Supreme Court of Florida

No. 81,252

LAWTON CHILES, ET AL.,

Appellants,

vs.

UNITED FACULTY OF FLORIDA, ET AL.,

Appellees,

[March 23, 1993]

PER CURIAM.

ON MOTION FOR CLARIFICATION

The State asks that we clarify our opinion with reference to the period of time during which the pay raises will be effective and the availability of interest on amounts wrongfully withheld from employees. As we noted in the majority opinion, the legislature is a constituent element of the state, which is itself hound by the contracts negotiated with employees once

those contracts are accepted and funded. Accordingly, the legislature is bound by its contract as would be any private employer.

However, the legislature's legal obligation terminated on June 30, 1992, as counsel for the unions conceded in oral argument. We therefore are of the opinion that the legislature was under no legal obligation to provide the same level of funding beyond that date. It is clear to us that the legislature has authority to reduce base salaries as it deems appropriate, subject however to the terms of any contracts it has entered with its employees.[1] Because the legislature chose not to fund the raise the second year it effectively assented only to a three-percent raise ending June 30, 1992; there was nothing to require the state to extend the three-percent increase beyond that date.[2]

Finally, we recognize that elsewhere we have held that an award of interest may be appropriate in suits by public employees based an violation of a contract with a public employer. Broward County v. Finlayson, 555 So. 2d 1211 (Fla. 1990). However, the Finlayson case involved failure to compensate for overtime hours

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[1] The cases cited by the unions are readily distinguishable, because they deal with illegal or improper acts against individual employees, e.g., Flack v. Graham, 461 So. 2d 82 (Fla. 1984), or unfair labor practices. E.g., Town of Pembroke Park v. State ex rel. Healy, 446 So. 2d 198 (Fla. 4th DCA 1984). The present case deals with actions taken toward state employees as a whole that impaired a contract but obviously did not constitute an unfair labor practice.

[2] § 447.309(2), Fla. Stat. (1991).

worked by a small group of emergency medical technicians, not a question of base pay owed to unionized employees. We also stressed in Finlayson that an award of interest in this context depends heavily on equitable considerations. Id. at 1213. In light of the unique circumstances here, we find that equity favors the State. The legislature is free to award interest if it so chooses, but equity will not require it to do so.

It is so ordered.

BARKETT, C.J., and GRIMES and HARDING, JJ., concur,
McDONALD, J., concurs specially with an opinion, in which OVERTON, J., concurs.
SHAW, J., concurs in part and dissents in part with an opinion, in which KOGAN, J., concurs.

NO MOTION FOR REHEARING WILL BE ALLOWED.

McDONALD, J., specially concurring on motion for clarification.

While I adhere to my original *dissent*, I agree that *if* the respondents were entitled to a three percent pay raise, it was limited to the period of January 1, 1992 through June 30, 1992. There was no legal requirement ta continue the pay raise thereafter.

The state is not obligated to pay interest. Flack v. Graham, 461 So. 2d 82 (Fla. 1984). On this issue I also adhere to my dissent in Broward County v. Finlayson, 555 So. 2d 1211 (Fla. 1990).

OVERTON, J., concurs.

SHAW, J., concurring in part, dissenting in part.

I disagree with the majority's determination that state workers are not entitled to prejudgment interest on their back pay. This Court's own precedent favors payment.

Initially, we have held that no special immunity insulates the State from liability on its contractual obligations:

> Where the legislature has, by general law, authorized entities of the state to enter into contract or to undertake those activities which, as a matter of practicality, require entering into contract, the legislature has clearly intended that such contracts be valid and binding on both parties, As a matter of law, the state must be obligated to the private citizen or the legislative authorization for such action is void and meaningless. We therefore hold that where the state has entered into a contract fairly authorized by the powers granted by general law, the defense of sovereign immunity will not protect the state from action arising from the state's breach of that contract.

Pan-Am Tobacco Corp. v. Department of Corrections, 471 So. 2d 4, 5 (Fla. 1984). Once the State enters the arena of formal contracts, it waives any right to special treatment when it reneges on its promises. As a rule, the State has the same responsibility as any private party to honor its word in a contractual setting.

As to the specific matter of prejudgment interest, this Court summarized the applicable law in Broward County v. Finlayson, 555 So. 2d 1211 (Fla. 1990):

> In Kissimmee Utility Authority v. Better Plastics, Inc., 526 So.2d 46 (Fla. 1988), we reaffirmed our decision in Argonaut Insurance Co. V. May Plumbing Co., 474 So.2d 212 (Fla. 1985), and stated the general rule concerning the payment of prejudgment interest: "Once damages are liquidated, prejudgment interest is considered an element of those damages as a matter of law, and the plaintiff is to be made whole from the date of the loss." This general rule is not absolute, In Flack v. Graham, 461 So.2d 82 (Fla. 1984), we refused to permit recovery of any prejudgment interest, stating: "[I]nterest is not recovered according to a rigid theory of compensation for money withheld, but is given in response to considerations of fairness. It is denied when its exaction would be inequitable."

Finlayson, 555 So. 2d at 1213 (citations omitted). This Court has applied this rule in a number of recent cases, approving the awarding of prejudgment interest in most instances.[3] The prime case wherein we denied prejudgment interest[4] did not involve a contract dispute, as does the present case, but rather posed a "[choice] between innocent victims," Flack v. Graham, 461 So. 2d 82, 84 (Fla. 1984).

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[3] See, e.g., Broward County v. Finlayson, 555 So. 2d 1211 (Fla. 1990)(prejudgment interest awarded to emergency medical technicians against county for overtime back pay); Kissimmee Utility Auth. v. Better Plastics, Inc., 526 So. 2d 46 (Fla. 1988)(prejudgment interest awarded to utility customer against public utility for rate overcharge); Argonaut Ins. Co. v. May Plumbing Co., 474 So. 2d 212 (Fla. 1985)(prejudgment interest awarded to victim's insurance carrier against tortfeasor's carrier on judgment of damages).

[4] Flack v. Graham, 461 So. 2d 82 (Fla. 1984)(prejudgment interest denied to county judge against comptroller for back pay).

Equity, in my opinion, requires payment of interest in the present case--there simply are not two innocent victims here. When the State entered into its formal contractual agreement with the state workers' unions to provide a raise, it assumed the same responsibility to honor its word that any private party would have. When equitable principles are factored in, the State's obligation was clearly as great as that of the union. The State, as opposed to many private parties, is a highly sophisticated bargaining entity with vast practical experience and nearly limitless technical resources at its disposal to facilitate it in the decisionmaking process. When the State knowingly and deliberately broke its word in the present case, it did so based on grounds that this Court has found unacceptable. Additionally, I note that adequate cuts could have been made in alternative areas where the State had not already formally and legally bound itself. Equity, to my mind, unquestionably lies with the innocent victim here--the state workers--who should be made whole for their losses.

I concur in the remainder of the majority opinion.

KOGAN, J., concurs.

Direct Appeal of Judgment of Trial Court, in and for Leon County, F. E. Steinmeyer, III, Judge, Case No. 92-696 - Certified by the District Court of Appeal, First District, Case No. 92-3808

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for Appellees