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G.R. No. 243259, January 10, 2023²

FACTS:

The petitioners in this case are members of Flight Attendants and Stewards Association of the Philippines (FASAP), a sole and exclusive bargaining representative of Philippine Airlines, Inc. (PAL) flight attendants, stewards, and pursers hired on different dates prior to November 22, 1996.

On July 11, 2001, PAL and FASAP entered into a Collective Bargaining Agreement (CBA) incorporating the terms and conditions of employment of cabin attendants for the years 2000 to 2005 (PAL-FASAP 2000-2005 CBA). Contending that Section 144 (A) of the PAL-FASAP 2000-2005 CBA, which requires **female flight attendants to retire at age 55**, whereas **male flight attendants could remain in service until age 60**, for being discriminatory, arbitrary, and in violation of the Constitution, the Labor Code, and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), on July 29, 2004, petitioners filed a *Petition for Declaratory Relief with Prayer for Issuance of Temporary Restraining Order (TRO) and Writ of Preliminary Injunction* with the Regional Trial Court (RTC) of Makati City, Branch 147, enjoining PAL from enforcing Section 144(A) of the PAL-FASAP 2000-2005 CBA.

PAL initially claimed that the RTC lacked jurisdiction as the petition is a labor case disguised as a special civil action. However, the RTC dismissed this claim in an August 9, 2004 Order and upheld its jurisdiction. On August 10, 2004, the RTC issued a TRO and ordered PAL to restore the status quo of Bernadetta A. Cabalquinto (Cabalquinto) who will be affected by the implementation of the provision. PAL heeded this and did not retire Calbaquinto but put her on an "off-flight flight" status. On September 27, 2004, the trial court granted the prayer for injunction.

Their motion for reconsideration having been denied, PAL filed a *Petition for Certiorari with Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction* before the Court of Appeals. In an August 31, 2005 Decision, the Court of Appeals ruled in favor of PAL and declared that the RTC had no jurisdiction

² Full text available at <https://sc.judiciary.gov.ph/243259-patricia-halaguena-ma-angelita-l-pulido-ma-teresita-p-santiago-marianne-v-katindig-bernadetta-a-cabalquinto-lorna-b-tugas-mary-christine-a-villarete-cynthia-a-stehmmeier-rosa-a/>.

over the petition for declaratory relief, consequently annulling and setting aside all the proceedings, orders, and processes before it. In a March 7, 2007 Resolution, the Court of Appeals denied the motion for reconsideration filed by the petitioner, prompting them to elevate the case to the Supreme Court through a Petition for Review under Rule 45, asserting that the imposition of a discriminatory, lower retirement age violated constitutional guarantees and various labor and international laws.

ISSUE:

Whether Section 144(A) of the 2000-2005 PAL-FASAP CBA is discriminatory against women, and thus void for being contrary to the Constitution, laws, and international conventions.

RULING:

YES. A stipulation in the CBA providing for the compulsory retirement of female cabin attendants at 55 years old and male cabin attendants at 60 years old, lacks basis, discriminates against women, and is void for being contrary to law and public policy.

In finding merit in the Petition, the Supreme Court emphasized that the fundamental equality of women and men before the law is enshrined and guaranteed by the Constitution, statutes, and international convention where the Philippines is a signatory.

In this regard, the CBA provision on early retirement for female flight attendants must be viewed in the context of PAL's obligation to guarantee the safety of its passengers taking into account the obvious biological difference between male and female. It must be remembered that the task of a cabin crew or flight attendant is not limited to serving meals or attending to the whims and caprices of the passengers. **The most important activity of the cabin crew is to care for the safety of passengers and the evacuation of the aircraft when an emergency occurs. Passenger safety goes to the core of the job of a cabin attendant. Truly, airlines need cabin attendants who have the necessary strength to open emergency doors, the agility to attend to passengers in cramped working conditions, and the stamina to withstand grueling flight schedules.**

In addition, it bears emphasis that providing an early retirement age for female flight attendants does not necessarily place them at a great disadvantage. For one, early retirement creates a great window of opportunity to make positive lifestyle changes and restore a well-balanced life. Here, petitioners will have more time to spend with their families and friends as well as the opportunity to pursue activities and hobbies that they may not have had the time to do in the past. Early retirement can

also potentially improve their physical and mental health, which in turn can help them live a longer and happier life.

Respondent was not able to provide any reasonable basis for differentiating the compulsory retirement age for female cabin attendants at 55 years old and the male cabin attendants at 60 years old.

The Court of Appeals' reasoning supports the view that the compulsory retirement age for female cabin attendants was made lower than their male counterparts on the "mere basis of their being women." This is discriminatory against women. There is no proof that female cabin attendants, between 55 to 59 years old, do not have the "necessary strength to open emergency doors, the agility to attend to passengers in cramped working conditions, and the stamina to withstand grueling flight schedules" as compared with their male counterparts. The Court of Appeals' inference is manifestly mistaken and its conclusion grounded on speculation, surmises, or conjectures.

As a State Party to the CEDAW, the Philippines, including the judiciary as a State instrumentality, bound itself to take all appropriate measures "to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

An employer is free to impose a retirement age less than 65 for as long as it has the employees' consent. Stated conversely, employees are free to accept the employer's offer to lower the retirement age if they feel they can get a better deal with the retirement plan presented by the employer. Thus, having terminated petitioner solely on the basis of a provision of a retirement plan which was not freely assented to by her, respondent was guilty of illegal dismissal.