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THIRD DIVISION

[G.R. No. 169940. September 18, 2009]

UNIVERSITY OF SANTO TOMAS, *petitioner, vs.* **SAMAHANG MANGGAGAWA NG UST (SM-UST),** *respondent*.

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; COLLECTIVE BARGAINING AGREEMENT; RESPONDENT'S MEMBERS' INDIVIDUAL ACCEPTANCE OF THE AWARD AND THE RESULTING PAYMENTS MADE BY PETITIONER DO NOT OPERATE AS A RATIFICATION OF THE DEPARTMENT OF LABOR AND EMPLOYMENT (DOLE) SECRETARY'S AWARD.— Going now to the question of whether respondent's members' *individual* acceptance of the award and the resulting payments made by petitioner operate as a ratification of the DOLE Secretary's award which renders CA-G.R. SP No. 72965 moot, we find that such do not operate as a ratification of the DOLE Secretary's award; nor a waiver of their right to receive further benefits, or what they may be entitled to under the law. The appellate court correctly ruled that the respondent's members were merely constrained to accept payment at the time. Christmas was then just around the corner, and the union members were in no position to resist the temptation to accept much-needed cash for use during the most auspicious occasion of the year. Time and again, we have held that necessitous men are not, truly speaking, free men; but to answer a present emergency, will submit to any terms that the crafty may impose upon them. Besides, as individual components of a union possessed of a distinct and separate corporate personality, respondent's members should realize that in joining the organization, they have surrendered a portion of their individual freedom for the benefit of all the other members; they submit to the will of the majority of the members in order that they may derive the advantages to be gained from the concerted action of all. Since the will of the members is personified by its board of directors or trustees, the decisions it makes should accordingly bind them. Precisely, a labor union exists in whole or in part for the purpose of *collective* bargaining

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or of dealing with employers concerning terms and conditions of employment. What the individual employee may not do alone, as for example obtain more favorable terms and conditions of work, the labor organization, through persuasive and coercive power gained as a group, can accomplish better.

2. ID.; ID.; ID.; APPELLATE COURT'S AWARD OF ADDITIONAL SIGNING BONUS IS UNWARRANTED UNDER THE CIRCUMSTANCES; EXPLAINED.— x x x We come to the appellate court's award of additional signing bonus, which we find to be unwarranted under the circumstances. A signing bonus is a grant motivated by the goodwill generated when a CBA is successfully negotiated and signed between the employer and the union. In the instant case, no CBA was successfully negotiated by the parties. It is only because petitioner prays for this Court to affirm *in toto* the DOLE Secretary's May 31, 2002 Order that we shall allow an award of signing bonus. There would have been no other basis to grant it if petitioner had not so prayed. We shall take it as a manifestation of petitioner's liberality, which we cannot now allow it to withdraw. A bonus is a gratuity or act of liberality of the giver; when petitioner filed the instant petition seeking the affirmance of the DOLE Secretary's Order in its entirety, assailing only the increased amount of the signing bonus awarded, it is considered to have unqualifiedly agreed to grant the original award to the respondent union's members.

APPEARANCES OF COUNSEL

Divina and Uy Law Offices for petitioner.
Arellano and Arellano Law Offices for respondent.

D E C I S I O N

YNARES-SANTIAGO, *J.*:

Assailed in this petition for review on *certiorari* is the January 31, 2005 Decision[1] of the Court of Appeals in CA-

[1] *Rollo*, pp. 68-104; penned by Associate Justice Regalado E. Maambong and concurred in by Associate Justices Martin S. Villarama, Jr. and Lucenito N. Tagle.

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G.R. SP No. 72965, which affirmed the May 31, 2002 Order of the Secretary of the Department of Labor and Employment (DOLE) directing the parties to execute a Collective Bargaining Agreement incorporating the terms in said Order with modification that the signing bonus is increased to ₱18,000.00. Also assailed is the September 23, 2005 Resolution[2] denying the motion for reconsideration.

Respondent Samahang Manggagawa ng U.S.T. (SM-UST) was the authorized bargaining agent of the **non-academic/non-teaching rank-and-file daily- and monthly-paid employees** (numbering about 619) of petitioner, the Pontifical and Royal University of Santo Tomas, The Catholic University of the Philippines (or UST), a private university in the City of Manila run by the Order of Preachers. In October 2001, during formal negotiations for a new collective bargaining agreement (CBA) for the academic year 2001 through 2006, petitioner submitted its "2001-2006 CBA Proposals" which, among others, contained the following economic provisions:

A. ACADEMIC YEAR 2001-2002

1. Salary increase of ₱800.00 per month
2. Signing bonus of ₱10,000.00
3. Additional Christmas bonus of ₱2,000.00

B. ACADEMIC YEAR 2002-2003

1. Salary increase of ₱1,500.00 per month
2. Additional Christmas bonus of ₱2,000.00
3. ₱6,000,000.00 for salary restructuring

C. ACADEMIC YEAR 2003-2004

1. Salary increase of ₱1,700.00 per month
2. Additional Christmas bonus of ₱2,000.00

In November 2001, the parties agreed in principle on all non-economic provisions of the proposed CBA, except those pertaining

[2] *Id.* at 106-107.

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to Agency Contract or contractualization (Art. III, Sec. 3 of the proposed CBA), Union Leave of the SM-UST President (No. 4 of the Addendum to the proposed CBA), and hiring preference.

In December 2001, petitioner submitted its **final offer** on the economic provisions, thus:

A. ACADEMIC YEAR 2001-2002

1. Salary increase of ₱1,000.00 per month
2. Signing bonus of ₱10,000.00
3. Additional Christmas bonus of ₱2,000.00

B. ACADEMIC YEAR 2002-2003

1. Salary increase of ₱1,700.00 per month
2. Additional Christmas bonus of ₱2,000.00
3. ₱6,190,000.00 to be distributed in the form of salary restructuring

C. ACADEMIC YEAR 2003-2004

1. Salary increase of ₱2,000.00 per month
2. Additional Christmas bonus of ₱2,000.00

On the other hand, respondent reduced its demands for the first year from ₱8,000.00 monthly salary increase per employee to ₱7,000.00, and from ₱75,000.00 signing bonus to ₱60,000.00 for each employee, but petitioner insisted on its final offer. As a result, respondent declared a deadlock and filed a notice of strike with the National Conciliation and Mediation Board -National Capital Region (NCMB-NCR).

Conciliation and mediation proved to be futile, such that in January 2002, majority of respondent's members voted to stage a strike. However, the DOLE Secretary timely assumed jurisdiction over the dispute, and the parties were summoned and heard on their respective claims, and were required to submit their respective position papers.

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On May 31, 2002, the DOLE Secretary issued an Order,[3] the pertinent portions of which read, as follows:

x x x In arguing on the reasonableness of its demands, it cites the income of the school from tuition fee increases and the allocation of this amount to the faculty and non-teaching employees of the School x x x. According to the Union, the School's estimate of the tuition fee increase for the school year 2003-2004 at ₱76,410,000.00 is erroneous. The Union argues that the total income of the School from tuition fee increases for school year 2003-2004 is ₱101,000,000.00 more or less, or a net of ₱98,252,187.36, after deducting adjustments for additional charges, allowances and discounts. This is based on the computation of the School's Assistant Chief Accountant x x x.

x x x x x x x x x

The Union feels that the members of the bargaining unit are the least favored. On the wage increases alone, the Union points out that a comparison of the average monthly salary of the non-academic personnel from school year 1995-1996 up to school year 1999-2000 shows a declining relative percentage. For this period, the bargaining unit enjoyed an average monthly salary increase of 14.234%, the lowest being 8.9% in school year 1998-1999 and the highest being 15.38% in school year 1995-1996. The School's offer for this CBA cycle translates to an increase of only 8.23%, specified as follows: (1) 5.69% increase in school year 2000-2001 (₱1,000.00); (2) 9.15% increase in school year 2001-2002 (₱1,700.00); and (3) 9.86% increase in 2002-2003 (₱2,000.00).

The Union also submits a comparative chart of the allocation to non-academic personnel of the 70% increase in tuition fees from school year 1996-1997 to 1999-2000 x x x. The average percentage allocation to non-academic personnel during this period is 32.8% of the total 70% of total tuition fee increases, the lowest being 20.83% for the school year 1999-2000 and the highest being 43.11% of the total allocation in 1997-1998. Using ₱101,036,330.37 as the estimated increase in tuition fee, 70% of this amount, net of adjustment, is ₱68,775,831.15 x x x. The Union argues that it is entitled to at least the average percentage of allocation to it for the past four (4) school years which is at 32.85%, or ₱22,592,860.53 of the total allocation of ₱68,775,831.15.

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[3] *Id.* at 496-518.

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It maintains, however, that it is entitled to more than the average percentage of its allocation of the total 70% because it is School practice to allocate more than 70% of the total tuition fee increases for the salaries and benefits of School employees. Comparing the employees' share in the tuition fee increases from school year 1996-1997 to 1999-2000, the School allocated an average percentage of 76.75% for the benefits and salaries of its personnel, or from a low of 72% in 1998-1999 to a high of 84.4% in 1996-1997 x x x. If the average is applied this year, the Union argues that the available amount is ₱75,407,786.29. Because of this practice, the Union maintains that the School is already estopped from arguing that the allocation for employee wages and benefits should not exceed 70% of tuition fee increases.

Aside from this amount, the Union maintains that it is entitled to an additional ₱15,475,000.00, sourced from other income, for the signing bonus or one-time grant of ₱25,000.00 per member x x x. The Union alleges that it is school practice to appropriate other funds for the wages and benefits of its employees. For the school year 1996-1997, the School used funds from other sources to fund the ₱2,000,000.00 hospitalization fund and 50% of the signing bonus for the academic personnel; in 1997-1998 and 1998-1999, it used additional funds for the ₱1,000,000.00 hospitalization fund of the academic personnel; and in 1999-2000, it used other funds to finance the one-time grant of ₱10,000.00 each to the non-academic personnel and additional ₱4,000,000.00 for the hospitalization fund of the academic employees or a total of ₱17,592,500.00 for the past four (4) academic years x x x.

The School cannot claim that the funds are insufficient to cover the expenses for the CBA because for the fiscal year 2000-2001 alone, the accumulated excess of revenues over expenses at the end of the year totaled ₱148,881,678.00 x x x. The Statement of Revenues and Expenses from School Operations collated from the audited Financial Statements of the School for the school years 1996-1997 up to 2000-2001 shows that except for school years 1996-1997 and 2000-2001, the School posted a net income from school operations. Its average annual net income from school operations alone is ₱7,956,187.00 and the net loss in 2000-2001 was a result of the revaluation of the Main Building as part of the assets from its fully depreciated value so that a new depreciation cost was reported and charged to general expenses.

From the foregoing arguments, the Union demands that an amount should be allocated to it annually to finance its demands as follows:

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1st Year – ₱38,067,860.00 distributed as follows: ₱22,592,860.53 (share from tuition fee increases) for the economic benefits with sliding effect on the succeeding years; plus ₱15,475,000.00 for the one-time signing bonus of ₱25,000.00 for each employee sourced from other funds.

2nd Year – ₱33,568,970.00 to apply to its demand for salary increase, Christmas bonus, rice subsidy and clothing/uniform allowance.

3rd Year – ₱46,653,295.37 to apply to its demand for salary increase, Christmas bonus, medicine allowance, mid-year bonus allowance and meal allowance.

Based on the Union's computation, its demands will cost the School a total of ₱133,765,125.37 for the entire three (3) year period.

x x x x x x x x x

Given all the foregoing, we cannot follow the Union's formula and in effect disregard the School's two other bargaining units; to do so is a distortion of economic reality that will not bring about long term industrial peace. We cannot simply adopt the School's proposal in light of the parties' bargaining history, particularly the pattern of increases in the last cycle. Considering all these, we believe the following to be a fair and reasonable resolution of the wage issue.

1st Year – ₱1,000.00/month

2nd Year – ₱2,000.00/month

3rd Year – ₱2,200.00/month

These increases, at a three-year total of ₱68,337,600, are less than the three (3)-year increases in the last CBA cycle to accommodate the School's proven lack of capacity to afford a higher increase, but are still substantial enough to accommodate the workers' needs while taking into account the symmetry that must be maintained with the wages of the other bargaining units. On a straight line aggregate of ₱5,200.00, the non-academic personnel will receive ₱498.48 less than an Instructor I (member of the faculty union) who received an aggregate of ₱5,698.48, thus maintaining the gap between the teaching and non-teaching personnel. The salary difference will as well be maintained over the three (3)-year period of the CBA. An RFI employee (member of the union's bargaining unit) will receive a monthly salary of ₱21,695.95 while an Instructor I (faculty union

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member) will have a salary of ₱22,948.00; while an RF5-5/A (member of the union's bargaining unit) will receive a salary of ₱23,462.97 compared to an Asst. Prof. 1 (faculty) who will receive ₱29,250.96. From a total cost of salary increases for the first year at ₱7,428,000, these costs will escalate to ₱22,284,000 in the second year, and to ₱38,625,000 at the third year. Given these figures, the amounts available for distribution and the member of groups sharing these amounts, these increases are by no means minimal.

Signing Bonus

A review of the past bargaining history of the parties shows that the School as a matter of course grants a signing bonus. This ranged from ₱8,000.00 during the first three (3) years of the last CBA to ₱10,000.00 during the remaining two (2) years of the re-negotiated term. In this instance, the School's offer of ₱10,000.00 signing bonus is already reasonable considering that the School could have taken the position that no signing bonus is due on compulsory arbitration in line with the ruling in *Meralco v. Quisumbing et al.*, G.R. No. 127598, 27 January 1999.

Christmas Bonus

We note that the members of the bargaining unit receive a ₱6,500.00 Christmas bonus. Considering this current level, we believe that the School's offer of ₱2,000.00 for each of the next three (3) years of the CBA is already reasonable. Under this grant, the workers' Christmas bonus will stand at a total of ₱12,500 at the end of the third year.

Hospitalization Benefit

We believe that the current practice is already reasonable and should be maintained.

Meal Allowance

The Union failed to show any justification for its demand on this item, hence its demand on the increase of meal allowance is denied.

Rice Allowance

We believe an additional 2 sacks of rice on top of the existing 6 sacks of rice is reasonable and is hereby granted, effective on the second year.

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Medical Allowance

In the absence of any clear justification for an improvement of this benefit, we find the existing practice to be already reasonable and should be maintained.

Uniform/Clothing

The Union has not established why the School should grant the benefit; hence this demand is denied.

Mid-year Bonus

The ₱3,000.00 bonus is already fair and should be maintained.

Hazard Pay

There is no basis to increase this benefit, the current level being fair and reasonable.

Educational Benefit

The existing provision is already generous and should be maintained.

Retirement Plan

We are convinced that the 100% of basic salary per year of service is already reasonable and should be maintained.

Hiring Preference

Based on the Minutes of Meeting on 18 October 2001 and 8 November 2001, the parties agreed to retain the existing provision; hence, our ruling on this matter is no longer called for.

Contractualization

The Union's proposed amendments are legal prohibitions which need not be incorporated in the CBA. The Union has alternative remedies if it desires to assail the School's contracts with agencies.

Full-time Union Leave of Union President

The Union failed to provide convincing reasons why this demand should be favorably granted; hence, the same is denied.

Other Demands

All other demands not included in the defined deadlock issues are deemed abandoned, except for existing benefits which the School

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shall continue to grant at their current levels consistent with the principle of non-diminution of benefits.

WHEREFORE, premises considered, the parties are hereby directed to execute within ten (10) days from receipt of this Order a Collective Bargaining Agreement incorporating the terms and conditions of this Order as well as other agreements made in the course of negotiations and on conciliation.[4]

Respondent filed a motion for reconsideration but it was denied by the Secretary of Labor. Thus, respondent filed an original petition for *certiorari* with the Court of Appeals, claiming that the awards made by the DOLE Secretary are not supported by the evidence on record and are contrary to law and jurisprudence.

On January 31, 2005, the appellate court rendered the assailed Decision, the dispositive portion of which reads, as follows:

WHEREFORE, premises considered, the petition is partially GRANTED. The assailed Order of May 31, 2002 of Secretary Patricia Sto. Tomas is hereby AFFIRMED with the modification that the ₱10,000.00 signing bonus awarded is increased to ₱18,000.00.

SO ORDERED.[5]

In arriving at the foregoing disposition, the appellate court noted that:

Based on UST Chief Accountant Antonio J. Dayag's Certification, the tuition fee increment for the SY 2001-2002 amounted to ₱101,036,330.37. From this amount, the tuition fee adjustment amounting to ₱2,785,143.00 was deducted leaving a net tuition fee increment of ₱98,251,189.36.

Pursuant to Section 5 (2) RA 6728, seventy percent (70%) of ₱98,251,187.36 or ₱68,775,831.15 is the amount UST has to allocate for salaries, wages, allowances and other benefits of its 2,290 employees, categorized as follows: 619 non-teaching personnel represented by herein petitioner SM-UST; 1,452 faculty members represented by UST-Faculty Union (UST-FU) and 219 academic/

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[4] *Id.* at 501-518.

[5] *Id.* at 103.

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administrative officials. The last group of employees is excluded from the coverage of the two bargaining units.

Public respondent, taking into consideration the bargaining history of the parties, the needs of the members of Union in relation to the capability of its employer, UST, to grant its demands, the impact of the award on the UST-Faculty Union members (UST-FU), and how the present salary and benefits of the non-academic personnel compare with the compensation of the employees of other learning institutions, arrived at the following "fair and reasonable" resolution to the wage issue:

1st year – ₱1,000.00/month

2nd year – ₱2,000.00/month

3rd year – ₱2,000.00/month

Based on public respondent's arbitral award for the first year (AY 2001-2002), We determine the allocation that SM-UST would get from the 70% of the tuition fee increment for AY 2001-2002 by approximating UST's expense on the increment of salaries/wages, allowances and benefits of the non-teaching personnel:

1. Increment on Salaries/Wages + 13th month pay (₱1,000 x 13 months x 619 employees)	₱ 8,047,000.00
2. Signing Bonus (₱10,000/employee)	6,190,000.00
3. ₱2,000 Christmas Bonus	1,238,000.00
Total	₱15,475,000.00

The amount of ₱15,475,000.00 represents 22.50% of the allocated ₱68,775,831.00 (70% of the tuition fee increment for AY 2001-2002). UST has allocated ₱45 million or 65.43% of the ₱68,775,831 to UST-Faculty Union.

Is the distribution equitable? If the share from the allocated ₱68,775,831.00 for each bargaining unit would be based on the union's membership, then the distribution appears fair and reasonable:

x x x x x x x x x

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Academic	1,452 employees	awarded ₱45 million
Non-academic	619 employees	awarded ₱15.475 million
Academic & Administrative	219 employees	awarded ₱8 million
	Total awarded	**₱68,475,000.00**

The difference between ₱68,775,831 (70% of incremental tuition fee proceeds) and ₱68,475,000 (total actual allocation or award to the two bargaining units and the school officials) is ₱300,831.00, which is only .437% of the 70% mandatory allocation (₱68,775,831.00).

The Supreme Court in the case of *Cebu Institute of Medicine v. Cebu Institute of Medicine Employees' Union National Federation of Labor* held that SSS, Medicare and Pag-Ibig employer's share may be charged against the "seventy percent (70%) incremental tuition fee increase (sic)" as they are, after all, for the benefit of the University's teaching and non-teaching personnel. The High Court further ruled that "the private educational institution concerned has the discretion on the disposition of the seventy percent (70%) incremental tuition fee increase (sic). It enjoys the privilege of determining how much increase in salaries to grant and the kind and amount of allowances and other benefits to give. The only precondition is that seventy percent (70%) of the incremental tuition fee increase (sic) goes to the payment of salaries, wages, allowances and other benefits of teaching and non-teaching personnel."

In the (sic) light of the foregoing jurisprudence, the University, in order to comply with R.A. 6728, must fully allocate the 70% of the tuition fee increases to salaries, wages, allowances and other benefits of the teaching and non-teaching personnel. The amount of ₱300,831.00 must therefore be allocated either as salary increment or fringe benefits of the non-teaching personnel.

We noted that UST's non-teaching employees enjoy several fringe benefits.

We listed them down and estimated their costs for AY 2001-2002:

1. ₱3,000.00 mid-year bonus	₱1,857,000.00
2. 6 sacks of rice/employee @ ₱1,000.00/sack	3,714,000.00

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3. Hospitalization benefit	2,476,000.00	
4. Meal allowance (₱600/month/employee)	4,456,800.00	
5. Hazard pay (₱200/month for 198 entitled employees)		8,430,780.00
6. Medicine Allowance (₱1,000/month/employee)	7,428,000.00	20,407,000.00
7. SSS (₱910.00 employer's share per employee)	6,759,480.00	
8. Pag-Ibig (2% of the basic pay)	742,800.00	
9. Phil Health (₱125.00/employee)	928,500.00	
Total		₱28,837,780.00

The allocation for salary increases, 13th month pay, signing bonus and Christmas bonus for UST's teaching and non-teaching employees, as well as the school officials, amount to ₱68.475 million. This represents almost 70% of the UST incremental tuition fee proceeds for AY 2001-2002. Considering the fringe benefits being extended to UST employees, it is safe to assume that the funds for such benefits need to be sourced from the University's other revenues. We looked into UST's financial statements to determine its financial standing. The financial statements duly audited by independent and credible external auditors constitute the normal method of proof of profit and loss performance of a company. We examined UST audited financial statements from 1997 to 2001 and found that the University's "other incomes" come from parking fees, rent income and interest income. It, likewise, derives income from school operations:

	1999	**2000**	**2001**
Income from Operations	₱19,874,937.00	(24,222,602)	(40,905,598)
Other Income	85,995,039.00	77,335,032.00	78,358,303

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Excess of Revenues Over Expenses Before Income Tax	96,869,976.00	53,112,480.00	(29,726,651)
Provision for Income Tax	2,122,518.00	2,602,305.00	
Excess of Revenues Over Expenses	94,747,458.00	50,510,175.00	(32,115,272)
ACCUMULATED EXCESS OF REVENUES OVER EXPENSES AT END OF YEAR	₱180,996,950.00	₱130,486,775.00	₱148,881,678

Thus, if We charge the employees' other benefits from the accumulated excess of revenues, We will come up with the following:

Accumulated Excess of Revenues Over Expenses (2001)	₱148,881,678.00
Less:	
Other Benefits of Non-Teaching Personnel	28,837,780.00
Balance	₱120,043,898.00

Even if the other benefits of the faculty members were to be charged from the remaining balance of the Accumulated Excess of Revenues Over Expenses, there would still be sufficient amount to fund the other benefits of the non-teaching personnel.

x x x x x x x x x

However, while We subscribe to UST's position on "salary distortion," Our earlier findings support the petitioner's contention that the UST has substantial accumulated income and thus, We deem it proper to award an increase, not in salary, to prevent any salary distortion, but in signing bonus. The arbitral award of ₱10,000 signing bonus per employee awarded by public respondent is hereby increased to ₱18,000.00.

We are well aware of the need for the University to maintain a sound and viable financial condition in the light of the decreasing number of its enrollees and the increasing costs of construction of buildings and modernization of equipment, libraries, laboratories and other similar facilities. To balance this concern of the University with

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the need of its non-academic employees, the additional award, which We deem reasonable, and to be funded from the University's accumulated income, is thus limited to the increase in signing bonus.[6]

Petitioner filed a motion for reconsideration, which the appellate court denied in its September 23, 2005 Resolution. Hence, the instant petition which raises the following issues:

I.

THE HONORABLE COURT OF APPEALS COMMITTED PALPABLE ERROR OF SUBSTANCE WHEN IT RULED THAT THE MEMBERS OF PRIVATE RESPONDENT DID NOT VOLUNTARILY AND KNOWINGLY ACCEPT THE ARBITRAL AWARD OF THE SECRETARY OF DOLE.

II.

THE HONORABLE COURT OF APPEALS COMMITTED PALPABLE ERROR OF SUBSTANCE AMOUNTING TO GRAVE ABUSE OF DISCRETION WHEN IT INCREASED THE SIGNING BONUS AWARDED BY THE SECRETARY OF DOLE TO EACH OF THE MEMBERS OF PRIVATE RESPONDENT FROM ₱10,000.00 TO ₱18,000.00.

III.

THE HONORABLE COURT OF APPEALS HAS COMPLETELY IGNORED THE CLEAR MANDATE AND INTENTION OF R.A. 6728 OTHERWISE KNOWN AS THE GOVERNMENT ASSISTANCE TO STUDENTS AND TEACHERS IN PRIVATE EDUCATION ACT.

IV.

THE HONORABLE COURT OF APPEALS COMMITTED PALPABLE ERROR OF SUBSTANCE AMOUNTING TO GRAVE ABUSE OF DISCRETION WHEN IT RULED THAT THE FRINGE BENEFITS BEING ENJOYED BY THE ACADEMIC AND NON-ACADEMIC EMPLOYEES OF PETITIONER WERE SOURCED OUT FROM ITS OTHER INCOME.

V.

THE HONORABLE COURT OF APPEALS COMMITTED PALPABLE ERROR OF SUBSTANCE AMOUNTING TO GRAVE ABUSE OF

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[6] *Id.* at 91-100.

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DISCRETION WHEN IT IGNORED THE TIME HONORED PRINCIPLES GOVERNING PETITION FOR *CERTIORARI* INVOLVING LABOR CASES.[7]

Petitioner alleges that, as of December 11, 2002, 526 regular non-academic employees – out of a total of 619 respondent's members – have decided to unconditionally abide by the May 31, 2002 Order of the DOLE Secretary.[8] A letter signed by the 526 non-academic employees allegedly reads:

December 3, 2002

TO: REV. FR. TAMERLANE R. LANA, O.P.
Rector

REV. FR. JUAN V. PONCE, O.P.
Vice-Rector

KAMI NA NAKALAGDA SA IBABA AY NAGPAPAABOT NG AMING TAHASANG PAGTANGGAP SA AWARD NG SECRETARY OF LABOR SA AMING (CBA) DEADLOCK CASE.

SANA PO AY MA-RELEASE ANG AMING MGA WAGE ADJUSTMENTS AT IBA PANG BENEPISYO BAGO MAG DECEMBER 15, 2002.

x x x x x x x x x[9]

Petitioner claims that it began paying the wage adjustment and other benefits pursuant to the May 31, 2002 Order of the DOLE Secretary; and that to date, 572 out of the 619 members of respondent have been paid. It now argues that by their acceptance of the award and the resulting payments made to them, the said union members have ratified its offer and thus rendered moot the case before the Court of Appeals (CA-G.R. SP No. 72965).

Petitioner also argues that the Court of Appeals erred in ordering it to source part of its judgment award from the school's

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[7] *Id.* at 19.

[8] *Id.* at 20-21.

[9] *Id.* at 22, 613.

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other income, claiming that Republic Act 6728[10] does not compel or require schools to allocate more than 70% of the incremental tuition fee increase for the salaries and benefits of its employees. Citing an authority in education law, it stresses that –

> Clearly, only 70% may be used for the "payment of salaries, wages, allowances and other benefits of teaching and non-teaching personnel," since 20% "shall go to the improvement or modernization of buildings, equipment, libraries, laboratories, gymnasia and similar facilities and the payment of other costs of operation."

A school does not exist solely for the benefit of its teachers and non-teaching personnel. A school is principally established to deliver quality education at all levels, as the Constitution requires. Therefore, any tuition fee increase authorized by either the DepEd Secretary, the CHED or the Director General of the TESDA for private schools should not solely benefit the teaching and non-teaching personnel but should rather be used for the welfare of the entire school community, particularly the students.

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[10] AN ACT PROVIDING GOVERNMENT ASSISTANCE TO STUDENTS AND TEACHERS IN PRIVATE EDUCATION, AND APPROPRIATING FUNDS THEREFOR, which provides among others that:

> **Section 5.** ***Tuition Fee Supplement for Students in Private High School.*** – x x x. (2) Assistance under paragraph (1), subparagraphs (a) and (b) shall be granted and tuition fees under subparagraph (c) may be increased, on the condition that seventy percent (70%) of the amount subsidized allotted for tuition fee or of the tuition fee increases shall go to the payment of salaries, wages, allowances and other benefits of teaching and non-teaching personnel except administrators who are principal stockholders of the school, and may be used to cover increases as provided for in the collective bargaining agreements existing or in force at the time when this Act is approved and made effective: Provided, That government subsidies are not used directly for salaries of teachers of non-secular subjects. At least twenty percent (20%) shall go to the improvement or modernization of buildings, equipment, libraries, laboratories, gymnasia and similar facilities and to the payment of other costs of operation. For this purpose, school shall maintain a separate record of accounts for all assistance received from the government, any tuition fee increase, and the detailed disposition and use thereof, which record shall be made available for periodic inspection as may be determined by the State Assistance Council, during business hours, by the faculty, the non-teaching personnel, students of the school concerned, the Department of Education, Culture and Sports and other concerned government agencies.

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The students are entitled as a matter of right to the improvement and modernization of the school "buildings, equipment," as this is fundamental to the maintenance or improvement of the quality of education they receive.

Thus, if schools use any part of the 20% reserved for the upgrading of school facilities to supplement the salaries of their academic and non-academic personnel, they would not only be violating the students' constitutional right to quality education through "improvement and modernization" but also committing a serious infraction of the mandatory provisions of RA 6728.

The law is silent, however, on the remaining ten percent of the tuition fee increase. The DepEd has referred to it as the "return of investment" for proprietary schools and the "free portion" for non-stock, non-profit educational institutions. This ten percent (10%) is the only portion of the tuition fee increase which schools may use as they wish.[11]

Petitioner thus concedes liability only up to ₱300,831.00, which is the remaining balance of the undistributed amount of ₱68,775,831.00, which represents 70% of the incremental tuition fee proceeds for the period in question.

Petitioner contends further that the appellate court's award of additional signing bonus (from ₱10,000.00 to ₱18,000.00) is contrary to the nature and principle behind the grant of such benefit, which is one given as a matter of discretion and cannot be demanded by right,[12] a consideration paid for the goodwill that existed in the negotiations, which culminate in the signing of a CBA.[13] Petitioner claims that since this condition is absent in the parties' case, it was erroneous to have rewarded respondent with an increased signing bonus.

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[11] *Rollo*, pp. 50-51, citing Sarmiento III, *"Education Law and the Private Schools, A Practice Guide for Educational Leaders and Policy Makers,"* pp. 582-583.

[12] Citing *Caltex Refinery Employees Association v. Brillantes*, G.R. No. 123782, September 16, 1997, 279 SCRA 218.

[13] Citing *Manila Electric Company v. Quisumbing*, G.R. No. 127598, January 27, 1999, 302 SCRA 204.

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Finally, petitioner endorses the original award of the DOLE Secretary, calling her disposition of the case "fair and equitable"[14] and deserving of our attention, in light of the principle that –

> The conclusions reached by public respondent (Secretary of Labor) in the discharge of her statutory duty as compulsory arbitrator, demand the high respect of this Court. The study and settlement of these disputes fall within public respondent's distinct administrative expertise. She is especially trained for this delicate task, and she has within her cognizance such data and information as will assist her in striking the equitable balance between the needs of management, labor, and the public. Unless there is clear showing of grave abuse of discretion, this Court cannot and will not interfere with the labor expertise of public respondent x x x.[15]

On the other hand, respondent seeks to sustain the appellate court's disposition, echoing its ruling that even though majority of the non-teaching employees agreed to petitioner's offer and accepted payment thereupon, they are not precluded from receiving additional benefits that the courts may award later on, bearing in mind that –

> the employer and the employee do not stand on the same footing. Considering the country's prevailing economic conditions, the employee oftentimes finds himself in no position to resist money proffered, thus, his case becomes one of adherence and not of choice. This being the case, they are deemed not to have waived any of their rights.[16]

As regards petitioner's assertion that the funds to cover for the cost of the other benefits awarded by the DOLE Secretary may not be sourced from its other income pursuant to R.A. 6728 as these benefits should only be paid out from the 70% tuition fee increment, respondent argues that R.A. 6728 –

> does not provide that the increase or improvement of the salaries and fringe benefits of the employees should be exclusively funded

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[14] *Rollo*, p. 53.

[15] *Id.* at 58, citing *Pier 8 Arrastre & Stevedoring Services, Inc. v. Roldan-Confesor*, G.R. No. 110854, February 13, 1995, 241 SCRA 294.

[16] *Rollo*, pp. 1059-1060.

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from the income of the University which is derived from the increase in tuition fees. In fact, the statute has no application with respect to the manner of disposition of the other incomes (as distinguished from income derived from tuition fee increases) of the University, nor does it preclude or exempt the latter from using its other income or part thereof to fund the cost of increases or improvements in the salaries and benefits of its employees. x x x

15. Contrary to the assertion of Petitioner, it is very clear that the funds used by the University to cover the cost of other fringe benefits (under the existing CBA) granted to the non-academic employees for AY 2001-2002 in the amount of ₱28,837,780.00 as observed by the Court of Appeals, came from the other income of the University and not from the share of the said employees in the income derived from the tuition fee increases during the same period. Logically, the grant of the said fringe benefits could not have come from the amount of ₱15,475,000.00 which was already allocated by the University to cover the total cost of the increases in the salaries, grant of signing bonus, and increase in the Christmas bonus to the non-academic employees for AY 2001-2002.[17]

On the appellate court's award of additional signing bonus, respondent argues that since no strike or any untoward incident occurred, goodwill between the parties remained, which entitles respondent's members to receive their signing bonus. Besides, respondent asserts that since petitioner did not appeal the DOLE Secretary's award, it may not now argue against its grant, the issue remaining being the propriety of the awarded amount; that is, whether or not it was proper for the appellate court to have raised it from ₱10,000.00 to ₱18,000.00.

We resolve to PARTIALLY GRANT the petition.

To put matters in their proper context, we must first simplify the facts.

Although the parties were negotiating on the CBA for academic years 2001 through 2006 (2001-2006 CBA Proposals), we are here concerned only with the economic provisions for the academic year (AY) 2001-2002, specifically the appellate court's increased award of signing bonus, from ₱10,000.00 as originally

[17] *Id.* at 1064-1066.

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granted by the DOLE Secretary, to ₱18,000.00; the parties do not appear to question any other disposition made by the DOLE Secretary.

Thus, it has been determined that from the tuition fees for the academic year in question, petitioner earned an increment of ₱101,036,330.37. Under R.A. 6728, 70% of that amount – or the net[18] amount of ₱68,775,831.15 – should be allotted for payment of salaries, wages, allowances and other benefits of teaching and non-teaching personnel except administrators who are principal stockholders of the school.

Of this amount (₱68,775,831.15), an aggregate of ₱15,475,000.00 (or 22.5 %) was allocated to the university's non-teaching or non-academic personnel, by way of the following:

Increment on Salaries/Wages plus 13th month pay (₱1,000 x 13 months x 619 non-academic personnel)	₱ 8,047,000.00
Signing Bonus (₱10,000 per employee)	6,190,000.00
₱2,000 Christmas Bonus	1,238,000.00
TOTAL	**15,475,000.00**

On the other hand, the amount of ₱45 million (or 65.43% of ₱68,775,831.15) was allocated to the teaching personnel.

After distribution of the respective shares of the teaching and non-teaching personnel, there remained a balance of ₱300,831.00 from the ₱68,775,831.15.

In addition to the salary increase, signing and Christmas bonuses, the Court of Appeals extended to respondent's members the following fringe benefits for AY 2001-2002, which benefits petitioner has been giving its non-teaching employees in the past, and which are included in the DOLE Secretary's award – an award which **petitioner** prays for this Court to **affirm** *in toto*:

[18] Less tuition fee adjustment of ₱2,785,143.00.

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1. ₱3,000.00 mid-year bonus	₱1,857,000.00	
2. 6 sacks of rice/employee @ ₱1,000/sack	3,714,000.00	
3. Hospitalization benefit	2,476,000.00	
4. Meal allowance (₱600/month/employee)	4,456,800.00	
5. Hazard pay (₱200/month for 198 entitled employees)		8,430,780.00
6. Medicine Allowance (₱1,000/month/employee)	7,428,000.00	20,407,000.00
7. SSS (₱910.00 employer's share per employee)	6,759,480.00	
8. Pag-Ibig (2% of the basic pay)	742,800.00	
9. Philhealth (₱125.00/employee)	928,500.00	
	Total	₱28,837,780.00

Clearly, these fringe benefits would have to be obtained from sources other than the incremental tuition fee proceeds (₱68,775,831.15), since only ₱15,475,000.00 thereof was set aside for the non-teaching personnel; the rest was allocated to the teaching personnel.

The appellate court, moreover, granted an increase in the signing bonus, that is, from the DOLE Secretary's award of ₱10,000.00, to ₱18,000.00. This, exactly, is the parties' point of contention.

Going now to the question of whether respondent's members' *individual* acceptance of the award and the resulting payments made by petitioner operate as a ratification of the DOLE Secretary's award which renders CA-G.R. SP No. 72965 moot, we find that such do not operate as a ratification of the DOLE Secretary's award; nor a waiver of their right to receive further benefits, or what they may be entitled to under the law. The appellate court correctly ruled that the respondent's members

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were merely constrained to accept payment at the time. Christmas was then just around the corner, and the union members were in no position to resist the temptation to accept much-needed cash for use during the most auspicious occasion of the year. Time and again, we have held that necessitous men are not, truly speaking, free men; but to answer a present emergency, will submit to any terms that the crafty may impose upon them.[19]

Besides, as individual components of a union possessed of a distinct and separate corporate personality, respondent's members should realize that in joining the organization, they have surrendered a portion of their individual freedom for the benefit of all the other members; they submit to the will of the majority of the members in order that they may derive the advantages to be gained from the concerted action of all.[20] Since the will of the members is personified by its board of directors or trustees, the decisions it makes should accordingly bind them. Precisely, a labor union exists in whole or in part for the purpose of *collective* bargaining or of dealing with employers concerning terms and conditions of employment.[21] What the individual employee may not do alone, as for example obtain more favorable terms and conditions of work, the labor organization, through persuasive and coercive power gained as a group, can accomplish better.

Regarding petitioner's assertion that it was unlawful for the Court of Appeals to have required it to source the award of fringe benefits (in the amount of ₱28,837,780.00) from the school's other income, since R.A. 6728 does not compel or require schools to allocate more than 70% of the incremental tuition fee increase for the salaries and benefits of its employees, we find it unnecessary to rule on this matter. These fringe benefits are included in the DOLE Secretary's award – an

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[19] *Lorbes v. Court of Appeals*, G.R. No. 139884, February 15, 2001, 351 SCRA 716.

[20] *UST Faculty Union v. Bitonio*, G.R. No. 131235, November 16, 1999, 318 SCRA 185.

[21] Labor Code, Article 212 (g).

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award which **petitioner** seeks to **affirm** *in toto*; this being so, it cannot now argue otherwise. Since it abides by the DOLE Secretary's award, which it finds "fair and equitable," it must raise the said amount through sources other than incremental tuition fee proceeds.

Finally, we come to the appellate court's award of additional signing bonus, which we find to be unwarranted under the circumstances. A signing bonus is a grant motivated by the goodwill generated when a CBA is successfully negotiated and signed between the employer and the union.[22] In the instant case, no CBA was successfully negotiated by the parties. It is only because petitioner prays for this Court to affirm *in toto* the DOLE Secretary's May 31, 2002 Order that we shall allow an award of signing bonus. There would have been no other basis to grant it if petitioner had not so prayed. We shall take it as a manifestation of petitioner's liberality, which we cannot now allow it to withdraw. A bonus is a gratuity or act of liberality of the giver;[23] when petitioner filed the instant petition seeking the affirmance of the DOLE Secretary's Order in its entirety, assailing only the increased amount of the signing bonus awarded, it is considered to have unqualifiedly agreed to grant the original award to the respondent union's members.

WHEREFORE, the petition is *PARTIALLY GRANTED*. The signing bonus of EIGHTEEN THOUSAND PESOS (₱18,000.00) per member of respondent Samahang Manggagawa ng U.S.T. as awarded by the Court of Appeals is *REDUCED* to TEN THOUSAND PESOS (₱10,000.00). All other findings and dispositions made by the Court of Appeals in its January 31, 2005 Decision and September 23, 2005 Resolution in CA-G.R. SP No. 72965 are *AFFIRMED*.

SO ORDERED.

Chico-Nazario, Velasco, Jr., Nachura, and *Peralta, JJ.,* concur.

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[22] *Meralco v. Secretary of Labor*, G.R. No. 127598, January 27, 1999, 302 SCRA 173.

[23] *Manila Banking Corporation v. National Labor Relations Commission*, G.R. No. 107487, September 29, 1997, 279 SCRA 602.