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**SUPREME COURT
EN BANC**

**THE MANILA BANKING
CORPORATION (“Manilabank”) and
ARNULFO B. AURELLANO in his
capacity as Statutory Receiver of
Manilabank,**

Petitioners,

-versus-

**G.R. No. 107487
September 29, 1997**

**THE NATIONAL LABOR RELATIONS
COMMISSION, VICTOR L. MENDOZA,
RODOLFO VE. TIMBOL, RUBEN G.
ASEDILLO, FLORINDA S. DAYRIT, and
19 other Senior Officers similarly
situated; HORACE REYES and 14 other
Senior Managers similarly situated;
AURORA VILLACERAN and 34 other
Assistant Managers similarly situated;
CONSUELO RIZARRI, EMERENCIANA
SAMSON, BRENDA C. BERMUDEZ,
FLORYPEE ABRIGO, EMMA
BALDERAMA, and 211 other Junior
Officers similarly situated,**

Respondents.

X-----X

THE MANILA BANKING CORPORATION (“Manilabank”) and ARNULFO B. AURELLANO in his capacity as Statutory Receiver of Manilabank,

Petitioners,

-versus-

**G.R. No. 107902
September 29, 1997**

THE NATIONAL LABOR RELATIONS COMMISSION-NCR, LABOR ARBITER FELIPE PATI and VICTOR L. MENDOZA, RODOLFO VE. TIMBOL, RUBEN G. ASEDILLO, FLORINDA S. DAYRIT, and 19 other Senior Officers similarly situated; HORACE REYES, JOSE BELMONTE and 14 other Senior Managers and 53 Managers similarly situated; AURORA VILLACERAN and 34 other Assistant Managers similarly situated; CONSUELO RIZARRI, EMERENCIANA SAMSON, BRENDA C. BERMUDEZ, FLORYPEE ABRIGO, EMMA BALDERAMA, and 211 other Junior Officers similarly situated,

Respondents.

X-----X

DECISION

KAPUNAN, J.:

The principal issue presented for resolution in these Petitions for Certiorari^[1] under Rule 65 of the Rules of Court is whether or not

public respondent National Labor Relations Commission (NLRC) committed grave abuse of discretion in affirming with slight modifications Labor Arbiter Felipe Pati's decision awarding herein private respondents' claim of P193,338,212.33 consisting of:

1. Wage increase of 25% of gross monthly wage from January 1985 to December 1988;
2. Christmas Bonus of one and one-half (1-1/2) months pay from December 1985 to December 1987;
3. Mid-year Bonus of one (1) month pay from 1985 to 1988, inclusive;
4. Profit Sharing of 5% of net profit for 1985 and 1986;
5. Differentials on accrued leaves, retirement benefits and Christmas and Mid-Year bonuses;
6. Longevity pay, Loyalty Bonus and Medical, Dental and Optical Benefits;
7. Uniform allowance of P600.00 per year from January 1985 to January 1988, inclusive;
8. One-half (1/2) month pay 1987 Christmas Bonus which was deducted from the retirement benefit of each complainant;
9. Travel Plan and Car Plan with respect to the 23 complainants Senior Officers; and
10. Car Plan and Gasoline Allowance benefits with respect to the 15 complainants, Senior Managers and 54 Assistant Managers.

annual interest thereon of 12% and attorney's fees amounting to 10% of the said amount.

The antecedents show that on June 5, 1984, petitioner Manila Banking Corporation (Manilabank) was placed under comptrollership

by then Central Bank Governor Jose B. Fernandez in view of the bank's financial distress.^[2]

The decision of the Monetary Board of the Central Bank was based on the findings that the bank was experiencing liquidity problems and had incurred chronic reserve deficiencies against deposit liabilities. In fact, on May 23, 1984, a month before it was placed under comptrollership, Manilabank was prohibited by the Monetary Board from granting new loans and making new investments except investments in government securities with Central Bank support, and from declaring cash or stock dividends.^[3]

A February 19, 1986 Central Bank report on Manilabank's financial condition as of December 31, 1985 disclosed, among other things, that the bank's operations for the preceding year resulted in a net loss of P362.4 million. It likewise revealed that the bank's financial condition continued to deteriorate.^[4]

Consequently, on May 22, 1987, the Monetary Board issued Resolution No. 505 prohibiting Manilabank from doing business in the Philippines. The said resolution reads:

Finding to be true the statements of the Assistant to the Governor and Officer-in-Charge, Supervision and Examination Sector (SES) Department I, in his memorandum dated April 28, 1987 submitting a report on the financial condition of The Manila Banking Corporation (TMBC) as of March 31, 1987, that the financial condition of TMBC is one of insolvency and its continuance in business would involve probable loss to its depositors and creditors and considering, among other things, that:

1. During the 3-month period January 1 to March 31, 1987, TMBC incurred losses of 62.3 million, before interest on Central Bank overdraft and penalties on reserve deficiencies (P242.9 million for the three months);
2. Prior notices had been made to TMBC of a condition which may be considered as one indicating insolvency as defined under Sec. 29 of R.A. No. 265, as amended, in various letters of Mr. Antonio T. Castro, Jr., Special Assistant to the

Governor and Head, SES Department I, dated December 9, 1985, December 13, 1985 and October 16, 1986 and in a letter of the Governor, dated February 27, 1987;

3. Mr. Vicente G. Puyat, in response to his request conveyed by Mrs. Reyes to the Monetary Board, for a chance to appear before the Monetary Board in representation of the majority stockholders of TMBC, in connection with the rehabilitation plan for TMBC, had been invited three times to appear before the Board: first on May 13, 1987, then on May 18, 1987, upon his request, and on May 22, 1987, which invitations he did not respond to himself and neither did he attend the Board meetings held on May 18, 1987 and May 22, 1987;
4. TMBC has not submitted a rehabilitation plan acceptable to the Central Bank; and
5. The said Assistant to the Governor, who was present during the Monetary Board meeting held on May 22, 1987, had categorically confirmed that, after considering all the adjustments, TMBC would still be insolvent even with an additional capital infusion of P500 million.

the Board decided as follows:

1. To prohibit TMBC to do business in the Philippines and place its assets and affairs under receivership in accordance with the provisions of Section 29 of R.A. No. 265, as amended; and
2. To designate the Assistant to the Governor and Officer-in-Charge, SES Department I, as Receiver of TMBC, to immediately take charge of its assets and liabilities, as expeditiously as possible collect and gather all the assets and administer the same for the benefit of its creditors exercising all the powers necessary for these purposes including, but not limited to, bringing suits and foreclosing mortgages in its name.^[5]

Thereafter, Feliciano Miranda, Jr. was designated as receiver. He immediately took charge of the bank's assets and liabilities. He likewise terminated the employment of about 343 officers and top managers of the bank. All these officers and top managers, who are private respondents herein, were paid whatever separation and/or retirement benefits were due them.

On November 11, 1988, the Monetary Board issued Resolution No. 1003 ordering the liquidation of Manilabank on account of insolvency. The resolution reads as follows:

Having determined and confirmed on the basis of the memorandum of the Special Assistant to the Governor and Head, Supervision and Examination Sector (SES) Department I, and Receiver, The Manila Banking Corporation (TMBC), dated November 4, 1988, submitting a report on the financial condition of TMBC as of July 31, 1988, that the financial condition of the bank continues to be one of insolvency and it can no longer resume business with safety to its depositors, creditors and the general public, and considering the opinion of the Central Bank legal counsel that, with the Supreme Court's decision dated March 10, 1988 (a) setting aside the decision of the Court of Appeals sustaining the decision of the Regional Trial Court to issue a writ of preliminary injunction dated July 14, 1987 against the enforcement of Monetary Board Resolution No. 505 dated May 22, 1987, (b) dissolving the said writ of preliminary injunction, and (c) making permanent the temporary restraining order issued by the Supreme Court on February 16, 1988, the liquidation of TMBC may now be ordered by the Monetary Board and that its authority to order such liquidation is not affected by the pendency of Civil Case No. 87-40659 nor of the Supreme Court's resolution of March 10, 1988 (enjoining the Court of Appeals from interfering in the receivership of TMBC), the Board decided as follows:

1. To order the liquidation of TMBC in accordance with Section 29 of R.A. No. 265, as amended; and

2. To designate Mr. Renan V. Santos, Special Assistant to the Governor, and Head, Supervision and Examination Sector Department V, as Liquidator of TMBC.^[6]

Of even date, private respondents filed a complaint against Manilabank and its statutory receiver with the arbitration branch of the National Labor Relations Commission (NLRC) claiming entitlement to the following additional benefits alleged to have accrued from 1984 to their effective dates of termination, viz.: (a) Wage increases; (b) Christmas bonuses; (c) Mid-year bonuses; (d) Profit sharing; (e) Car and travel plans; (f) Gasoline allowances; (g) Differentials on accrued leaves, retirement and other bonuses; (h) Longevity pay and loyalty pay; (i) Medical, dental and optical benefits; and (j) Uniform allowances.^[7] Such claim to entitlement of the foregoing benefits was based on Manilabank's alleged practice, policy and tradition of awarding said benefits. They contended that the policy has ripened into vested property rights in their favor.

Manilabank, on its part, alleged that the additional benefits sought are without basis in fact and in law. It argued that the same are conferred by management only when it deems necessary to do so. The award of the said benefits is in the nature of a "management prerogative" which, it contended, can be withheld by management upon a clear showing that the company is not in a position to grant them either because of financial difficulties or circumstances which do not warrant conferment of such benefits. And since it was experiencing financial distress, it claimed that it was in no position to give the benefits sought. Additionally, it asseverated that it was deprived of its right to present evidence in a full-blown trial by the labor arbiter.

On November 14, 1989, Labor Arbiter Felipe Pati rendered his decision ordering Manilabank and its statutory receiver to pay in full all the claims of private respondents amounting to P193,338,212.33, plus 12% interest annually and 10% of the total award as attorney's fees. The dispositive portion of the decision reads:

WHEREFORE, judgment is hereby rendered in favor of the complainants and against the respondents, ordering and

authorizing the Receiver RENAN V. SANTOS to pay, pursuant to the provisions of Article 110 of the Labor Code, as amended:

1. The complainants the net amount of claims due appearing opposite the name of each complainant listed in the Computation of Net Claim consisting of six (6) pages hereto attached and made part of this Decision;
2. The complainants' counsel the amount equal to 10% of the total amount awarded to complainants in this action as attorney's fees.

SO ORDERED.^[8]

On November 25, 1989, petitioners Manilabank and the CB statutory receiver appealed to the NLRC and posted an appeal bond in the form of a certification from the Central Bank to the effect that a portion of Manilabank's funds in an amount equal to that of the total award of the labor arbiter, has been reserved and set aside by the Central Bank to answer for the private respondents' claims should they finally be adjudged to be entitled thereto.

On December 8, 1989, private respondents opposed the appeal and filed a motion for the issuance of a writ of execution of the labor arbiter's judgment on the ground that the Central Bank certification cannot be considered as an appeal bond.

On June 21, 1991, the NLRC issued an order requiring petitioners to deposit with the Cashier of the NLRC a cash bond or its equivalent in treasury bills, warrants and/or other government securities in the amount of P193,000,000.00, plus ten percent (10%) thereof as attorney's fees within ten (10) days from receipt thereof.

On July 5, 1991, petitioners moved to reconsider said order. However, pending resolution of said motion for reconsideration, petitioners submitted to the NLRC a Certificate of Time Deposit issued by the Philippine National Bank (PNB) in the amount of P212,700,000.00, payable to the receiver of Manilabank.

On January 16, 1992, the NLRC held a hearing where the parties agreed that the certificate of time deposit submitted by Manilabank to the NLRC be considered substantial compliance of the requirement of an appeal bond, on the condition that it will be periodically renewed and re-deposited with the NLRC Cashier upon its maturity, and that the securities deposited should be free from any other claims or liens.

On September 9, 1992, the NLRC issued a resolution on the merits of the case and, as above-stated, affirmed with slight modifications, the decision of the labor arbiter. The decretal portion of the same reads:

WHEREFORE, except for the modification we provided on the manner 'medical, dental and optical benefits' should be claimed/paid, and our awarding annual interest of 12% to whatever has been awarded below, the appealed decision is hereby affirmed and respondents' appeal is hereby dismissed.

SO ORDERED.^[9]

Petitioners filed a motion for reconsideration from the aforequoted resolution.

On October 14, 1992, private respondents filed an ex parte motion for the issuance of a writ of execution. Petitioners opposed the same, reasoning that the assets of Manilabank are exempt from execution and that the NLRC resolution had not become final and executory.

On October 22, 1992, the NLRC issued an order directing petitioners, under pain of contempt, to renew the certificate of time deposit and to have the same issued in the name of, and deposited with, the cashier of the NLRC.

In response, petitioners Manilabank and Arnulfo Aurellano filed a petition for certiorari before this Court, docketed as G.R. No. 107487, to set aside said order alleging that the same was issued with grave abuse of discretion because it (as re-phrased):

a. violated an existing statute.^[10]

- b. arbitrarily compelled the Receiver to violate his statutory duty to preserve Manilabank's assets for the benefit of all creditors.^[11]
- c. whimsically deprived petitioners of their right to file a motion for reconsideration of the Order.^[12]
- d. was not anchored upon any cogent reason other than to preempt petitioners from invoking the corrective powers of this Honorable Court of last resort.^[13]

On November 26, 1992, petitioner's earlier motion for reconsideration of the NLRC Decision dated September 9, 1992 was denied for lack of merit in an order which dispositively reads as follows:

Wherefore, premises considered, order is hereby issued:

1. denying respondents' motion for reconsideration;
2. directing the NLRC Cashier to hold in her custody re-submitted Certificate of Time Deposit No. 890530-D dated October 27, 1992 with maturity date on December 28, 1992;
3. directing the respondents to post an additional bond, either in cash, surety, or certificate of time deposit drawn in the name of the Cashier, NLRC, in the amount of 'P76,572,000.00' to cover, the additional award detailed in our September 9, 1992 resolution;
4. directing, accordingly, the Executive Clerk to cause the personal service of this Order upon the parties, particularly the respondents and their counsel; and
5. holding in abeyance the execution of our September 9, 1992 resolution (despite its finality now) for a period of ten (10) calendar days from respondents' receipt of this Order, with the warning, however, that should this Commission not receive a restraining order from the

Supreme Court within said period of ten (10) calendar days, then a writ of execution will be issued to enforce our now final judgment.

SO ORDERED.^[14]

Consequently, petitioners filed another petition for certiorari before this Court, this time docketed as G.R. No. 107902, contending that:

- a. Public respondents, in grave abuse of discretion, effectively violated petitioners' right to due process because —
 - (1) The monstrous award totalling about P212 million was decided based purely on private respondents' worthless papers which were never identified nor supported by any single affidavit.
 - (2) The Labor Arbiter proceeded to decide the case solely on the bases of the pleadings filed, despite the enormity of the claims and the repeated demands for a full-dress trial (which, ironically, were initially granted by the Office of the Labor Arbiter), made necessary by the conflicting factual allegations of the parties and the worthless papers passed off by private respondents as their "evidence".^[15]
- b. Public respondents unlawfully arrogated unto themselves the jurisdiction to pass upon the question of Manilabank's insolvency, despite the pleaded pendency of that prejudicial question before the RTC of Manila which had acquired exclusive jurisdiction to rule on the issue to the exclusion of all others.^[16]
- c. The money award adjudged against the insolvent Manilabank violates all notions of justice and equity, considering that the beneficiaries thereof are former officers and top managers of Manilabank who, being part of management, were partly to blame for the bank's financial decline.^[17]

- d. A statutory receiver has the power to adopt and implement prudent policies aimed at preserving the assets of an insolvent bank including regulating, according to his own discretion and judgment, all aspects of employment.^[18]
- e. Public respondents' arbitrary findings that salary increases, Christmas and mid-year bonuses and other benefits have been regularly and unconditionally paid by Manilabank to private respondents, and that Manilabank earned profits in 1984, 1985 and 1986 are contrary to the evidence on record and are based on pure unsubstantiated guesswork.^[19]
- f. The award of attorney's fees is unconscionable, especially in light of its dissipative effect on the remaining assets of the insolvent Manilabank and its prejudicial consequences on Manilabank's stockholders and creditors.^[20]
- g. The NLRC's award of legal interest on the amount awarded by the labor arbiter and its order to deposit an additional bond to cover such interest have no legal basis and give an undue advantage to other creditors of the insolvent Manilabank.^[21]
- h. The NLRC's threat to execute the judgment would be unlawful if carried out, because Manilabank's assets are legally exempt from execution.^[22]

On December 9, 1992, this Court ordered that G.R. No. 107902 be consolidated with G.R. No. 107487.^[23]

On December 16, 1992, this Court issued a Resolution temporarily enjoining public respondent NLRC from enforcing and/or carrying out the decision of the labor arbiter dated November 14, 1989 and its resolution dated September 9, 1992 and order dated November 26, 1992, all issued in NLRC NCR Case No. 00-11-04624-88.^[24]

G.R. No. 107902 is impressed with merit.

Both the Labor Arbiter and the NLRC opted to award all the additional benefits claimed by the 343 private respondents who had

already been duly paid separation pay and/or retirement benefits upon termination of their employment. The NLRC erroneously adopted the findings of the labor arbiter, misapplying the time-honored rule that factual findings of quasi-judicial agencies are accorded not only respect but even finality if supported by substantial evidence. It declared that the additional benefits sought are in the nature of “bonuses” which when made part of the wage or salary or compensation of an employee become demandable and enforceable.^[25]

Both the Labor Arbiters and the NLRC’s findings and conclusions are flawed.

By definition, a “bonus” is a gratuity or act of liberality of the giver which the recipient has no right to demand as a matter of right.^[26] It is something given in addition to what is ordinarily received by or strictly due the recipient. The granting of a bonus is basically a management prerogative which cannot be forced upon the employer who may not be obliged to assume the onerous burden of granting bonuses or other benefits aside from the employee’s basic salaries or wages,^[27] especially so if it is incapable of doing so.

In *Philippine Education Co., Inc. vs. Court of Industrial Relations*,^[28] cited in *Philippine Duplicators, Inc. vs. NLRC*,^[29] the Court expounded on the nature of a bonus, thus:

As a rule, a bonus is an amount granted and paid to an employee for his industry and loyalty which contributed to the success of the employer’s business and made possible the realization of profits. It is an act of generosity of the employer for which the employee ought to be thankful and grateful. It is also granted by an enlightened employer to spur the employee to greater efforts for the success of the business and realization of bigger profits. From the legal point of view, a bonus is not a demandable and enforceable obligation. It is so when it is made part of the wage or salary or compensation. In such a case the latter would be a fixed amount and the former would be a contingent one dependent upon the realization of profits. (Emphasis supplied).^[30]

Clearly then, a bonus is an amount given ex gratia to an employee by an employer on account of success in business or realization of profits. How then can an employer be made liable to pay additional benefits in the nature of bonuses to its employees when it has been operating on considerable net losses for a given period of time?

Records bear out that petitioner Manilabank was already in dire financial straits in the mid-80's. As early as 1984, the Central Bank found that Manilabank had been suffering financial losses. Presumably, the problems commenced even before their discovery in 1984. As earlier chronicled, the Central Bank placed petitioner bank under comptrollership in 1984 because of liquidity problems and excessive interbank borrowings. In 1987, it was placed under receivership and was ordered to close operation. In 1988, it was ordered liquidated.

It is evident, therefore, that petitioner bank was operating on net losses from the years 1984, 1985 and 1986, thus, resulting to its eventual closure in 1987 and liquidation in 1988. Clearly, there was no success in business or realization of profits to speak of that would warrant the conferment of additional benefits sought by private respondents. No company should be compelled to act liberally and confer upon its employees additional benefits over and above those mandated by law when it is plagued by economic difficulties and financial losses. No act of enlightened generosity and self-interest can be exacted from near empty, if not empty, coffers.

Consequently, on the ten (10) items awarded to herein private respondents (enumerated at page 3) which represent additional benefits, they having already been paid separation and retirement benefits, we rule as follows:

First. The award of 5% profit sharing of petitioner bank's net profits for the years 1985 and 1986 is deleted as there were clearly no profits to share during that period given the bank's financial status in 1985 and 1986 when it was operating on net losses.

Second. The award of wage increases and Christmas and mid-year, bonuses from 1985 to 1988, being in the nature of

gratuities and dependent as they on the petitioner's liberality and capability to give, is likewise deleted for same reasons above stated.

Third. The award of differentials on accrued leaves, retirement benefits and Christmas and mid-year bonuses is also deleted as a necessary and logical consequence of the denial of the wage increases and Christmas and mid-year bonuses.

Fourth. The award of medical, dental and optical benefits is well-taken and, therefore, affirmed.

Fifth. The claim for travel plans for 23 senior officers, and car plans and gasoline allowances for 23 senior officers, 15 senior managers and 54 assistant managers may only be granted to those officers who have not yet availed of the said benefit subject to the proper determination by the labor arbiter.

Sixth and last. Claims for longevity pay, loyalty bonuses and uniform allowance of P600.00 for 1985 may be granted given the apparent loyalty and allegiance shown by herein private respondents to petitioner bank despite rough sailing during the said period of time.

That disposes of G.R. No. 107902.

With respect to G.R. No. 107487, the same is dismissed, the issues raised therein having been rendered moot and academic by the foregoing disquisitions and disposition. Besides, it is beyond dispute that employees indeed enjoy first preference in the event of bankruptcy or liquidation of an employer's business.^[31]

WHEREFORE, premises considered, G.R. No. 107902 is **GRANTED** and is hereby **REMANDED** to the Labor Arbiter for the proper computation of the monetary awards in accordance with the foregoing disquisition and with reasonable dispatch. G.R. No. 107487 is hereby **DISMISSED**.

SO ORDERED.

Narvasa, C.J., Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Mendoza, Panganiban and Torres, Jr., JJ., concur.

- [1] In G.R. No. 107487, petitioners Manila Banking Corporation (Manilabank) and Arnulfo B. Aurellano, in his capacity as Statutory Receiver of Manilabank, question the Order dated October 22, 1992 of public respondent National Labor Relations Commission (NLRC) in NLRC-NCR Case No. 00-11-04624-88 which required petitioner Manilabank to renew its Certificate of Time Deposit in place of the appeal bond and to deposit the same with the NLRC cashier.
- [2] In G.R. No. 107902, petitioners challenge: (1) the Order dated November 26, 1997 of public respondent NLRC in the same NLRC-NCR Case No. 00-11-04624-88 which denied petitioners' motion for reconsideration of the Resolution dated September 9, 1992 and which ordered petitioners to post an additional bond to cover the public respondent's award of interest; and (2) the Resolution dated September 9, 1992 of respondent NLRC, which affirmed with slight modifications the Labor Arbiter's decision of November 14, 1989, granting private respondents' money claims amounting to P193 million plus 10% attorney's fees.
- [3] Rollo (G.R. No. 107902, Vol. 1), p. 630.
- [4] *Id.*, at 617-619.
- [5] *Id.*, at 331-337.
- [6] *Id.*, at 272-273.
- [7] *Id.*, at 274.
- [8] *Id.*, at 193; Please see p. 3.
- [9] *Id.*, at 67-68.
- [10] Rollo (G.R. No. 107487), pp. 134-135.
- [11] *Id.*, at 12.
- [12] *Id.*, at 14.
- [13] *Id.*, at 16.
- [14] *Id.*, at 17.
- [15] *Id.*, at 248-249.
- [16] Rollo (G.R. No. 107902), p. 29.
- [17] *Id.*, at 50.
- [18] *Id.*, at 59.
- [19] *Id.*, at 60.
- [20] *Id.*, at 61.
- [21] *Id.*, at 81.
- [22] *Id.*, at 82.
- [23] *Id.*, at 86.
- [24] *Id.*, at 633.
- [25] *Id.*, at 634-635.
- [26] *Id.*, at 150-157.

- [27] Traders Royal Bank vs. NLRC, 189 SCRA 274 [1990] citing Aragon vs. Cebu Portland Cement Co., 61 O.G. 4567.
- [28] Kamaya Point Hotel vs. NLRC, 177 SCRA 160 (1989).
- [29] 92 Phil. 381 (1952).
- [30] 241 SCRA 380 (1995).
- [31] Id., at 388.
- [32] Article 110 of the Labor Code, as amended by R.A. No. 6715.

SEPARATE OPINIONS

VITUG, J ., concurring:

I concur with Mr. Justice Santiago M. Kapunan in his ponencia for I find it unjust, if not absurd, to order Manilabank to share its profits where there evidently are no profits to speak of. Since 1984, Manilabank appears to have been placed under controllership by the Central Bank due to its precarious financial condition. I should like, however, to elaborate a bit on Article 110 of our Labor Code, as amended on 21 March 1989 by Republic Act No. 6715; this article provides:

“Art. 110. Worker preference in case of bankruptcy. — In the event of bankruptcy or liquidation of an employer’s business, his workers shall enjoy first preference as regards their wages and other monetary claims, any provisions of law to the contrary notwithstanding. Such unpaid wages and monetary claims shall be paid in full before claims of the government and other creditors may be paid.”

The implications of the amendment were explained in great detail by the Court in *Development Bank of the Philippines vs. National Labor Relations Commission*,^[1] viz.:

“The amendment expands worker preference to cover not only unpaid wages but also other monetary claims to which even claims of the Government must be deemed subordinate.

“ x x x

“Notably, the terms ‘declaration’ of bankruptcy or ‘judicial’ liquidation have been eliminated. Does this mean then that liquidation proceedings have been done away with?

“We opine in the negative, upon the following considerations:

“1. Because of its impact on the entire system of credit, Article 110 of the Labor Code cannot be viewed in isolation but must be read in relation to the Civil Code scheme on classification and preference of credits.

“ x x x

“2. In the same way that the Civil Code provisions on classification of credits and the Insolvency Law have been brought into harmony, so also must the kindred provisions of the Labor Law be made to harmonize with those laws.

“3. In the event of insolvency, a principal objective should be to effect an equitable distribution of the insolvent’s property among his creditors. To accomplish this there must first be some proceeding where notice to all of the insolvent’s creditors may be given and where the claims of preferred creditors may be bindingly adjudicated (De Barretto vs. Villanueva, No. L-14938, December 29, 1962, 6 SCRA 928). The rationale therefore has been expressed in the recent case of DBP vs. Secretary of Labor (G.R. No. 79351, 28 November 1989).

“4. A distinction should be made between a preference of credit and a lien. A preference applies only to claims which do not attach to specific properties. A lien creates a charge on a particular property. The right of first preference as regards unpaid wages recognized by Article 110 does not constitute a lien on the property of the insolvent debtor in favor of workers. It is but a preference of credit in their favor, a preference in application. It is a method adopted to determine and specify the order in which credits should be paid in the final distribution of the proceeds of the insolvent’s assets. It is a right to a first preference in the discharge of the funds of the judgment debtor.

“ x x x

“6. Even if Article 110 and its Implementing Rule, as amended, should be interpreted to mean ‘absolute preference,’ the same should be given only prospective effect in line with the cardinal rule that laws shall have no retroactive effect, unless the contrary is provided (Article 4, Civil Code). Thereby, any infringement on the constitutional guarantee on non-impairment of the obligation of contracts (Section 10, Article III, 1987 Constitution) is also avoided. In point of fact, DBP’s mortgage credit antedated by several years the amendatory law, RA No. 6715. To give Article 110 retroactive effect would be to wipe out the mortgage in DBP’s favor and expose it to a risk which it sought to protect itself against by requiring a collateral in the form of real property.

“In fine, the right of preference given to workers under Article 110 of the Labor Code cannot exist in any effective way prior to the time of its presentation in distribution proceedings. It will find application when, in proceedings such as insolvency, such unpaid wages shall be paid in full before the ‘claims of the Government and other creditors’ may be paid. But, for an orderly settlement of a debtor’s assets, all creditors must be convened, their claims ascertained and inventoried, and thereafter the preferences determined in the course of judicial proceedings which have for their object the subjection of the property of the debtor to the payment of his debts or other lawful obligations. Thereby, an orderly determination of preference of creditor’s claims is assured (Philippine Savings Bank vs. Lantin, No. L-33929, September 2, 1983, 124 SCRA 476); the adjudication made will be binding on all parties-in-interest, since those proceedings are proceedings in rem; and the legal scheme of classification, concurrence and preference of credits in the Civil Code, the Insolvency Law, and the Labor Code is preserved in harmony.”^[2]

The ruling has since been reiterated in a number of cases such as in Bolinao, Jr., vs. Padolina;^[3] in the Development Bank of the Philippine vs. National Labor Relations Commission cases^[4] and in Hautea vs. National Labor Relations Commission.^[5] In Banco Filipino Savings and Mortgage Bank vs. National Labor Relations Commission,^[6] the Court allowed the debtor-petitioner to invoke Article 110 of the Code not only to protect its own interest but also for the benefit of the creditors as well.

VITUG, J., concurring:

[1] 183 SCRA 328.

[2] At pp. 336-339.

[3] 186 SCRA 368.

[4] 186 SCRA 841; 218 SCRA 183; 229 SCRA 350; 236 SCRA 117.

[5] 230 SCRA 119.

[6] 188 SCRA 700.

HERMOSISIMA, JR., J., dissenting:

With all due respect, I believe that the majority opinion has oversimplified and overlooked some of the various issues posited in the consolidated cases of G.R. Nos. 107487 & 107902. It is very convenient to put up the argument that, since

Manilabank is insolvent, it should not be made to pay its just obligations to its employees and that it is simply unjust, nay absurd, to compel it to pay the money claims of its employees consisting of unpaid wage increases and mid-year and Christmas bonuses.

Truth to tell:

- (1) The Manilabank is not bankrupt;
- (2) Its obligations to its 343 employees are legally demandable; and
- (3) The money for payment in the amount of P212 million has already been set aside.

In G.R. No. 107487, petitioners Manila Banking Corporation (Manilabank for short) and Arnulfo B. Aurellano, in his capacity as Statutory Receiver of Manilabank, assail the Order dated October 22, 1992 of public respondent National Labor Relations Commission (NLRC for short) Manila in NLRC-NCR Case No. 00-11-04624-88 which required petitioner Manilabank to renew its Certificate of Time Deposit in place of the appeal bond and to deposit the same with the NLRC cashier.

In G.R. No. 107902, petitioners assail: (1) the Order dated November 26, 1992 of public respondent NLRC in the same NLRC-NCR Case No. 00-11-04624-88 which denied petitioners' motion for reconsideration of the Resolution dated September 9, 1992 and which ordered petitioners to post an additional bond to cover the public respondent's award of interest; and (2) the Resolution dated September 9, 1992 of respondent, NLRC, which affirmed with slight modification the Labor Arbiter's decision of November 14, 1989, granting private respondents money claims amounting to P193 million plus 10% attorney's fees.

In a Resolution dated December 16, 1992, this Court issued an order "restraining public respondent NLRC from enforcing and/or carrying out the Decision dated September 9, 1992 and the Order dated November 26, 1992 until otherwise ordered by this Honorable Court."

A review of the following material facts:

On May 22, 1987, the Monetary Board of the Central Bank of the Philippines (the Monetary Board for short) issued Resolution No. 505 prohibiting Manilabank from doing business in the Philippines and placing its assets and affairs under receivership pursuant to Section 29 of Republic Act No. 265, as amended, otherwise known as the Central Bank Act.

The then Receiver of Manilabank, Mr. Feliciano L. Miranda, Jr., for and in behalf of Manilabank, terminated the employment of approximately 343 officers of

Manilabank, the private respondents herein. All these employees were paid separation/retirement pay.

On November 11, 1988, the Monetary Board then issued Resolution No. 1003 ordering the liquidation of Manilabank on the ground that its financial condition continued to be one of insolvency and that it could no longer resume business with safety to its depositors. Actual liquidation had been deferred, however, pending the outcome of Civil Case No. 87-40659 in the Regional Trial Court of Manila, Branch 23, instituted by the petitioner bank on May 28, 1987 where the validity of the Monetary Board's action placing Manilabank under receivership on account of insolvency was challenged.

On the same date, private respondents filed a complaint against Manilabank and its Receiver with the Arbitration Branch of the NLRC,^[1] which was assigned to Labor Arbiter Felipe Pati, claiming entitlement to additional compensation/termination benefits such as regular wage increases, profit sharing bonuses, various allowances and other benefits accruing from 1984 to their effective date of termination. These money claims were based on the fact that private respondents were previously given by petitioner these benefits as a matter of practice, policy and tradition for several years such that they had ripened into vested property rights in favor of private respondents.

On November 14, 1989, Labor Arbiter Felipe Pati ordered the Receiver of Manilabank to pay in full the claims of private respondents. The dispositive portion of his decision reads:

“WHEREFORE, judgment is hereby rendered in favor of the complainants and against the respondents, ordering and authorizing the Receiver RENAN V. SANTOS to pay pursuant to the provisions of Article 110 of the Labor Code, as amended:

- 1) The complainants the net amount of claims due appearing opposite the name of each complainant listed in the Computation of Net Claim consisting of six (6) pages hereto attached and made part of this Decision;
- 2) The complainants' counsel the amount equal to 10% of the total amount awarded to complainants in this action as attorney's fees.

SO ORDERED.”^[2]

On November 25, 1989, petitioners appealed, and posted an appeal bond in the form of a certification from the Central Bank to the effect that a portion of Manilabank's funds, in an amount equal to that of the total award of the Labor Arbiter, has been reversed and set aside by the Central Bank to answer for the private respondents' claims should they finally be adjudged to be entitled thereto.

On December 8, 1989, private respondents filed an opposition to the appeal and a motion for the issuance of a writ of execution of the Labor Arbiter's judgment on the ground that the Central Bank certification cannot be considered as an appeal bond. Thereafter, the NLRC, on June 21, 1991, issued an Order requiring petitioners, within ten (10) days from receipt thereof, to deposit with the Cashier of the NLRC a cash bond or its equivalent in treasury bills, warrant and/or order government securities in the amount P193,000,000.00 plus ten percent (10%) thereof as attorney's fees.

On July 5, 1991, petitioners sought a reconsideration of the Order. However, pending resolution of said Motion for Reconsideration, petitioners submitted to the NLRC a Certificate of Time Deposit issued by the Philippine National Bank (PNB for short) in the amount of P212,700,000.00, payable to the Receiver of Manilabank.

On January 16, 1992, the NLRC called the parties to a hearing where they agreed that the certificate of time deposit deposited by Manilabank with the NLRC be considered a substantial compliance with the requirement of an appeal bond, on the condition that it will be periodically renewed and redeposited with the NLRC Cashier upon its maturity, and that the securities deposited should be free from any other claims or liens.

On September 9, 1992, the NLRC issued its Resolution on the merits of the case affirming, with slight modifications, the decision of the Labor Arbiter. The dispositive portion of said Resolution provides:

“WHEREFORE, except for the modification we provided on the manner ‘medical, dental and optical benefits’ should be claimed/paid, and our awarding annual interest of 12% to whatever has been awarded below, the appealed decision is hereby affirmed and respondents’ appeal is hereby dismissed.” [3]

Petitioners filed a Motion for Reconsideration from the aforequoted Resolution.

On October 14, 1992, private respondents filed an ex-parte motion for the issuance of a writ of execution. Petitioners opposed on the grounds that: (i) the assets of Manilabank are exempt from execution; and (ii) the NLRC Resolution had not become final and executory, a motion for reconsideration having been seasonably filed.

On October 22, 1992, the NLRC issued an Order directing petitioners, under pain of contempt, to renew the certificate of time deposit and to have it issued in the name of and deposited with the cashier of the NLRC.

From the foregoing Order, petitioners filed a petition for certiorari before this Court, docketed as G.R. No. 107487, arguing that:

- “1. The NLRC gravely abused its discretion in ordering petitioners to violate an existing statute.[4]
2. The NLRC is arbitrarily compelling the Receiver to violate his statutory duty to preserve Manilabank’s assets for the benefit of all creditors.[5]
3. The NLRC whimsically deprived petitioners of their right to file a motion for reconsideration of the Order.[6]
4. The NLRC has no cogent reason for issuing the questioned Order other than to preempt petitioners from invoking the corrective powers of this Honorable Court of last resort.”[7]

On November 26, 1992, petitioners’ earlier Motion for Reconsideration of the NLRC Decision dated September 9, 1992 was denied for lack of merit. The NLRC likewise ordered petitioners to file an additional bond to cover the additional award on legal interest detailed in its September 9, 1992 Resolution. The decretal portion of this Order reads:

“Wherefore, premises considered, order is hereby issued:

- 1) denying respondents’ motion for reconsideration;
- 2) directing the NLRC Cashier to hold in her custody re-submitted Certificate of Time Deposit No. 890530-D dated October 27, 1992 with maturity date on December 28, 1992;
- 3) directing the respondents to post an additional bond, either in cash, surety or certificate of time deposit drawn in the name of the Cashier, NLRC, in the amount of ‘P76,572,000.00’ to cover the additional award detailed in our September 9, 1992 resolution;
- 4) directing, accordingly, the Executive Clerk to cause the personal service of this Order upon the parties, particularly the respondents and their counsel; and
- 5) holding in abeyance the execution of our September 9, 1992 resolution (despite its finality now) for a period of ten (10) calendar days from respondents’ receipt of this Order, with the warning, however, that should this Commission not receive a restraining order from the Supreme Court within said period of ten (10) calendar days, then a writ of execution will be issued to enforce our now final judgment.

SO ORDERED.”^[8]

Hence, petitioners filed another petition for certiorari before this Court, docketed as G.R. No. 107902, alleging that:

- “1. Public respondents, in grave abuse of discretion, effectively violated petitioners’ right to due process.^[9]
2. Public respondents unlawfully arrogated unto themselves the jurisdiction to pass upon the question of Manilabank’s insolvency, despite the pleaded pendency of that prejudicial question before the RTC of Manila which had acquired exclusive jurisdiction to rule on the issue to the exclusion of all others.^[10]
3. The money award adjudged against the insolvent Manilabank violates all notions of justice and equity, considering that the beneficiaries thereof are former officers and top managers of Manilabank who, being part of management, were partly to blame for the bank’s financial decline.^[11]
4. A statutory receiver has the power to adopt and implement prudent policies aimed at preserving the assets of an insolvent bank including regulating, according to his own discretion and judgment, all aspects of employment.^[12]
5. Public respondents’ arbitrary findings that salary increases, Christmas and mid-year bonuses and other benefits have been regularly and unconditionally paid by Manilabank to private respondents, and that Manilabank earned profits in 1984, 1985 and 1986, are contrary to the evidence on record and are based on pure unsubstantiated guesswork.^[13]
6. The award of attorney’s fees is unconscionable, especially in light of its dissipative effect on the remaining assets of the insolvent Manilabank and its prejudicial consequences on Manilabank’s stockholders and creditors.^[14]
7. The NLRC’s award of legal interest on the amount awarded by the labor arbiter and its order to deposit an additional bond to cover such interest have no legal basis and give an undue advantage to other creditors of the insolvent Manilabank.^[15]
8. The NLRC’s threat to execute the judgment would be unlawful if carried out, because Manilabank’s assets are legally exempt from execution.”^[16]

On December 9, 1992,^[17] we ordered G.R. No. 107902 to be consolidated with G.R. No. 107487.

It is regrettable that the majority failed to discuss a critical point of contention made by the petitioners. According to petitioners, the money award given by Labor Arbiter Felipe Pati, as affirmed by the public respondent NLRC, in favor of the private respondents pursuant to Article 110 of the Labor Code is erroneous on the ground that Article 110 conditions the preference given by law to workers on the happening of the event of bankruptcy or liquidation, which condition does not yet obtain up to the present. The issue of Manilabank's insolvency is still pending before the Regional Trial Court of Manila, Branch 23, docketed as Civil Case No. 87-40659. Thus, until such issue is resolved, any reference to Article 110 as basis of any monetary award in favor of the private respondents is premature.

I find this contention untenable.

Article 110 of the Labor Code, as originally worded, provides:

“Worker preference in case of bankruptcy. — In the event of bankruptcy or liquidation of an employer's business, his workers shall enjoy first preference as regards wages due them for services rendered during the period prior to the bankruptcy or liquidation, any provision to the contrary notwithstanding. Unpaid wages shall be paid in full before other creditors may establish any claim to a share in the assets of the employer.”

The old Section 10, Rule VIII, Book III of the Revised Rules and Regulations Implementing the Labor Code reads:

“Payment of wages in case of bankruptcy. — Unpaid wages earned by the employees before the declaration of bankruptcy or judicial liquidation of the employer's business shall be given first preference and shall be paid in full before other creditors may establish any claim or a share in the assets of the employer.”

In *Development Bank of the Phils. vs. Santos*,^[18] we found occasion to interpret the foregoing provisions in this wise:

“It is quite clear from the provisions that a declaration of bankruptcy or a judicial liquidation must be present before the worker's preference may be enforced. Thus, Article 110 of the Labor Code and its implementing rule cannot be invoked by the respondents in this case absent a formal declaration of bankruptcy or a liquidation order.”

Republic Act No. 6715 which took effect on March 21, 1989, however, introduced certain amendments to Article 110 which now reads:

“Worker preference in case of bankruptcy. — In the event of bankruptcy or liquidation of an employer’s business, his workers shall enjoy first preference as regards their unpaid wages and other monetary claims, any provision of law to the contrary notwithstanding. Such unpaid wages and monetary claims shall be paid in full before the claims of the Government and other creditors may be paid.”

As can be gleaned therefrom, the amendment expanded the concept of “worker preference” to cover not only unpaid wages but also other monetary claims to which even claims of the Government must be deemed subordinate. Section 10, Rule VIII, Book III of the Omnibus Rules Implementing the Labor Code was likewise amended by the Rules and Regulations Implementing RA 6715, approved May 24, 1989, and now provides:

“Payment of wages and other monetary claims in case of bankruptcy. — In case of bankruptcy or liquidation of the employer’s business, the unpaid wages and other monetary claims of the employees shall be given first preference and shall be paid in full before the claims of government and other creditors may be paid.”

It is significant to note that the terms “declaration” of bankruptcy or “judicial” liquidation have been eliminated, thus giving rise to the question: Is declaration of bankruptcy or judicial liquidation still required before the worker’s preference may be invoked under Article 110 of the Labor Code?

Unequivocally, this Court has consistently resolved this issue in the affirmative beginning with the case of *Development Bank of the Philippines vs. NLRC*,^[19] followed by *Bolinao, Jr., vs. Padolina*,^[20] *Development Bank of the Phils. vs. NLRC*,^[21] *Hautea vs. National Labor Relations Commission*,^[22] and *Development Bank of the Philippines vs. NLRC*.^[23]

In those cases, we ruled that despite the elimination of the terms “declaration” of bankruptcy or “judicial” liquidation, liquidation proceedings have not been done away with. In the event of insolvency, there must be some proceeding where notice to all of the insolvent’s creditors may be given and where the claims of preferred creditors may be bindingly adjudicated.^[24]

The *raison d’être* for the rule is that Article 110 must not be viewed in isolation but must always be reckoned with the pertinent provisions of the Civil Code on concurrence and preference of credits and the Insolvency Law, under the principle that seemingly conflicting laws must be harmonized as much as possible, and more importantly as in this case, so that piece-meal distribution of the assets of the debtor is avoided.^[25]

As held in *DBP vs. NLRC*:^[26]

“For an orderly settlement of a debtor’s assets, all creditors must be convened, their claims ascertained and inventoried, and thereafter the preferences determined in the course of judicial proceedings which leave for their object the subjection of the property of the debtor to the payment of his debts or other lawful obligations. Thereby, an orderly determination of preference of creditors’ claims is assured (Philippine Savings Bank vs. Lantin, 124 SCRA 476 [1983]); the adjudication made will be binding on all parties-in-interest, since those proceedings are proceedings in rem; and the legal scheme of classification, concurrence and preference of credits in the Civil Code, the Insolvency Law and the Labor Code is preserved in harmony.”

Be that as it may, petitioners cannot raise the absence of a formal declaration of bankruptcy or a judicial liquidation in this case to thwart the money claims of private respondents based on the following considerations:

First. Petitioner Manilabank is not the proper party to raise the issue of failure to comply with the requirement of Article 110 of the Labor Code on the declaration of bankruptcy or judicial liquidation, it being the debtor in this case. Assuming that private respondents are lawfully entitled to the monetary claims awarded by the Labor Arbiter and the NLRC, to which they are as will be discussed later, and that the assets of petitioner bank are indeed insufficient to pay all its liabilities, it is the other creditors of Manilabank, if any there be, who possess the personality to oppose the claims of the private respondents on the ground of the non-happening of the condition sine qua non under Article 110 (declaration of bankruptcy or judicial liquidation). This is as it should be considering that it is the other creditors of Manilabank, and not Manilabank itself, who stand to be prejudiced by a premature payment of the private respondents’ claims, for they may be left with no other assets or with too little assets of the petitioner at the end of the day with which to satisfy their own claims. The protective mantle of Article 110 (on the requirement of declaration of bankruptcy or judicial liquidation) cannot be claimed by the petitioner-debtor Manilabank in behalf of the other creditors for they do not share a community of interest with each other. I am not unmindful, however, of *Banco Filipino Savings and Mortgage Bank vs. NLRC*,^[27] where the debtor-employer itself opposed the money claims of its employee, Fortunato Dizon, Jr., and raised as one of its defenses Article 110. The Court in said case, nevertheless, dismissed the petition of Banco Filipino but ordered the money due the employee therein to be presented to the liquidators for processing.^[28] It is deplorable, however, that the Court then, by mere inadvertence or plain oversight, failed to see that petitioner-debtor in that case was not the proper party to seek refuge behind Article 110. It is the other creditors of the petitioner who should have invoked Article 110 of the Labor Code in opposing the early award of the employee’s claims prior to a declaration of bankruptcy or judicial liquidation of the debtor-employer. It is simply tragic that the majority

opinion failed to see this angle, and thus missed a rare opportunity to rectify this unfortunate fruit of inattention made in the Banco Filipino case.

Second. Petitioners are taking a duplicitous stance. On the one hand, petitioners maintain that the peculiar circumstances of this case demanded a more circumspect handling thereof by the public respondents not only because the claims add up to an enormous amount of about P200 million, but more so because the claims are directed against an insolvent bank and pertain to periods when said bank was already in financial straits.^[29] Yet, on the other, petitioners instituted on May 28, 1987 Civil Case No. 87-40659^[30] before the Regional Trial Court of Manila, Branch 23 seeking to strike down Monetary Board Resolution No. 505 which placed Manilabank under receivership upon a finding that it is insolvent. What kind of message is Manilabank sending here? The clear message is that Manilabank is not insolvent and it is fit to do business as a banking institution, then as now. This duplicity must be taken against the petitioners, at least for the purpose of resolving the present controversy. Perforce, Article 110 of the Labor Code becomes irrelevant for the purpose of disposing of the case at bench. In *Development Bank of the Philippines vs. Secretary of Labor*,^[31] we made the following pertinent observation:

“The rationale for making the application of Article 110 of the Labor Code contingent upon the institution of bankruptcy or judicial liquidation proceedings against the employer is of a preferential right of credit. A preference of credit bestows upon the preferred creditor an advantage of having his credit satisfied first ahead of other claims which may be established against the debtor. Logically, it becomes material only when the properties and assets of the debtor are insufficient to pay his debts in full; for if the debtor is amply able to pay his various creditors in full, how can the necessity exist to determine which of his creditors shall be paid first or whether they shall be paid out of the proceeds of the sale of the debtor’s specific property? {*Kuenzle & Streiff (Ltd.) vs. Villanueva*, 41 Phil. 611 [1916]; *Barretto vs. Villanueva*, 6 SCRA 928 [1962]; *Philippine Savings Bank vs. Lantin* 124 SCRA 476 [1983]}.”

The foregoing finds truism in the case before us. Indeed, there is no longer any necessity to resort to Article 110, as well as the Civil Code provisions on classification, concurrence and preference of credits under Articles 2241, 2242, 2244, and 2245 to determine which of petitioners’ creditors shall be paid first. Needless to say, the only thing left for Manilabank to do is to pay all its legal and demandable obligations to its creditors, particularly the private respondents, without the need of awaiting the happening of a definitive declaration of bankruptcy or a judicial liquidation as required under Article 110. This is what petitioner Manilabank ought to do in this case, at least with respect to the adjudged money claims of the 343 dismissed Manilabank employees.

Petitioners next assiduously submit that they were denied due process by the Labor Arbiter when the latter proceeded to decide the case based only on the pleadings filed before him by the parties, despite the enormity of the money claims, totalling to about P190 million, and their repeated demands for a full-dress trial.

This contention must necessarily fail. Article 221 of the Labor Code, as amended by Section 11 of RA No. 6715, provides in part:

“Technical rules not binding and prior resort to amicable settlement. — In any proceeding before the Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process. In any proceeding before the Commission or any Labor Arbiter, the parties may be represented by legal counsel but it shall be the duty of the Chairman, any Presiding Commissioner or Commissioner or any Labor Arbiter to exercise complete control of the proceedings at all stages.

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In labor cases, the regulations promulgated by the National Labor Relations Commission govern the hearing and disposition of cases before it and its regional branches. The Revised Rules of Court and prevailing jurisprudence may be applied to labor cases only under quite stringent limits, i.e., in the absence of any applicable provision in the Rules of the Commission, in order to effectuate the objectives of the Labor Code, in the interest of expeditious labor justice, and whenever practicable and convenient, by analogy or in a suppletory character and effect.^[32] In this regard, Section 4, Rule V of the NLRC Rules of Procedure provides:

“Determination of Necessity of Hearing. — Immediately after the submission by the parties of their position papers/memorandum, the Labor Arbiter shall motu proprio determine whether there is need for a formal trial or hearing. At this stage, he may, at his discretion and for the purpose of making such determination, ask clarificatory questions to further elicit facts or information, including but not limited to the subpoena of relevant documentary evidence, if any from any party or witness.”

Evidently, under the aforequoted Rule, the labor arbiter is given the discretion to determine the necessity for a formal hearing or investigation,^[33] once the position papers and other documentary evidences of the parties have been

submitted before him. The parties may ask for a hearing but such hearing is not a matter of right of the parties. The labor arbiter, in the exercise of his discretion, may deny such request and proceed to decide the case on the basis of the position papers and other documents brought before him without resorting to technical rules of evidence as observed in regular courts of justice.^[34] Such a procedure has been sanctioned by this Court as not violative of due process,^[35] considering that proceedings before a labor arbiter are summary and non-litigious in nature. In the present case, a careful examination of the records reveals that the labor arbiter did not abuse his discretion, bestowed upon him by the Rules, in not conducting a formal hearing.

Ample jurisprudential pronouncements there had been in support of this rule. In fact, in several cases, the rule laid down is that the essence of due process is simply an opportunity to be heard, or as applied to administrative proceedings such as the case at bench, an opportunity to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of.^[36] A formal or trial-type hearing is not at all times and in all instances essential. The requirements are satisfied where the parties are afforded fair and reasonable opportunity to explain their side of the controversy at hand.^[37] What due process contemplates is freedom from arbitrariness, and what it requires is fairness or justice, the substance rather than the form being paramount.^[38]

In the present case, the petitioners cannot deny the fact that position papers and other documentary evidences were submitted by both parties to the office of Labor Arbiter Felipe Pati. Thus, it was within the competence of the labor arbiter to determine if there was a need for a hearing. However, the labor arbiter, in the end, did not deem it necessary to conduct a hearing and proceeded to decide the case on the merits based on the position papers before him. There is no irregularity in this procedure. In fact, this procedure is well within the NLRC Rules of Procedure as well as settled jurisprudence on the matter. At any rate, the records show that petitioners were given additional opportunity to argue their case on appeal before public respondent NLRC. Such appeal to the NLRC and the petitions now before us have afforded the petitioners more than ample opportunity to be heard. Procedural flaws that may have marred the proceedings before the Labor Arbiter — although there is none in this case — should be deemed rectified in the subsequent proceedings^[39] in the NLRC.

I am not unaware of the practice of some lawyers who, lacking plausible support for their position, simply claim a denial of due process as if it were a universal absolution. The ground will prove unavailing, and not surprisingly since it is virtually only a pro forma argument. Due process is not to be bandied like a slogan. It is not a mere catch-phrase. As the highest hallmark of the free society, its name should not be invoked in vain but only when justice has not been truly served.^[40]

Now, as to the money claims awarded by the public respondents Labor Arbiter and NLRC in favor of the 343 private respondents in this case, the majority submits that the award given by the public respondents consisting of salary increases, Christmas and mid-year bonuses and other benefits to the private respondents pertain exclusively to what is called, in labor law, as “management prerogatives.” Thus, these cannot be forced upon the employer who may not be obliged to assume the onerous burden of granting bonuses especially so if it is incapable of doing so.

I do not agree.

The Labor Arbiter, as affirmed by the NLRC, found that:

“The evidence on record (Annexes ‘D,’ ‘D-1,’ ‘D-2’ and ‘D-3’ of complainants’ position paper) consisting of the action of the Board of Directors of Manilabank granting the complainant officers and rank-and-file employees two-months pay Christmas Bonus for 1980, 1981, 1982 and 1983, respectively, clearly shows that the grant of Christmas bonus was ‘in keeping with the bank’s practice and tradition.’ The grant of one-month pay Mid-Year Bonus for 1980, 1981, 1982 and 1983 is shown by Annexes ‘E,’ ‘E-1,’ ‘E-2’ and ‘E-3,’ respectively, of complainants’ position paper, is also so clearly a grant ‘in keeping with the bank’s practice and tradition.’ As early as 1980, the respondent Manilabank already recognized and considered the yearly grant of two-months pay Christmas Bonus and one-month pay Mid-Year Bonus as regular and fixed benefits enjoyed by the complainants ‘in keeping with the bank’s practice and tradition’ already for several years prior to 1980.

We also find that the grant of yearly wage increases, a part from merit increases granted to deserving complainants, was ‘in line with the bank’s practice and tradition.’ Like the grant of bonuses, the respondent Manilabank regularly and automatically gave and the complainants enjoyed at a fixed period of each year wage increases already for several years prior to 1984 as shown by respondent’s own evidence (see Annexes ‘A,’ ‘B’ and ‘C,’ complainant’s position paper; also see Annex ‘F’ of respondents’ position paper; and Annexes ‘A,’ ‘B,’ ‘B-1,’ ‘B-2,’ ‘B-3’ and ‘B-4’ of respondents’ rejoinder dated August 24, 1989) granting wage increases of complainants for 1983, 1978, 1977, 1976, 1974 and 1973, respectively, not to mention the yearly wage increases from the middle sixties when Manilabank started rapidly picking up success.

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The respondents who are in possession of the completed records of the individual claims of the complainants, failed to controvert the evidence of complainants that established the fact that the grant of two-months pay Christmas Bonus and one-month pay Mid-Year Bonus and Wage Increase

yearly of at least 25% average had been ‘in line with the bank’s practice and tradition’ already for several years prior to 1980; that the complainants had regularly and unconditionally enjoyed each year for already twenty (20) years the fixed amount of two-months pay Christmas Bonus and one-month pay Mid-Year Bonus and the at least 25% of gross pay average yearly Wage Increase; and that the particular aforesaid claims of complainants were granted regularly and automatically every year for the last twenty years without regard to any guidelines and irrespective of whether Manilabank made big profit, or small profit or no profit at all.

Considering the foregoing established facts, we hold that the yearly grant of two-months pay Christmas Bonus, the one-month pay Mid-Year Bonus and the at least 25% of gross pay Wage increases, which we find to have been regularly and unconditionally paid by respondent Manilabank and received by the complainants at fixed amount and on the due date of the year for already twenty years, had become part of the wages or compensation of the complainants for services they have rendered, in accordance with the ruling of the Supreme Court in the following cases it decided; *Atok Big Wedge Mining Co. vs. Atok Big Wedge Mutual Benefits* (92 Phil. 754, 1953); *Almonte vs. National Development Co.* (106 Phil. 137, 1959); *Philippine Education Co. vs. Court of Industrial Relations, et al.* (92 Phil. 381, 1952); *Luzon Stevedoring Corporations vs. Court of Industrial Relations* (15 SCRA 66, 1965); *Claparols vs. Court of Industrial Relations* (65 SCRA 613, 1965).

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The claim of complainants for recovery of profit sharing is granted. There is sufficient evidence on record that shows that Manilabank earned net profit in 1984, 1985, and 1986 (see Annexes ‘G’, ‘G-1’, ‘G-2’, ‘H’, ‘H-1’, and ‘I’ of complainants’ position paper). Furthermore, the Monetary Board declared Manilabank in the state of insolvency only in May 1987. The contention of the Receiver that Manilabank was in the state of insolvency cannot deprive the complainants of their lawful benefits for services they have rendered. The Receiver/Liquidator is ordered to pay the complainants the proper amount of profit sharing for the 1985 and 1986 net profit the Manilabank earned.”^[41]

These findings of the public respondent Labor Arbiter ought to be sustained. Uniform wage increases, Christmas and mid-year bonuses as well as the profit-sharing scheme and the other benefits being given by petitioner Manilabank to the private respondents can be couched under one encompassing word in labor standards parlance — that of “bonuses.”

A bonus is an amount granted and paid to an employee for his industry and loyalty which contributed to the success of the employer’s business and made possible the realization of profits. It is an act of generosity of the employer for

which the employee ought to be thankful and grateful. It is also granted by an enlightened employer to spur the employee to greater efforts for the success of the business and realization of bigger profits.^[42]

The general rule is that a bonus is a gratuity or an act of liberality which the recipient has no right to demand as a matter of right.^[43] A bonus, however, is a demandable or enforceable obligation when it is made part of the wage or salary or compensation of the employee.^[44] Whether or not a bonus forms part of wages depends upon the circumstances or conditions for its payment. If it is an additional compensation which the employer promised and agreed to give without any conditions imposed for its payment, such as success of business or greater production or output, then it is part of the wage. But if it is paid only if profits are realized or a certain amount of productivity achieved, it cannot be considered part of the wages.^[45]

In the case at bench, I am not inclined to disturb the findings of both the Labor Arbiter and the NLRC that private respondents' claims for salary increases, Christmas and mid-year bonuses had been given "in line with the bank's practice and tradition already for several years prior to 1980; x x x and that the aforesaid claims of complainants were granted regularly and automatically every year for the last twenty years without regard to any guidelines and irrespective of whether Manilabank made big profit, or small profit or no profit at all."^[46] Public respondents likewise found, and not without basis, that in respect to the profit-sharing claims of private respondents, petitioner Manilabank earned net profit in 1984, 1985 and 1986,^[47] thus warranting the award in favor of the private respondents. In fact, in the RTC case where Manilabank prays for the annulment of Monetary Board Resolution No. 505 which placed it under receivership, petitioner bank manifested to the trial court, by virtue of its Annexes G, G-1 & G-2, that it realized millions in gross earnings in 1984, 1985 and 1986. Per Manilabank exhibits, bank external auditor, Carlos J. Valdes & Company, reveals that petitioner bank had, as of April 11, 1986, total resources amounting to P8,093,047,525.00.

These are, on the main, factual findings over which the Labor Arbiter and the NLRC are most equipped to determine having acquired expertise in the specific matters entrusted to their jurisdiction. It is worth repeating here that the jurisdiction of the Supreme Court to review decisions of the NLRC in a petition for certiorari under Rule 65 of the Rules of Court is confined to issues of jurisdiction or grave abuse of discretion.^[48] Findings of facts of quasi-judicial agencies like the NLRC are accorded by this Court not only with respect but even finality if they are supported by substantial evidence,^[49] or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.^[50] This quantum of proof has been satisfied in this case.

It is well worth to remind this Court that it cannot arrogate unto itself the exclusive power of the labor tribunals to receive, analyze, evaluate, scrutinize,

and finally make factual determinations based on the evidences submitted before them absent any showing of grave, capricious and whimsical exercise of its jurisdiction, which, after careful weighing of the arguments of both parties and a conscientious evaluation of the records, I find wanting in the case under consideration.

Thus, based on the foregoing findings of both the Labor Arbiter and the NLRC, a company practice favorable to the private respondents employees had been established, and the payments made pursuant thereto ripened into benefits enjoyed by the private respondents. Hence, these benefits can no longer be withdrawn by petitioner Manilabank as they have formed part of the wage or compensation of the private respondents.

Lastly, petitioners asseverate that the NLRC's threat to execute the judgment would be unlawful, if carried out, because Manilabank's assets are legally exempt from execution under Section 29 of Republic Act No. 265 or the Central Bank Act, as amended, which provides, inter alia:

“The assets of an institution under receivership or liquidation shall be deemed in custodia legis in the hands of the receiver or liquidator and shall, from the moment of such receivership or liquidation, be exempt from any order of garnishment, levy, attachment, or execution.”

I except. Nothing in the above provision suggests that the jurisdiction of the liquidation court to adjudicate claims against the insolvent bank is exclusive. Contrarily, Article 217 of the Labor Code clearly provides that labor arbiters have original and exclusive jurisdiction over money claims of employees exceeding P5,000.00 which arise from employer-employee relations, viz.:

“Jurisdiction of Labor Arbiters and the Commission. — (a) Except as otherwise provided under this Code, the Labor Arbiter shall have original and exclusive jurisdiction to hear and decide the following cases involving all workers, whether agricultural or non-agricultural:

X X X

6) Except claims for Employees Compensation, Social Security, Medicare and maternity benefits, all other claims arising from employer-employee relations, . . ., involving an amount exceeding five thousand pesos (P5,000.00) regardless of whether accompanied with a claim for reinstatement.”

This jurisdiction conferred upon labor arbiters and the NLRC would not be lost simply because the assets of a former employer had been placed under receivership or liquidation. Moreover, this jurisdiction would be rendered inutile without the concomitant power to execute their decisions. Since the legislature deemed it wise to confer jurisdiction over labor disputes to a body exclusively of

others, I am not prepared to divest such authority from the labor arbiter and the NLRC absent any clear provision of law to that effect.^[51]

PRECIS

(1) There has yet been no official declaration of bankruptcy of petitioner Manilabank by any competent court in the country. Whether or not Manilabank is insolvent is still an issue awaiting determination in Civil Case No. 87-40659^[52] before Branch 23, Regional Trial Court of Manila. What is to be noted with significance, however, is that it was Manilabank itself, and no other, that instituted the said civil case on May 28, 1987 praying for the annulment of Monetary Board Resolution No. 505 which placed Manilabank under receivership. In its complaint before the trial court, Manilabank vehemently insists that it is not insolvent, that it is making money, and that the Monetary Board gravely erred in placing the bank under receivership. If Manilabank maintains that it is not bankrupt, why should this Court rule otherwise and deprive the 343 Manilabank employees the unpaid benefits which they have already earned? There is simply no rhyme nor reason for this stance taken by the majority.

(2) The coffers of Manilabank are not, at all, empty. On July 5, 1991, a Certificate of Time Deposit, in the amount of P212,700,000.00, had been submitted by Manilabank to the NLRC to cover all the money claims of its employees in the event the case is finally decided in the latter's favor. Thus, the fund is already there waiting to be distributed to the 343 Manilabank employees. Such display of liquidity cannot at all be made if the bank's coffers were empty.

(3) Granting, nevertheless, that Manilabank, indeed, did not make profits for the years 1984, 1985 and 1986, the money claims of the respondent employees should just the same be awarded. Although the point made by the majority is well-taken that a "bonus" is basically a management prerogative which cannot be forced upon the employer, jurisprudence is settled that a bonus becomes a demandable or enforceable obligation when it is made part of the wage or salary or compensation of the employee.^[53] If the bonus constitutes an additional compensation which the employer promised and agreed to give without any conditions imposed for its payment, such as success of business or greater production or output, then it is part of the wage;^[54] and thus a demandable or enforceable obligation on the part of the employer. Here, petitioner Manilabank has not presented any substantial evidence that would belie the findings of both the Labor Arbiter and the NLRC, amply substantiated, that respondent employees' claims, at least, for salary increases and Christmas and mid-year bonuses, had been given "in line with the bank's practice and tradition already for several years prior to 1980; ... and that the aforesaid claims of complainants were granted regularly and automatically every year for the last twenty years without regard to any guidelines and irrespective of whether Manilabank made big profit, or small profit or no profit at all."^[55] Henceforth, while normally discretionary,

the grant of “bonus” in this case has, by reason of its long and regular concession, become part of regular compensation and, therefore, ripened into a demandable and enforceable obligation on the part of petitioner Manilabank towards its employees.

In closing, the majority opinion, while it deleted the award of unpaid wage increases (P74,462,377.46),^[56] mid-year and Christmas bonuses (P29,517,925.00),^[57] profit-sharing (P3,086,173.53),^[58] differentials on accrued leaves (P9,079,023.19),^[59] and retirement benefits (P64,576,865.96)^[60] on the ground of the bank’s alleged dire financial status in the years 1984, 1985 and 1986, nonetheless affirmed the claim for travel plans, car plans and claims for longevity pay. The latter group of benefits only accrues in favor of senior officers and senior managers of Manilabank. The lowly managers, assistant managers and other junior officers are not entitled to these benefits. The award given by the majority, therefore, appears to unduly favor only the top officers and managers of Manilabank. If the basis for the denial of the award for unpaid wage increases, et al., is Manilabank’s supposed insolvency, then all the other unpaid claims should, in like manner, have been denied.

WHEREFORE, premises considered, **I vote to AFFIRM** the September 9, 1992 Resolution and the November 26, 1992 Order of the public respondent NLRC insofar as it awarded the unpaid benefits claimed by herein respondent employees and hold that the December 16, 1992 temporary restraining order be **LIFTED**.

SO ORDERED.

Francisco, J., concurs.

HERMOSISIMA, JR., J., dissenting:

- [1] Docketed as NLRC-NCR Case No. 00-11-04624-88.
- [2] Rollo [G.R. No. 107487], pp. 67-68.
- [3] Rollo [G.R. No. 107487], pp. 134-135.
- [4] Petition, p. 11; Rollo [G.R. No. 107487], p. 12.
- [5] Petition, p. 13; Rollo [G.R. No. 107487], p. 14.
- [6] Petition, p. 15; Rollo [G.R. No. 107487], p. 16.
- [7] Petition, p. 16; Rollo [G.R. No. 107487], p. 17.
- [8] Rollo [G.R. No. 107487], pp. 248-249.
- [9] Petition, p. 28; Rollo [G.R. No. 107902], p. 29.
- [10] Petition, p. 49; Rollo [G.R. No. 107902], p. 50.
- [11] Petition, p. 58; Rollo [G.R. No. 107902], p. 59.
- [12] Petition, p. 59; Rollo [G.R. No. 107902], p. 60.
- [13] Petition, p. 60; Rollo [G.R. No. 107902], p. 61.
- [14] Petition, p. 80; Rollo [G.R. No. 107902], p. 81.

- [15] Petition, p. 81; Rollo [G.R. No. 107902], p. 82.
- [16] Petition, p. 85; Rollo [G.R. No. 107902], p. 86.
- [17] Rollo [G.R. No. 107902], p. 633.
- [18] 171 SCRA 138, 144 [1989].
- [19] 183 SCRA 328 [1990].
- [20] 186 SCRA 368 [1990].
- [21] 186 SCRA 841 [1990].
- [22] 230 SCRA 119 [1994].
- [23] 242 SCRA 59 [1995].
- [24] *Hautea vs. National Labor Relations Commission*, supra., at 125.
- [25] *Development Bank of the Philippines vs. NLRC*, supra., at 64.
- [26] *Supra*, note 19 at 339.
- [27] 188 SCRA 700 [1990].
- [28] *Ibid.*, at 709.
- [29] Rollo [G.R. No. 107902], pp. 34-35; p. 729.
- [30] Rollo [G.R. No. 107902], pp. 373-424.
- [31] 179 SCRA 630, 634-635 [1989].
- [32] *Shoemart, Inc. vs. National Labor Relations Commission*, 225 SCRA 311, 318 [1993], citing the New Rules of Procedure of the National Labor Relations Commission, August 31, 1990, effective “fifteen (15) days after their publication in two (2) newspapers of general circulation.” SEC. 3, Rule I.
- [33] *Robusta Agro Marine Products, Inc. vs. Gorombalem*, 175 SCRA 93, 99 [1989].
- [34] *Ibid.*, citing *Manila Doctors Hospital vs. NLRC*, 135 SCRA 262, 265-267 [1985].
- [35] *Shoemart, Inc. vs. NLRC*, supra., citing *Commando Security Agency vs. NLRC*, 211 SCRA 645 [1992].
- [36] *Stayfast Philippines Corp. vs. NLRC*, 218 SCRA 596, 601 [1993], citing *Bautista vs. Secretary of Labor*, 196 SCRA 470 [1991].
- [37] *Ibid.*, citing *Llora Motors, Inc. vs. Drilon*, 179 SCRA 175 [1989].
- [38] *Tajonera vs. Lamaroza*, 110 SCRA 438, 448 [1981].
- [39] *Pacific Timber Export Corp. vs. NLRC*, 224 SCRA 860, 864 [1993], citing *T.M. Valderama & Sons vs. Drilon*, 181 SCRA 303; *PNOC Energy Development Corp. vs. NLRC*, 201 SCRA 487; *Manila Resources Development Corporation vs. NLRC*, 213 SCRA 296.
- [40] *Ibid.*
- [41] Rollo [G.R. No. 107487], pp. 58-60; 62.
- [42] *Philippine Education Co., Inc. vs. Court of Industrial Relations, et al.*, 92 Phil. 381, 385 [1952].
- [43] *Metro Transit Organization, Inc. vs. National Labor Relations Commission*, 245 SCRA 767, 774 [1995], citing *Traders Royal Bank vs. National Labor Relations Commission*, 189 SCRA 274 [1990]; *Luzon Stevedoring Corp. vs. Court of Industrial Relations*, 15 SCRA 660 [1965]; *Kamaya Point Hotel vs. National Labor Relations Commission*, 177 SCRA 160 [1989].
- [44] *Ibid.*, citing *Luzon Stevedoring Corp. vs. Court of Industrial Relations*, 15 SCRA 660 [1965].

- [45] Atok-Big Wedge Mining Co., Inc. vs. Atok-Big Wedge Mutual Benefit Association, 92 Phil. 754, 757 [1953], cited in Philippine Duplicators, Inc. vs. NLRC, 241 SCRA 380, 388-389 [1995].
- [46] Decision, pp. 11-12; Rollo [G.R. No. 107487], pp. 59-60.
- [47] Decision, p. 14; Rollo [G.R. No. 107487], p. 62.
- [48] Reno Foods, Inc. vs. National Labor Relations Commission, 249 SCRA 379, 385 [1995], citing Sajonas vs. NLRC, 183 SCRA 182 [1990]; Patna-an vs. NLRC, 207 SCRA 106 [1992]; Canlubang Security Agency vs. NLRC, 216 SCRA 280 [1992].
- [49] Falguera vs. Linsangan, 251 SCRA 364, 373 [1995], citing Aboitiz Shipping Corp. vs. Dela Serna, 199 SCRA 568 [1991]; Rabago vs. NLRC, 200 SCRA 158 [1991]; Tiu vs. NLRC, 215 SCRA 540 [1992]; Five J Taxi vs. NLRC, 235 SCRA 556 [1994].
- [50] Section 5, Rule 133, Revised Rules of Court.
- [51] See Banco Filipino Savings and Mortgage Bank, supra. at 704-705.
- [52] Rollo [G.R. No. 107902], pp. 373-424.
- [53] Metro Transit Organization, Inc. vs. NLRC, 245 SCRA 767, 774 [1995]; Luzon Stevedoring Corp. vs. CIR, 15 SCRA 660, 675 [1965].
- [54] Atok-Big Wedge Mining Co., Inc. vs. Atok-Big Wedge Mutual Benefit Association, 92 Phil. 754, 757 [1953], cited in Philippine Duplicators, Inc. vs. NLRC, 241 SCRA 380, 388-389 [1995].
- [55] Rollo [G.R. No. 107487], pp. 59-60.
- [56] See attached Annex "A."
- [57] Ibid.
- [58] Ibid.
- [59] Ibid.
- [60] Ibid.