

PAL ground employees not jobless--DOLE.

"None of the 2,600 affected PAL employees will be rendered jobless."

Labor and Employment Secretary Rosalinda Dimapilis-Baldoz said this yesterday following the release by the DOLE of its decision on the 28 June 2010 motion for reconsideration of the Philippine Airlines Employees Association (PALEA) of the earlier decision of former DOLE acting secretary Romeo C. Lagman upholding the planned outsourcing of services and consequent severance from employment of the 2,600 affected PAL employees.

In its decision, the DOLE emphasized that the 2,600 Philippine Airlines employees who are part of its in-flight catering, airport services (cargo handling), and call center reservations operations, all identified as non-core activities of the airline in its 1998 Supplemental Rehabilitation Plan approved by the Securities and Exchange Commission, are all guaranteed with employment and hefty transition benefits.

The decision, in declaring valid the termination of the covered rank-and-file employees, established two parameters under the CBA: (1) the exercise of the management prerogative was done in a just, reasonable, humane, and lawful manner; and (2) the observance of the 45-day consultation period, required in the CBA, before implementing the reorganization.

Baldoz said that the just and humane exercise of the management prerogative to close and outsource the services is reflected in the improved transition benefits that will be granted all affected employees which, Baldoz explained in the decision, are "over and above the benefits granted in the original decision and even under existing laws".

The DOLE affirmed the original decision to specifically provide the employees a one-year guarantee of entry point salaries with the service providers.

The terminated employees shall be absorbed by their respective service providers, and PAL shall guarantee payment of their salaries for a period of at least one year from the time of their separation from employment as the original decision provided.

The employees shall be absorbed by SkyKitchen Phil. Inc. (catering), SkyLogistics Phil. Inc. (airport services) and ePLDT Ventus, a PLDT subsidiary (call center), according to the decision.

The affected employees shall also be entitled to a separation pay equivalent to 1.25 percent per year of service. This is an improvement of one-fourth the amount of the employees' one month salary which is provided for in the original decision.

They shall also continue to enjoy trip pass benefits in accordance with the CBA between the PAL and PALEA and the PAL Personnel Policies and Procedures Manual, graduated under the following terms: lifetime trip passes for employees with 15 years in service and more; eight sets of trip passes for those with 10-15 years of service; five sets of trip passes for those with 5-10 years of service; and two sets of trip passes for those with less than 5 years in service.

The DOLE decision also provides for the following:

1. Additional gratuity of fifty thousand pesos (P50,000.00) per affected employee;
2. Vacation leave balance that is 100 percent commutable to cash regardless of years of service;
3. Sick leave balance that is 100 percent commutable to cash regardless of years of service; and
4. Extension of one (1) year of the medical and hospitalization package based on Articles XIII to XV of the CBA and pertinent company policy;

Baldoz noted that the first two benefits had been ordered in the original decision, but she improved it, while the rest of the benefits were initially offered by PAL to its employees affected by the outsourcing program under its early retirement program.

In rendering the decision, the DOLE said the PAL's contracting out of the functions is also lawful and reasonable pursuant to the CBA between PAL and PALEA, the law between the parties.

“The CBA affirmed the management prerogative of PAL “to organize, plan, direct and control operations”, as well as the prerogative to “reorganize its corporate structure for the viability of its operations”.

The decision cited several Supreme Court decisions upholding the exercise of management prerogatives.

The decision also noted that based on the CBA and Article 283 of the Labor Code, PAL’s closure of the three departments was reasonable and lawful as it was a measure to address PAL’s accumulated net losses and deficits; the numerous factors adversely affecting its operations, such as the surge in fuel prices in 2008, the ban for PAL to enter the air space of 27 European Union member states, and the IATA suspension of PAL remittance facilities; and PAL’s need to survive in a highly competitive airline industry.

According to the decision, the DOLE had established that PAL more than complied with the 45-day consultation requirement under the CBA, considering the consultations and preventive mediation conferences between the PAL and the PALEA before the National Conciliation and Mediation Board as far back as September 2009.

The DOLE also ruled that the termination of services does not constitute unfair labor practice on the part of PAL. This, the decision said, is in accordance with the finding that management’s prerogative to close and outsource services in the three departments was done in good faith and was in accordance both with the CBA and the Labor Code.

“The ‘good faith’ efforts of the company to prevent business losses and maintain competitiveness negate any suspicion that contracting out services was motivated by the intention to discourage the exercise of, or interfere with, the right to self-organization,” the decision said.

“In fact,” the decision noted, “PALEA shall continue to exist even after the outsourcing of services in the three departments with its officers and members in unaffected operations and departments” having commenced “collective bargaining negotiations with the company.”

Source: DOLE LCO