

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**DAVAO INTEGRATED PORT
STEVEDORING SERVICES,**
Petitioner,

-versus-

**G.R. No. 102132
March 19, 1993**

**RUBEN V. ABARQUEZ, IN HIS
CAPACITY AS AN ACCREDITED
VOLUNTARY ARBITRATOR AND THE
ASSOCIATION OF TRADE UNIONS
(ATU-TUCP),**
Respondents.

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DECISION

ROMERO, J.:

In this Petition for *Certiorari*, petitioner Davao Integrated Port Services Corporation seeks to reverse the Award^[1] issued on

September 10, 1991 by respondent Ruben V. Abarquez, in his capacity as Voluntary Arbitrator of the National Conciliation and Mediation Board, Regional Arbitration Branch XI in Davao City in Case No. AC-211-BX1-10-003-91 which directed petitioner to grant and extend the privilege of commutation of the unenjoyed portion of the sick leave with pay benefits to its intermittent field workers who are members of the regular labor pool and the present regular extra pool in accordance with the Collective Bargaining Agreement (CBA) executed between petitioner and private respondent Association of Trade Unions (ATU-TUCP), from the time it was discontinued and henceforth.

The facts are as follows:

Petitioner Davao Integrated Port Stevedoring Services (petitioner-company) and private respondent ATU-TUCP (Union), the exclusive collective bargaining agent of the rank and file workers of petitioner-company, entered into a collective bargaining agreement (CBA) on October 16, 1985 which, under Sections 1 and 3, Article VIII thereof, provide for sick leave with pay benefits each year to its employees who have rendered at least one (1) year of service with the company, thus:

“ARTICLE VIII

Section 1. Sick Leaves — The Company agrees to grant 15 days sick leave with pay each year to every regular non-intermittent worker who already rendered at least one year of service with the company. However, such sick leave can only be enjoyed upon certification by a company designated physician, and if the same is not enjoyed within one year period of the current year, any unenjoyed portion thereof, shall be converted to cash and shall be paid at the end of the said one year period. And provided however, that only those regular workers of the company whose work are not intermittent, are entitled to the herein sick leave privilege.

Section 3. — All intermittent field workers of the company who are members of the Regular Labor Pool shall be entitled to vacation and sick leaves per year of service with pay under the following schedule based on the number of hours rendered including overtime, to wit:

Hours of Service Per Calendar Year	Vacation Leave	Sick Leave
Less than 750	NII	NII
751 — 825	6 days	6 days
826 — 900	7	7
901 — 925	8	8
926 — 1,050	9	9
1,051 — 1,125	10	10
1,126 — 1,200	11	11
1,201 — 1,275	12	12
1,276 — 1,350	13	13
1,351 — 1,425	14	14
1,426 — 1,500	15	15

The conditions for the availment of the herein vacation and sick leaves shall be in accordance with the above provided Sections 1 and 2 hereof, respectively.”

Upon its renewal on April 15, 1989, the provisions for sick leave with pay benefits were reproduced under Sections 1 and 3, Article VIII of the new CBA, but the coverage of the said benefits was expanded to include the “present Regular Extra Labor Pool as of the signing of this Agreement.” Section 3, Article VIII, as revised, provides, thus:

“Section 3. — All intermittent field workers of the company who are members of the Regular Labor Pool and present Regular Extra Labor Pool as of the signing of this agreement shall be entitled to vacation and sick leaves per year of service with pay under the following schedule based on the number of hours rendered including overtime, to wit:

Hours of Service Per	Vacation	Sick Leave
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Calendar Year	Leave	
	NII	NII
Less than 750		
751 – 825	6 days	6 days
826 – 900	7	7
901 – 925	8	8
926 – 1,050	9	9
1,051 – 1,125	10	10
1,126 – 1,200	11	11
1,201 – 1,275	12	12
1,276 – 1,350	13	13
1,351 – 1,425	14	14
1,426 – 1,500	15	15

The conditions for the availment of the herein vacation and sick leaves shall be in accordance with the above provided Sections 1 and 2 hereof, respectively.”

During the effectivity of the CBA of October 16, 1985 until three (3) months after its renewal on April 15, 1989, or until July 1989 (a total of three (3) years and nine (9) months), all the field workers of petitioner who are members of the regular labor pool and the present regular extra labor pool who had rendered at least 750 hours up to 1,500 hours were extended sick leave with pay benefits. Any unenjoyed portion thereof at the end of the current year was converted to cash and paid at the end of the said one-year period pursuant to Sections 1 and 3, Article VIII of the CBA. The number of days of their sick leave per year depends on the number of hours of service per calendar year in accordance with the schedule provided in Section 3, Article VIII of the CBA.

The commutation of the unenjoyed portion of the sick leave with pay benefits of the intermittent workers or its conversion to cash was, however, discontinued or withdrawn when petitioner-company under a new assistant manager, Mr. Benjamin Marzo (who replaced Mr. Cecilio Beltran, Jr. upon the latter’s resignation in June 1989), stopped the payment of its cash equivalent on the ground that they are not entitled to the said benefits under Sections 1 and 3 of the 1989 CBA.

The Union objected to the said discontinuance of commutation or conversion to cash of the unenjoyed sick leave with pay benefits of petitioner's intermittent workers contending that it is a deviation from the true intent of the parties that negotiated the CBA; that it would violate the principle in labor laws that benefits already extended shall not be taken away and that it would result in discrimination between the non-intermittent and the intermittent workers of the petitioner-company.

Upon failure of the parties to amicably settle the issue on the interpretation of Sections 1 and 3, Article VIII of the 1989 CBA, the Union brought the matter for voluntary arbitration before the National Conciliation and Mediation Board, Regional Arbitration Branch XI at Davao City by way of complaint for enforcement of the CBA. The parties mutually designated public respondent Ruben Abarquez, Jr. to act as voluntary arbitrator.

After the parties had filed their respective position papers,^[2] public respondent Ruben Abarquez, Jr. issued on September 10, 1991 an Award in favor of the Union ruling that the regular intermittent workers are entitled to commutation of their unenjoyed sick leave with pay benefits under Sections 1 and 3 of the 1989 CBA, the dispositive portion of which reads:

“WHEREFORE, premises considered, the management of the respondent Davao Integrated Port Stevedoring Services Corporation is hereby directed to grant and extend the sick leave privilege of the commutation of the unenjoyed portion of the sick leave of all the intermittent field workers who are members of the regular labor pool and the present extra pool in accordance with the CBA from the time it was discontinued and henceforth.

SO ORDERED.”

Petitioner-company disagreed with the aforementioned ruling of public respondent, hence, the instant petition.

Petitioner-company argued that it is clear from the language and intent of the last sentence of Section 1, Article VIII of the 1989 CBA that only the regular workers whose work are not intermittent are entitled to the benefit of conversion to cash of the unenjoyed portion of sick leave, thus: “And provided, however, that only those regular workers of the Company whose work are not intermittent are entitled to the herein sick leave privilege.”

Petitioner-company further argued that while the intermittent workers were paid the cash equivalent of their unenjoyed sick leave with pay benefits during the previous management of Mr. Beltran who misinterpreted Sections 1 and 3 of Article VIII of the 1985 CBA, it was well within petitioner-company’s rights to rectify the error it had committed and stop the payment of the said sick leave with pay benefits. An error in payment, according to petitioner-company, can never ripen into a practice.

We find the arguments unmeritorious.

A collective bargaining agreement (CBA), as used in Article 252 of the Labor Code, refers to a contract executed upon request of either the employer or the exclusive bargaining representative incorporating the agreement reached after negotiations with respect to wages, hours of work and all other terms and conditions of employment, including proposals for adjusting any grievances or questions arising under such agreement.

While the terms and conditions of a CBA constitute the law between the parties,^[3] it is not, however, an ordinary contract to which is applied the principles of law governing ordinary contracts.^[4] A CBA, as a labor contract within the contemplation of Article 1700 of the Civil Code of the Philippines which governs the relations between labor and capital, is not merely contractual in nature but impressed with public interest, thus, it must yield to the common good. As such, it must be construed liberally rather than narrowly and technically, and the courts must place a practical and realistic construction upon it, giving due consideration to the context in which it is negotiated and purpose which it is intended to serve.^[5]

It is thus erroneous for petitioner to isolate Section 1, Article VIII of the 1989 CBA from the other related section on sick leave with pay benefits, specifically Section 3 thereof, in its attempt to justify the discontinuance or withdrawal of the privilege of commutation or conversion to cash of the unenjoyed portion of the sick leave benefit to regular intermittent workers. The manner they were deprived of the privilege previously recognized and extended to them by petitioner-company during the lifetime of the CBA of October 16, 1985 until three (3) months from its renewal on April 15, 1989, or a period of three (3) years and nine (9) months, is not only tainted with arbitrariness but likewise discriminatory in nature. Petitioner-company is of the mistaken notion that since the privilege of commutation or conversion to cash of the unenjoyed portion of the sick leave with pay benefits is found in Section 1, Article VIII, only the regular non-intermittent workers and no other can avail of the said privilege because of the proviso found in the last sentence thereof.

It must be noted that the 1989 CBA has two (2) sections on sick leave with pay benefits which apply to two (2) distinct classes of workers in petitioner's company, namely: (1) the regular non-intermittent workers or those workers who render a daily eight-hour service to the company and are governed by Section 1, Article VIII of the 1989 CBA; and (2) intermittent field workers who are members of the regular labor pool and the present regular extra labor pool as of the signing of the agreement on April 15, 1989 or those workers who have irregular working days and are governed by Section 3, Article VIII of the 1989 CBA.

It is not disputed that both classes of workers are entitled to sick leave with pay benefits provided they comply with the conditions set forth under Section 1 in relation to the last paragraph of Section 3, to wit: (1) the employee-applicant must be regular or must have rendered at least one year of service with the company; and (2) the application must be accompanied by a certification from a company-designated physician.

Sick leave benefits, like other economic benefits stipulated in the CBA such as maternity leave and vacation leave benefits, among others, are by their nature, intended to be replacements for regular income which otherwise would not be earned because an employee is not working during the period of said leaves.^[6] They are non-contributory

in nature, in the sense that the employees contribute nothing to the operation of the benefits.^[7] By their nature, upon agreement of the parties, they are intended to alleviate the economic condition of the workers.

After a careful examination of Section 1 in relation to Section 3, Article VIII of the 1989 CBA in light of the facts and circumstances attendant in the instant case, we find and so hold that the last sentence of Section 1, Article VIII of the 1989 CBA, invoked by petitioner-company does not bar the regular intermittent workers from the privilege of commutation or conversion to cash of the unenjoyed portion of their sick leave with pay benefits, if qualified. For the phrase “herein sick leave privilege,” as used in the last sentence of Section 1, refers to the privilege of having a fixed 15-day sick leave with pay which, as mandated by Section 1, only the non-intermittent workers are entitled to. This fixed 15-day sick leave with pay benefit should be distinguished from the variable number of days of sick leave, not to exceed 15 days, extended to intermittent workers under Section 3 depending on the number of hours of service rendered to the company, including overtime pursuant to the schedule provided therein. It is only fair and reasonable for petitioner-company not to stipulate a fixed 15-day sick leave with pay for its regular intermittent workers since, as the term “intermittent” implies, there is irregularity in their work-days. Reasonable and practical interpretation must be placed on contractual provisions. *Interpetatio fienda est ut res magis valeat quam pereat.* Such interpretation is to be adopted, that the thing may continue to have efficacy rather than fail.^[8]

We find the same to be a reasonable and practical distinction readily discernible in Section 1, in relation to Section 3, Article VIII of the 1989 CBA between the two classes of workers in the company insofar as sick leave with pay benefits are concerned. Any other distinction would cause discrimination on the part of intermittent workers contrary to the intention of the parties that mutually agreed in incorporating the questioned provisions in the 1989 CBA.

Public respondent correctly observed that the parties to the CBA clearly intended the same sick leave privilege to be accorded the intermittent workers in the same way that they are both given the

same treatment with respect to vacation leaves - non-commutable and non-cumulative. If they are treated equally with respect to vacation leave privilege, with more reason should they be on par with each other with respect to sick leave privileges.^[9] Besides, if the intention were otherwise, during its renegotiation, why did not the parties expressly stipulate in the 1989 CBA that regular intermittent workers are not entitled to commutation of the unenjoyed portion of their sick leave with pay benefits?

Whatever doubt there may have been early on was clearly obliterated when petitioner-company recognized the said privilege and paid its intermittent workers the cash equivalent of the unenjoyed portion of their sick leave with pay benefits during the lifetime of the CBA of October 16, 1985 until three (3) months from its renewal on April 15, 1989. Well-settled is it that the said privilege of commutation or conversion to cash, being an existing benefit, the petitioner-company may not unilaterally withdraw, or diminish such benefits.^[10] It is a fact that petitioner-company had, on several instances in the past, granted and paid the cash equivalent of the unenjoyed portion of the sick leave benefits of some intermittent workers.^[11] Under the circumstances, these may be deemed to have ripened into company practice or policy which cannot be peremptorily withdrawn.^[12]

Moreover, petitioner-company's objection to the authority of the Voluntary Arbitrator to direct the commutation of the unenjoyed portion of the sick leave with pay benefits of intermittent workers in his decision is misplaced. Article 261 of the Labor Code is clear. The questioned directive of the herein public respondent is the necessary consequence of the exercise of his arbitral power as Voluntary Arbitrator under Article 261 of the Labor Code "to hear and decide all unresolved grievances arising from the interpretation or implementation of the Collective Bargaining Agreement." We, therefore, find that no grave abuse of discretion was committed by public respondent in issuing the award (decision). Moreover, his interpretation of Sections 1 and 3, Article VIII of the 1989 CBA cannot be faulted with and is absolutely correct.

WHEREFORE, in view of the foregoing, the petition is **DISMISSED**. The award (Decision) of public respondent dated September 10, 1991 is hereby **AFFIRMED**. No costs.

SO ORDERED.

**Feliciano, Bidin, Davide, Jr. and Melo, JJ., concur.
Gutierrez, Jr., J., on terminal leave.**

- [1] Annex “E,” Petition, pp. 39-43, Rollo. Article 262-A of the Labor Code used the terms “decision order or award” in describing the decision of the voluntary arbitrator. There is no significance attached to the use of term “award” by public respondent contrary to petitioner’s apprehension.
- [2] pp. 24-38, Rollo.
- [3] *Meycauayan College vs. Drilon*, 185 SCRA 50 (1990); *Kapisanan ng mga Manggagawa sa La Suerte-FOITAF vs. Noriel*, G.R. No. L-45475, June 20, 1977, 77 SCRA 414; *Mactan Workers Union vs. Aboitiz*, G.R. No. L-30241, June 30, 1972, 45 SCRA 577.
- [4] *Transportation-Communication Employees Union vs. Union P.R. Co.*, 385 US 157, 17 L Ed 2d 264, 87 S Ct 369; *John Wiley & Sons, Inc. vs. Livingston*, 376 US 543, 11 L Ed 2d 898, 84 S Ct 909.
- [5] 48A Am Jur 2d, s. 1800, pp. 255-256.
- [6] *Singapore Airlines Local Employees Association vs. NLRC*, G.R. No. L-65786, July 16, 1984, 130 SCRA 472.
- [7] *Nestle Philippines, Inc. vs. NLRC*, G.R. No. 921231, February 4, 1991, 193 SCRA 504.
- [8] *Singapore Airlines Local Employees Association vs. NLRC*, supra, citing *Martin vs. Sheppard*, 102 S Co. 2nd p. 1036; *Adamowski vs. Bard*, AC Pa. 193F 2d p. 578.
- [9] p. 43, Rollo.
- [10] Article 100, Labor Code of the Philippines; *Nestle Philippines, Inc. vs. NLRC*, G.R. No. 91231, February 4, 1991, 193 SCRA 504; *Tiangco, et. al. vs. Leogardo*, G.R. No. L-57636, May 16, 1983, 122 SCRA 267.
- [11] p. 29, Rollo; p. 36, Rollo.
- [12] *Republic Planters Bank vs. NLRC*, G.R. No. L-79488, September 30, 1988, 166 SCRA 197.