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Petitioner failed to comply with its duty to resolve whatever differences there were between it and the unions. It is unmistakable that there was a valid cause for respondent unions to complain against the conduct of the PNR, which indicated a disregard to live up to what is enjoined by the Industrial Peace Act — to bargain collectively in good faith, to insure harmonious labor-management relations.

WHEREFORE, THE PETITION IS HEREBY DENIED, WITH COSTS AGAINST PETITIONER.

Teehankee (Chairman), Guerrero, De Castro, and *Melencio-Herrera, JJ.,* concur.

Fernandez, J., took no part.

FIRST DIVISION

[G.R. No. L-32772. April 30, 1979]

GOVERNMENT SERVICE INSURANCE SYSTEM, *petitioner, vs.* **GSIS SUPERVISORS UNION and THE COURT OF INDUSTRIAL RELATIONS,** *respondents.*

SYLLABUS

REMEDIAL LAW; COURT OF INDUSTRIAL RELATIONS; JUDGMENTS; STAY OF EXECUTION PENDING APPEAL; EFFECT WHERE APPELLANT HIMSELF IMPLEMENTS APPEALED ORDER. — Petitioner cannot invoke Section 3 of Republic Act No. 5540 which provides that the filing of a petition for a Writ of Certiorari to review the judgment of the Court of Industrial Relations stays the execution of the appealed judgment, where petitioner itself had partially implemented the order sought to be reviewed without awaiting the resolution of the Supreme Court. Hence, it cannot refuse to deduct the

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attorney's fees corresponding to the salary increase that will ensue from the judgment upon the allegation that the execution of the Industrial Court should be stayed, after it had partially implemented the appealed judgment.

APPEARANCES OF COUNSEL

Abellera & Mosqueda for petitioner.
Cecilio Magadia, Jr. and *Felimon L. Uy* for respondent.

D E C I S I O N

MELENCIO-HERRERA, *J.*:

The following background facts are essential to the understanding of the present controversy:

In CIR Case No. 87-IPA(8) of the Court of Industrial Relations, entitled *GSIS Supervisors' Union (GSISSU) vs. Government Service Insurance System (GSIS)*, Attys. Cecilio B. Magadia, Jr. and Filemon L. Uy, as counsel for GSISSU, filed a petition demanding from the GSIS a one rate salary increase effective January 1, 1969 for supervisors in pay Classes 7 to 13, similar to that granted to the rank and file employees, in Pay Classes 1 to 6 by virtue of a collective bargaining agreement between the GSIS and the GSIS Employees' Association (GSISEA [CUGCO]). After hearing, the Court of Industrial Relations issued an Order dated April 29, 1970 granting the one-step salary adjustment to all supervisory personnel. The dispositive portion of that Order reads thus:

"WHEREFORE, respondent GSIS is hereby ordered to cease and desist from discriminating against petitioner, its members, and other employees in the unit of supervisors, and to grant to all of said employees the same salary, readjustment/increase as those already granted to Manuel Perlada and other members of GSISEA-CUGCO provided they have not reached the maximum step of their respective pay classes."[1]

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[1] p. 18, *Rollo*.

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The Court of Industrial Relations *en banc* affirmed the foregoing Order in a Resolution dated May 9, 1970. The GSIS appealed from the foregoing Orders to this Court, docketed as G. R. No. L-32018.

In the meantime, on May 4, 1970, Attys. Magadia and Uy, counsel for the GSISSU, filed with the Court of Industrial Relations, in the same Case No. 87-IPA(8), a Notice of Attorney's Lien. This was based on a retainer agreement entered into between said counsel and the GSISSU whereby the latter agreed to compensate them, contingent upon securing a favorable Court award, in an amount equivalent to 15% of the salary increase that will ensue from the salary adjustment that may be granted to each and every employee in the bargaining unit of supervisors (Pay Classes 7 to 13).

On June 5, 1970, the GSISSU counsel filed a manifestation before respondent Court of Industrial Relations alleging that the GSIS was about to implement, in whole or in part, the Court of Industrial Relations Order and Resolution appealed in G. R. No. L-32018, and prayed that their attorney's lien be approved. The Court of Industrial Relations approved the lien in its Order of June 5, 1970, stating:

"Considering the notice of attorney's lien filed by the counsel for petitioner GSISSU together with the manifestation of June 5, 1970, that the management of respondent GSIS has decided to pay the award, in whole or in part; the said attorney's lien in an amount equivalent to 15% of the salary increases occasioned by any salary adjustment to be given to all employees of the respondent GSIS holding positions from pay Classes 7 to 13 (of the GSIS Salary & Position Classification Plan) is hereby ordered deducted from all employees so affected should increases be actually effected. Further, let the said amount deducted be paid directly to said counsels of record of petitioner GSISSU, namely, Attorneys Cecilio Magadia and Filemon Uy."

On July 24, 1970, or during the pendency of G. R. No. L-32018, the GSIS paid 50% of the salary increase differential for the year 1969 to all supervisory personnel without deducting 15% representing attorney's fees. Attys. Magadia and Uy then filed a Motion for enforcement of Attorney's Lien, which was granted

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by Associate Judge Joaquin M. Salvador of the Court of Industrial Relations in an Order dated July 30, 1970, modifying that of June 5, 1970, the dispositive portion of which provides:

"WHEREFORE, the respondent, especially its General Manager, is hereby ordered to cause to be deducted the corresponding 15% from the total amount paid to all employees in Pay Classes 7 to 13 last July 24, 1970 from the next succeeding in-step differentials that will be paid, together with 15% of any amount hereafter to be paid as in-step differentials to all employees in pay Classes 7 to 13, and to pay the amounts so deducted from members of the GSISSU directly to Attys. Cecilio Magadia & Filemon Uy.

Lastly, the amounts so deducted under the preceding paragraph corresponding to employees who are not members of the GSISSU shall be deposited in Court for further disposition."[2]

The GSIS moved for reconsideration of that Order, but the Court of Industrial Relations *en banc* denied the same in its Resolution of August 24, 1970. From the said Order and Resolution, the GSIS interposed the present appeal to this Court on the following Assignments of Error:

"A

RESPONDENT COURT OF INDUSTRIAL RELATIONS COMMITTED A GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OF JURISDICTION WHEN IT DIRECTED YOUR PETITIONER TO DEDUCT 15% FROM THE TOTAL AMOUNT PAID ON JULY 24, 1970 TO ALL SUPERVISORY PERSONNEL AS WELL AS THE AMOUNT HEREAFTER TO BE PAID TO THEM AS IN-STEP DIFFERENTIALS, CONSIDERING THAT IN ITS ORDER OF JULY 30,1970, EXHIBIT 'B' OF THE PETITION FOR *CERTIORARI*; RESPONDENT CIR STATED THAT THE SAID SALARY INCREASE PAID ON JULY 24, 1970 WERE MADE PURSUANT TO EXISTING COLLECTIVE BARGAINING AGREEMENT.

"B

RESPONDENT COURT OF INDUSTRIAL RELATIONS ERRED IN NOT HOLDING THAT UNDER THE PROVISION OF THE REPUBLIC ACT NO. 5440 APPROVED ON SEPTEMBER 9, 1968, THE FILING

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[2] p. 4, Exhibit "B", Petition.

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OF A PETITION FOR WRIT OF *CERTIORARI* TO REVIEW THE JUDGMENT OF RESPONDENT COURT OF INDUSTRIAL RELATIONS CONTAINED IN THE ORDER OF APRIL 29, 1970, STAYS THE EXECUTION OF THE JUDGMENT SOUGHT TO BE REVIEWED."

The GSIS maintains that the payment of the salary differential to employees belonging to Pay Classes 7 to 13 was effected to implement the collective bargaining agreement it had with the GSISEA and not pursuant to the Order of the Court of Industrial Relations dated July 30, 1970; and that inasmuch as the attorney's fees due counsel stemmed from the Court of Industrial Relations Order of April 29, 1970, *supra*, still pending appeal, the Court of Industrial Relations committed an error of law when it ordered that the stipulated fee of counsel be deducted from the payments the GSIS had made on July 24, 1970.

The portion of respondent Court's Order, dated July 30, 1970, cited in the first assigned error, which allegedly states that salary increases paid by the GSIS on July 24, 1970 were made pursuant to a collective bargaining agreement, reads:

"x x x x x x x x x

"Such partial implementation was confirmed by German Aquino, Corporate Paymaster of the GSIS, who testified that on July 24, 1970 the respondent paid 50% of the in-step differential corresponding to the period from July, 1969 to July, 1970 to all employees in Pay Classes 1 to 13 who have not yet reached the maximum of their respective pay classes without deducting 15% representing attorney's fees; that a xerox copy of a sample payroll evidences the payment effected (Exhibit 'A'); that very soon, the respondent will pay the remaining balance of 30%; and that the payment was made to implement a collective bargaining agreement between the respondent GSIS and GSISEA-CUGCO. It is to be noted, however, that this contract is the very collective bargaining agreement earlier implemented by the respondent in favor of Manuel Perlada and others and found to be effected in discrimination of the employees in the bargaining unit of supervisors. And because of this finding, the Court issued the Order dated April 29, 1970 directing the uniform application of the paid in-step differential."[3]

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[3] pp. 2-3, Exhibit "B" of pp. 27-28, *Rollo*.

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It should be obvious from the foregoing that the clause, "that the payment was made to implement a collective bargaining agreement between the respondent GSIS and the GSISEA-CUGCO," referred to the continuing testimony of the witness German Aquino and was not a finding of respondent Court. This is confirmed in the later portion when the respondent Court observed that the same collective bargaining agreement had been implemented in discrimination of the supervisory employees. In fact, in the earlier Order of April 29, 1970, respondent Court explicitly stated:

"In the main case, this Sala has issued an Order, affirmed by the Court *En Banc,* requiring respondent (GSIS) to bargain with petitioner (GSISSU) on the terms and conditions of employment of supervisors. In another incident of the case, the petitioner complained that respondent refused and failed and up to now still refuses and fails to bargain with petitioners. Under these circumstances, the collective bargaining process cannot be availed of to secure for employees in the unit of supervisors the same benefits already granted to Perlada and others of the GSISEA. As to result, in regard to the enjoyment of the salary readjustment/increase, employees stand to benefit from membership in the GSISEA. Corollarily, employees in the unit of which petitioner is the certified bargaining agent cannot expect the same benefits as what happened in this case. This is discrimination."

It is clear then that while payment of the salary increase to employees of Pay Classes 1 to 6 was implemented by virtue of the collective bargaining agreement between the GSIS and the GSISEA-CUGCO, it was not so with respect to supervisory employees in Pay Classes 7 to 13, members of the GSISSU with which the GSIS had no collective bargaining agreement, and who were discriminated against, as found by respondent Court. It is precisely for this reason that the Court of Industrial Relations Order of April 29, 1970 was issued directing the uniform application of the paid in-step differentials. In effect, therefore, contrary to the first assigned error, the partial payment of the in-step salary differential to supervisory personnel by the petitioner was in partial implementation of respondent Court's Orders of April 29, 1970 and July 30, 1970.

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We come now to the second assigned error. It is a fact that Section 3 of Republic Act No. 5440, approved on September 9, 1968, provides that the filing of the petition for a writ of *Certiorari* to review the judgment of the Court of Industrial Relations stays the execution of the judgment sought to be reviewed. It is significant to note, however, that it was petitioner GSIS itself which partially implemented the Order sought to be reviewed without awaiting the resolution of the Supreme Court in G. R. No. L-32018 by paying the employees of Pay Classes 7 to 13, 50% of their salary increase. Although petitioner claims that it did so by virtue of a collective bargaining agreement with the GSISSU, we have found said assertions to be baseless. Petitioner GSIS, therefore, cannot refuse now to deduct the amount corresponding to the 15% attorney's fees of the counsel for GSISSU upon the allegation that the execution of the Court of Industrial Relations judgment should be stayed pursuant to Republic Act No. 5440.

In brief, We find that both errors attributed by petitioner to the Court of Industrial Relations are without merit, and that said Court did not err in directing petitioner to deduct the 15% for attorney's fees as directed in its Order of July 30, 1970.

WHEREFORE, the appealed Order of July 30, 1970 and the Resolution of August 24, 1970, issued by respondent Court of Industrial Relations, are hereby affirmed.

With costs against petitioner.

SO ORDERED.

Teehankee (Chairman), Makasiar, Fernandez, Guerrero, and *De Castro, JJ.*, concur.