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CAN THE SETTING UP OF A PENSION FUND BE THE OBJET OF A CLAUSE IN A COLLECTIVE AGREEMENT ?

UBALD DÉSILETS

Does the employee's right to a pension constitute a working condition, and consequently, can the establishment of a pension fund be the object of a clause in a collective agreement? One recalls that there are two categories of working conditions: normative conditions and extra-normative. This distinction is made frequently enough. But the definition of each of these conditions is sometimes much less classic. Normative working conditions are those which refer to the relations between the employer and the employee. They cover much more than hygienic conditions, wages and time off. Extra-normative conditions are those which treat of the relations between the union, as representing the employees, and the employer.

Thus a union security clause would be an extra-normative working condition. The expression "working condition", as employed in our labour acts, — does it comprise both normative and extra-normative conditions at the same time? This is the point that must be clarified before all else.

Though one can have doubts about the validity of the one or the other of these theories, nevertheless it seems that the employee's right to a pension constitutes a normative working condition because this is a question of employer-employee relations which do not directly involve the union.

A pension is a type of remuneration for the workers. Wages comprise not only the pay check but all other services and benefits the worker receives in return for his work. This interpretation is recognized by the Minimum Wage Act, which defines a wage as "the remuneration in currency and the compensation or benefit of a pecuniary value due for the labour or services of an employee".

The benefits which the employee will eventually draw from a pension fund are thus properly a part of the wage. As a matter of fact, an employee's wages should be high enough not only to permit him and his family to live from day to day during his period of productivity, but also to enable him to subsist in case he is incapacitated by sickness or old age.

Wages being the "bread-winning" of the employee, it would be contrary to the most elementary principles of social justice if he were to be unable, during his active period, to make sufficient provision for subsistence when he will no longer be able to win bread.

This is the opinion expressed by Rouast and Durant, in their *Précis de législation industrielle* (1947), page 413: "...The just return for labour ought to be sufficient to assure the life of the employee not only for the actual moment when he renders the service of his work, but also for the dark days when sickness or old age will permit him to serve his employer no longer".

We may quote also, on the same subject, Logan and Inman in their treatise, *A Social Approach to Economics*, 1939 edition, page 523: "...In a well-planned life, the expectation is that enough savings shall be laid by during the working years, either in the form of income-earning property or available funds, to meet the normal requirements of the declining period".

It seems, therefore, indisputable that the workman's remuneration should be enough to assure him a comfortable old age. This extra remuneration can be paid to the worker in several ways. The employer can simply increase the wages in currency in order to let the workman himself build up a savings fund for his old age. But this method is not practicable because the majority of workers are not sufficiently foreseeing, and also because, to enable employees to make sufficient savings, wage rates would have to be too high.

The second way is the pension fund. Instead of turning over to each employee a wage supplement, a thing which would be extremely burdensome for the employer, he simply establishes a fund into which, ordinarily, both he and the employee contribute. This way the employee obtains an insurance against his old age, while — the risks being distributed among all the employees — the cost is much less for the employer.

Thus a pension appears as a supplement to wages which the employer, according to sound social philosophy, is bound to set aside for his employees to enable them to save up for their old age, and which the employees, on the other hand, have the right to lay claim to.

Thus a pension is part of the remuneration of the worker, and the share which the employer is obliged to set aside is properly a part of the employee's wages. So if an employer refuses to set up a pension fund, it is the same as though he refused to grant a wage increase.

PRACTICAL PROFESSIONAL APPLICATIONS

The Apprenticeship Commission in the Shoe Industry

LÉONCE GIRARD

If you ever happened to interest yourself in an apprenticeship commission, you were probably asked this customary question: "What business have apprenticeship commissions in industry or education?" In general, the answer is quite simple: they wish to promulgate professional guidance by stressing the industrial point of view.

General view

However, in order to answer the question more explicitly, I shall cite as an example the Apprenticeship Commission of the shoe industry with which I am acquainted. I shall attempt to elucidate the means employed to promote instruction by constant adaptation to the contemporary needs of the industry.

With this end in view, the Commission first drew up a balance sheet of the man-power of the industry according to carefully assembled statistics; next, it fixed precisely the number of its apprentices and journeymen in such fashion as not to overcrowd the industry but at the same time to furnish it qualified recruits in sufficient number.

Secondly, the Commission insisted that the schools provide instruction in the function of machines employed in present-day industry and recommended that all outmoded or useless equipment be discarded. The Commission likewise drew up a list of important operations to be taught so that the student might become a qualified worker and not merely an unskilled labourer or even a specialist.

The Apprenticeship Commission also insisted on choosing itself the technical instructors and

suggested to the school authorities those who seemed to be the most capable of teaching the trade as it is practiced today. It kept the authorities and faculty abreast of new procedures and technical developments so that the school might be up to date in its manner of instruction, and recommended that all instruction relating to outdated procedures be abandoned. The Commission held that the theoretical courses (language, mathematics, drawing, physics, hygiene, anatomy) be taught not in a purely theoretical manner, but with reference to industrial needs.

With the aid of the Ministry of Labour and of the Ministry of Youth, it founded two schools of footgear, one at Montreal and one at Quebec, where it provided day and night courses. It organized factory courses throughout the Province for those employees who were unable to go to the schools; finally, it published information for all those who could not be reached by the courses.

Worthy of mention is the fact that the Apprenticeship Commission arranged that those who acquired a certain degree of skill in the day-time courses at school obtain and keep a stable position in the industry. This service benefits especially daytime students, since the great majority of apprentices who follow improvement courses during the evening, either at school or in the factory, are already employed in the industry.

In general, that constitutes the position of the Apprenticeship Commission of the shoe industry. There are other apprenticeship commissions with different manners of functioning according to the needs of their respective industries; these, too, have accomplished equally satisfying results.