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ACCORDINGLY, judgment is hereby rendered modifying the decision of respondent court by setting aside the reduction in fine therein granted and reinstating the administrative fine of ₱26,575.00 imposed in petitioner commissioner's decision.

Makasiar, Fernandez, Guerrero, De Castro, and *Melencio-Herrera, JJ.*, concur.

SECOND DIVISION

[G.R. No. L-49678. June 29, 1979]

ALLIED INVESTIGATION BUREAU, INC., *petitioner, vs.* **HON. BLAS F. OPLE, in his capacity as Minister of Labor; HON. AMADO G. INCIONG, in his capacity as Deputy Minister of Labor; NATIONAL LABOR RELATIONS COMMISSION; LABOR ARBITER APOLONIO L. REYES; and VICTORIANO VELASQUEZ,** *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; RETIREMENT BENEFITS; PROVISION THEREON UNDER THE LABOR CODE SHOULD BE GIVEN RETROACTIVE EFFECT.**— Petitioner's insistence that the retirement benefits should date only from the time that the present Labor Code came into force could be based on the assumption that it should not be given a retroactive effect. That would be to ignore the well-settled principle that police power legislation intended to promote public welfare applies to existing contracts.

2. **ID.; ID.; ID.; RIGHT TO RETIREMENT BENEFITS EMANATES FROM THE SOCIAL JUSTICE AND PROTECTION TO LABOR PROVISIONS OF THE 1935 CONSTITUTION.**— Nor

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is it accurate to assert that the right to retirement benefits started from the enactment of the present Labor Code. That would be to ignore the social justice and protection to labor provisions of the 1935 Constitution.

Aquino, *J.*, *concurring*:

LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; RETIREMENT BENEFITS; AWARD THEREOF IS AN ACT OF SOCIAL JUSTICE.— I vote for the affirmance of the award of retirement benefits on the basis of the Termination Pay Law because such an award is an act of social justice which in the case of the laborers means compassionate justice or an implementation of the policy that those who have less in life should have more in law.

D E C I S I O N

FERNANDO, *Acting C.J.*:

It is evident, even at a cursory glance, that the stand of petitioner Allied Investigation Bureau, Inc., in this *certiorari* proceeding against the officials of the Department of Labor headed by respondent Minister Blas F. Ople,[1] is hardly appreciative of the scope and amplitude of both the social justice[2] and protection to labor[3] provisions of the Constitution.

[1] The other respondents are Hon. Amando G. Inciong, in his capacity as Deputy Minister of Labor; National Labor Relations Commission; Labor Arbiter Apolonio L. Reyes, and Victoriano Velasquez.

[2] According to Article II, Section 6 of the Constitution: "The State shall promote social justice to ensure the dignity, welfare, and security of all the people. Towards this end, the State shall regulate the acquisition, ownership, use, enjoyment, and disposition of private property, and equitably diffuse property ownership and profits."

[3] According to Article II, Section 9 of the Constitution: "The State shall afford protection to labor, promote full employment and equality in employment, ensure equal work opportunities regardless of sex, race, or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. The State may provide for compulsory arbitration."

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Consequently, it is on infirm ground. To be more specific, after recognizing that private respondent Victoriano Velasquez was entitled to retirement benefits, it would in effect nullify such a right by informing him that at most, he was entitled to ₱675.00 for two years, computed at one-half month for every year of service from November 1, 1974 when the present Labor Code became effective, instead of May, 1953 when he started working for petitioner Company. Accordingly, private respondent Velasquez filed a complaint with the Department of Labor against it for non-payment. The labor arbiter, the National Labor Relations Commission, and respondent Minister of Labor Ople were united in the view that he was entitled to ₱7,762.50, computed at the rate of one-half monthly salary per year of service, starting from 1953. Nonetheless, petitioner, adhering to its adamant attitude, instituted this *certiorari* proceeding.

For reasons to be hereinafter set forth, this Court rules that *certiorari* does not lie.

1. There is no question that petitioner had agreed to grant retirement benefits to private respondent. It would, however, limit such retirement benefits only from the date of the effectivity of the Labor Code. That is its contention. The refutation given in the Comment of Solicitor General Estelito P. Mendoza is persuasive.[4] As was pointed out, "in the computation thereof, public respondents acted judiciously in reckoning the retirement pay from the time private respondent started working with petitioner since respondent employee's application for retirement benefits and the company's approval of the same make express mention of Sections 13 and 14, Rule 1, Book VI of the Implementing Rules and Regulations of the Labor Code as the basis for retirement pay. Section 14(a) of said rule provides that 'an employee who is retired pursuant to a bona-fide retirement plan or in accordance with the applicable individual or collective agreement or established employer policy shall be entitled to all the retirement benefits provided therein or to termination pay equivalent to at least one-half month salary for every year

[4] He was assisted by Assistant Solicitor General Reynato S. Puno and Solicitor Jesus V. Diaz.

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of service, whichever is higher, a fraction of at least six (6) months being considered as one whole year.'"[5] Further it was stated: "This position taken by public respondents squares with the principle that social legislation should be interpreted in favor of workers in the light of the Constitutional mandate that the State shall afford protection to labor."[6]

2. Petitioner's insistence that the retirement benefits should date only from the time that the present Labor Code came into force could be based on the assumption that it should not be given a retroactive effect. That would be to ignore the well-settled principle that police power legislation intended to promote public welfare applies to existing contracts.[7] It was held in *Ongsiako v. Gamboa*,[8] decided in 1950, that a police power measure being remedial in character covers existing situations; otherwise, it would be self-defeating. *Abe v. Foster Wheeler Corporation*,[9] this Court, speaking through Justice Barrera, is even more in point. In that case, the contracts of employment were entered into at a time when there was no law granting the workers said right. Such being the case, it was then contended that the application as to them of the subsequent enactment would amount to an impairment of contractual obligations. In refuting such a view, it was made clear in the opinion that "the constitutional guaranty of non-impairment * * * is limited by the exercise of the police power of the State, in the interest of public health, safety, morals and general welfare."[10] The latest reiteration of such a doctrine came in *Gutierrez v. Cantada*,[11] decided barely a month ago.

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[5] Comment, 4-5.

[6] *Ibid.*, 5-6.

[7] Cf. *Pangasinan Transportation Co. v. Public Service Commission*, 70 Phil. 221 (1940).

[8] 86 Phil. 50.

[9] 110 Phil. 198 (1960).

[10] *Ibid.*, 203. Cf. *Philippine American Life Insurance Co. v. Auditor General*, L-19255, January 18, 1968, 22 SCRA 135.

[11] L-36797, May 3, 1979.

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3. Nor is it accurate to assert that the right to retirement benefits started from the enactment of the present Labor Code. That would be to ignore the social justice[12] and protection to labor provisions[13] of the 1935 Constitution. In the leading case of *Antamok Goldfields Mining Company v. Court of Industrial Relations*,[14] decided in 1940, a concurring opinion of Justice Laurel to this effect was cited: "'By and large, these provisions in our Constitution all evince and express the need of shifting emphasis to community interest with a view to affirmative enhancement of human values.'"[15] He had occasion to repeat it in his well-known definition of social justice in *Calalang v. Williams*,[16] decided the same year. Thus: "Social justice is 'neither communism, nor despositism, nor atomism, nor anarchy,' but the humanization of laws and the equalization of social and economic forces by the State so that justice in its rational and objectively secular conception may at least be approximated. Social justice means the promotion of the welfare of all the people, the adoption by the Government of measures calculated to insure economic stability of all the component elements of society, through the maintenance of a proper economic and social equilibrium in the interrelations of the members of the community, constitutionally, through the adoption of measures legally justifiable, or extra-constitutionally, through the exercise of powers underlying the existence of all governments on the time-honored principle of *salus populi est suprema lex*."[17]

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[12] According to Article II, Section 5 of the 1935 Constitution: "The promotion of social justice to insure the well-being and economic security of all the people should be the concern of the State."

[13] According to Article XIV, Section 6 of the 1935 Constitution: "The State shall afford protection to labor, especially to working women and minors, and shall regulate the relation between landowner and tenant, and between labor and capital in industry and in agriculture. The State may provide for compulsory arbitration."

[14] 70 Phil. 340.

[15] *Ibid.*, 357-358.

[16] 70 Phil. 726.

[17] *Ibid.*, 734-735.

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The present Civil Code, which took effect on August 30, 1950, has a chapter on labor contracts, the first article of which recognizes that the relations between capital and labor "are not merely contractual. They are so impressed with public interest that labor contracts must yield to the common good."[18] As private respondent started working as far back as May, 1953, his expectations that both the constitutional provisions and the applicable legislation would be so interpreted as to grant him the benefits recognized by law should not be frustrated. The unanimity which characterized the decisions of the labor arbiter, the National Labor Relations Commission, and respondent Minister of Labor, reflected such an approach. They should remain undisturbed.

4. From the standpoint of equity, it suffices to note the great disparity between the offer by petitioner of ₱675.00 and the sum computed in the amount of ₱7,762.50 as determined by the labor arbiter, the National Labor Relations Commission, and respondent Minister of Labor. The niggardly sum offered, considering the present high cost of living, might not even be enough for one month's subsistence. Here, there is no question as to his rendering service that at the very least was considered satisfactory from May, 1953. If it were otherwise, then he would not have lasted that long. For petitioner, then, to be adamant in its untenable stand is to show scant respect for the social justice principle and the mandate of protection to labor.

WHEREFORE, this petition for *certiorari* is dismissed for lack of merit. No costs.

Barredo, Antonio, and *Santos, JJ.*, concur.

Aquino, J., see attached concurring opinion.

Abad Santos, J., took no part.

Concepcion Jr., J., is on leave.

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[18] Article 1700, Civil Code.

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AQUINO, *J.*, *concurring opinion*:

I concur. As stated in the Solicitor General's comment, the Allied Investigation Bureau, Inc. is engaged in the security agency business. Victoriano Velasquez commenced working for the company in May, 1953. Upon reaching the age of sixty years, he applied for retirement benefits under Rule 1, Book VI of the Implementing Rules and Regulations of the Labor Code. His application was approved by the company in its letter of May 10, 1976 wherein its vice-president said:

"Referring to your letter of application for retirement dated 6 April 1976 under Sections 13 and 14, Rule 1, Book VI of the Rules and Regulations Implementing the New Labor Code, you are hereby advised that the same is approved effective on the date of receipt."

At the time of his retirement, Velasquez was receiving a monthly salary of ₱675. There was no collective bargaining agreement nor any private retirement plan in the company.

On May 26, 1976, Velasquez received a letter from his employer informing him that his retirement check for ₱675 for two years (computed at one-half month for every year of service from November 1, 1974 when the Labor Code took effect) was ready. Velasquez refused to receive the same, claiming that his retirement pay should be computed from May, 1953 when he started working with the company and not from the effectivity of the Labor Code on November 1, 1974.

This dispute gave rise to a complaint lodged by Velasquez with the Department of Labor against the company for non-payment of retirement benefits (NLRC Case No. RB-IV-6873-76).

On October 25, 1976, Labor Arbiter Apolonio L. Reyes rendered a decision for the complainant, ordering the respondent company to pay him separation pay in the amount of ₱7,762.50 (computed at the rate of one-half month salary per year of service for twenty-three years).

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The company appealed the decision of the Labor Arbiter to the National Labor Relations Commission which, in a resolution dated April 14, 1977, dismissing the appeal. Not satisfied therewith, the company appealed to the Minister of Labor who likewise dismissed the same with the modification as regards the award for attorney's fees which was denied for lack of basis. Its motion for reconsideration having been also denied, the company filed in this Court the instant petition for review.

The Labor Code provides:

"ART. 288. *Retirement.* — Any employee may be retired upon reaching the retirement age established in the collective bargaining agreement or other applicable employment contract.

"In case of retirement, the employee shall be entitled to receive such retirement benefits as he may have earned under existing laws and any collective bargaining or other agreement."

The implementing rules on the law on retirement found in Rule 1, Book VI of the Rules and Regulations Implementing the Labor Code are as follows:

"SEC. 13. *Retirement.* — In the absence of any collective bargaining agreement or other applicable agreement concerning terms and conditions of employment which provides for retirement at an older age, an employee may be retired upon reaching the age of sixty (60) years."

"SEC. 14. *Retirement benefits.* — (a) An employee who is retired pursuant to a *bonafide* retirement plan or in accordance with the applicable individual or collective agreement or established employer policy shall be entitled to all the retirement benefits provided therein or *to termination pay* equivalent at least to one-half month salary for every year of service, whichever is higher, a fraction of at least six (6) months being considered as one whole year.

"(b) Where both the employer and the employee contribute to the retirement plan, agreement or policy, the employer's total contribution thereto shall not be less than the total termination pay to which the employee would have been entitled had there been no such retirement fund. In case the employer's contribution is less than the termination pay the employee is entitled to receive, the employer shall pay the deficiency upon the retirement of the employee.

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"(c) This Section shall apply where the employee retires at the age of sixty (60) years or older."

While Article 288 of the Labor Code does not fix the age of retirement, the implementing rules provide that, in the absence of any collective bargaining agreement or other employment contract providing for retirement, "an employee *may* be retired upon reaching the age of sixty (60) years." Evidently, the implementing rules authorize the employer to retire its employees at the age of sixty years.

The company contends that article 288 cannot be applied to this case because no law, collective bargaining agreement or *bona fide* retirement plan justify the award of retirement benefits to Velasquez; that its mere approval of his application did not render it liable to pay retirement benefits to him and that, alternatively, his retirement benefits should be computed only from November 1, 1974, when the Labor Code took effect, and should not be retroactive as to 1953 when he started working for the company.

I vote for the affirmance of the award of retirement benefits on the basis of the Termination Pay Law because such an award is an act of social justice which in the case of the laborers means compassionate justice or an implementation of the policy that those who have less in life should have more in law.

FIRST DIVISION

[G.R. No. L-50471. June 29, 1979]

JULIO SALACUP, *petitioner, vs.* **HON. TOMAS P. MADDELA, JR. and FILIPINAS MILLS, INC.,** *respondents.*