

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**BACOLOD-MURCIA
COMPANY, INC.,**

MILLING
Petitioner,

-versus-

**G.R. No. 84272
November 21, 1991**

**NATIONAL LABOR RELATIONS
COMMISSION and ELENA CANETE,**
Respondents.

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DECISION

FERNAN, CJ:

At issue in this Petition for *Certiorari* is the manner of computation of the retirement pay of private respondent Elena Canete who was in the employ of petitioner Bacolod-Murcia Milling Company, Inc. for thirty-four (34) years.

In her complaint against petitioner Company for underpayment of retirement benefits and moral damages, Canete alleged that on October 14, 1985, she was paid her retirement benefits in the amount of P21,457.00, after taking into consideration her twenty-five years of service as a seasonal worker (cane scaler) from October 6, 1951 to April 30, 1976 and the last nine years as a permanent employee

(family planning motivator) from May 1, 1976 to August 30, 1985. The company computed her retirement pay in accordance with the “mixed service credit” computation under Section 9, Article XVII of the Collective Bargaining Agreement between petitioner Company and the Allied Workers’ Association of the Philippines, Bacolod-Murcia Central Chapter (NACUSIP) of which Canete was a member.^[1]

Canete claims that this was erroneous. The computation of her retirement pay should have been based on Section 7 of the same article which provides that permanent employees who have rendered thirty years of service or more are entitled to 100% of one month’s base pay for every year of service beginning with the first year. Hence, she was underpaid in the amount of P17,415.20.

Both the Executive Labor Arbiter of the Regional Arbitration Branch and the National Labor Relations Commission agreed with Canete. In the assailed resolution dated December 29, 1987, respondent Labor Tribunal affirmed the decision of the Labor Arbiter ordering petitioner Company to pay Canete P17,415.00 representing the differential in her retirement benefit, (Canete’s last pay of P38.11 per day multiplied by 30 equals P1,143.38 per month. This amount multiplied by 34 years equals P38,872.20. Considering that Canete had received P21,457.00, she was underpaid of her retirement pay in the amount of P17,415.20).^[2]

In the instant petition, petitioner Company contends that the Labor Tribunal committed grave abuse of discretion in granting the retirement pay differential in favor of Canete, in derogation of the binding effect of the Collective Bargaining Agreement despite public respondent’s pretended adherence to Section 7 of Article XVII thereof. Petitioner maintains that for purposes of computing Canete’s retirement benefits, public respondent should not have relied primarily on Section 7 of Article XVII of the CBA which provides:

“SECTION 7. Benefit. — The benefit under this plan is the cash equivalent in accordance with the following schedule for permanent employees:

Years of Service	Retirement Pay
<u>20 years</u>	50% of 1 month’s base pay

**per year of service beginning
with the first year**

21”	55%	— do —
22”	60%	— do —
23”	65%	— do —
24”	70%	— do —
25”	75%	— do —
26”	80%	— do —
27”	85%	— do —
28”	90%	— do —
29”	95%	— do —
30”	100%	— do —

“The pay referred to shall be construed to be the last rate of the employee upon retirement.

“In case of death, however, the amount shall not be less than P500.00.”

because while Canete served as a permanent employee for nine years, prior to that, she was only a seasonal worker for twenty-five years.

Petitioner submits that in determining the correct retirement pay, Canete’s twenty-five year service as a seasonal laborer should have been taken into account and divided by two in accordance with the mixed service credit computation under Section 9 which states:

“SECTION 9. Computation of benefit for Seasonal Employees.
— Except as provided for in Sections 3, 5 and 6 in this Article, seasonal employees may qualify under voluntary retirement upon having established 20 years of seasonal service.

“For purposes, however, of computing the benefit due seasonal employees, the formula is as follows:

“Number of years of seasonal service, multiplied by the percentage of a month’s base pay per schedule under Section 7, divided by two (2) equals the amount of retirement benefit.

“Provided, finally, that in cases of mixed service credit, only the services corresponding to seasonal employment shall be divisible by two (2).” (Emphasis supplied).

The petition is meritorious.

While under prevailing jurisprudence,^[3] Canete may be considered as in regular employment even during those years when she was merely a seasonal worker, that legal conclusion will hold true only in cases involving the determination of an employer-employee relationship or security of tenure. But for retirement purposes, the distinction between a seasonal and a regular worker must be drawn in view of the materiality of the length of service being rendered by the employee in a year. To equate the seasonal worker with a regular employee and grant him the same retirement benefits is grossly unfair to the regular employee who has rendered service throughout the entire year.

Indeed, by the very nature of his work, the seasonal laborer cannot enjoy the same retirement privileges as the regular worker. The seasonal laborer works only for a fraction of the year. And more often than not, he is allowed by his employer to seek employment elsewhere during off-season or temporary lay-off for economic necessity. This is the set-up endemic or peculiar to the sugar industry – which is precisely the reason why the CBA in the case at bar has differentiated among the three types of employees of petitioner Company, namely, the seasonal worker, the regular worker and the mixed seasonal and regular worker. To follow the unrealistic interpretation given by respondent Labor Tribunal will negate and render inutile and superfluous the difference recognized by said Agreement because all employees would then retire under Section 7 as all of them are considered regular. This completely ignores the indubitable fact that there are employees like Canete who worked in the fields as seasonal workers but were later promoted and became members of the regular work force. It is exactly for Canete and those similarly situated that the stipulation on mixed service credit has been incorporated in the CBA. And at the risk of being redundant, it must be stressed that the CBA is the law between the parties and when not contrary to law, morals and public policy, must be given effect.

While it may be a laudable gesture for the Court to “lean over backwards” in favor of labor, such magnanimity must not go as far as to cause a clear injustice to management which is entitled under the law to as much protection and concern as labor.

WHEREFORE, the petition is granted. The questioned resolution by respondent National Labor Relations Commission dated December 29, 1987 is hereby **REVERSED** and **SET ASIDE**. The complaint filed by private respondent Elena Canete for retirement benefits and payment of moral damages against petitioner Bacolod-Murcia Milling Company, Inc. is ordered **DISMISSED**. This decision is immediately executory. No costs.

SO ORDERED.

Gutierrez, Jr., Bidin, Davide, Jr. and Romero, JJ., concur.

[1] RAB VI Case No. 0372-85.

[2] Rollo, p. 45.

[3] Manila Hotel Company vs. Court of Industrial Relations, No. L-18873, September 30, 1963, 9 SCRA 184; Visayan Stevedore Trans. Company vs. CIR, No. L-21696, February 25, 1967, 19 SCRA 426; ICAWO vs. CIR, No. L-21465, March 31, 1966, 16 SCRA 562.