    = P27,567.00

<div align="center">x x x</div>

b. Cash Equivalent of Five (5) days of Service Incentive Leave
    = P1,837.80 x **5 days**
    = P9,189.00
c. One-twelfth (1/12) of the 13th Month Pay (2.5 days)
    = Annual Basic Salary less Summer pay x 110%/9 mos/12 mos
    = (P436,007.23 x 110%/ 9/

12)
= **P4,440.81**

TOTAL (a+b+c) = 22.5 days

P27,567.00 + P9,189.00 +
P4,440.81
= **P41,196.81**

Add: 22.5% premium
P41,196.81 x 22.5%
= **P9,269.28**

TOTAL RETIREMENT PAY
P41,196.81 + P9,269.28 =
P50,466.09 x 26 years
= **P1,312,118.34**[6]

PSBA-QC maintained its computation and insisted on the application of the CBA's formula in computing one-half month pay.[7]

Unconvinced, Perez filed before the Labor Arbiter a complaint for non-payment of 13th month pay, retirement benefits, and service award against PSBA-QC, its President and Vice-President.

The Rulings of the Labor Arbiter and the NLRC

In the June 27, 2012 Decision,[8] the Labor Arbiter upheld Perez' computation using the average daily salary rate for one-half month pay. It was stressed that the application of the daily salary rate in computing Camba's retirement benefits equally applies to Perez to avoid undue discrimination. The Labor Arbiter noted PSBA-QC's tacit admission in its position paper that Perez "was hired a member of the SCHOOL'S academic faculty in November 1985[;] she went on leave after the summer term of AY 2010-2011 and then submitted a written notice of retirement on 04 July 2011 x x x"; and concluded that Perez was employed for a total of 26 years and 7 months. The dispositive portion of the Labor Arbiter's Decision reads:

> **WHEREFORE,** all the foregoing premises being considered, judgment is hereby rendered ordering the respondents to pay complainant the sum of P1,312,118.34 as retirement benefits.
>
> SO ORDERED.

On appeal,[9] the NLRC, through its December 17, 2012 Decision,[10] sustained the findings of the Labor Arbiter. It found no reasonable distinction between Camba and Perez which would warrant the application of different formulas in computing their retirement benefits. It further held that the retirement benefits provided in the CBA is less than that provided by Article 287 (now Article 293) of the Labor Code, as amended by Republic Act (R.A) No. 7641, otherwise known as the Retirement Pay Law; hence, the latter should be applied.