LIBERIA AGRICULTURAL COMPANY (LAC), Appellant, *v.* **AMOS S. ETILO and THE BOARD OF GENERAL APPEALS**, Appellees.

APPEAL FROM THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT, MONTSERRADO COUNTY.

Heard November 11, 1985. Decided: December 18, 1985.

1. A bonus or incentive, in the context of a labor matter, is paid only to an employee and is not a gift or gratuity, but qualifies as compensation for services rendered or being rendered by the employee. It is an amount paid to an employee, in addition to his regular salary or in addition to what is received under the terms of an existing contract, to procure efficient and faithful services from the employee.
2. A bonus or incentive, as it relates to labor matters, is only paid to an employee actually in service.
3. Where an agreement expires by its own terms and without an express renewal, and the parties continue to perform as they had under the expired contract, a new contract containing the same provisions will thereby be deemed to have arisen by implication.
4. The continued payment of an employee's salary, coupled with a long and unreasonable silence by the employer to the employee's application for renewal of his contract, are construed as an implied consent to the renewal of the employee's employment contract.
5. Where a contract of employment has expired and the employee has applied for renewal thereof, and the employer subsequently continues to pay the employee's salary and extend other benefits to him, the employer is estopped from denying that the previous contract had been renewed.
6. A pleas of estoppel is a good plea and will prevent a party from denying his act, if well founded; and neither law nor equity will permit a party to disclaim his own act.

Co-appellee, a school teacher, worked in the appellant's school department for fourteen years, under an employment contract renewed on an annual basis, on application made by the appellee to the appellant, prior to the expiration of the existing contract. On December 14, 1983, seventeen days prior to the expiration of the 1983 contract, the appellee applied to the appellant for the renewal of his contract for another year. The appellant did not respond to the application prior to the expiration of the then existing contract, and hence, the said contract expires by its own terms.

However, in January 1984, the appellant paid the appellee his salary for the month of January and extended to him other benefits, as was done with other employees of the appellant. Thereafter, on February 14, 1984, the appellant wrote the appellee and informed him that it was denying his application for renewal of his contract and would therefore not

be renewing the said contract. Following this refusal, appellee filed an action for illegal dismissal before the Ministry of Labour, contending that when the appellant paid him his salary for the month of January, 1984, it had impliedly renewed his contract and that the letter of refusal was therefore an illegal termination of the renewed contract.

The hearing officer ruled in favor of the appellee, awarding him fourteen month's salary as severance pay and eleven month's salary for the unexpired period of the renewed contract. The Board of General Appeal and the Circuit Court for the Sixth Judicial Circuit affirmed the ruling. The matter was brought to the Supreme Court on a further appeal by the appellant.

The Supreme Court affirmed the circuit court's judgment, holding that although the appellant had not responded formally to the appellee's application for the renewal of his employment contract prior to the expiration of the contract, and that by its own terms the contract thereby had expired, yet, when the appellant decided to and did pay the appellee his salary for the month of January, 1984, one month after the expiration of the contract, it had by implication renewed the appellee's contract of employment. The Court rejected the appellant's contention that in light of appellant's rejection of appellee's application, no contract existed and that the salary payment for January, 1984, was only an incentive or bonus. The Court opined that a bonus, when used in relation to labor matters, is paid only to an employee, not a former employee. It noted that such payment, when made, is not a gift to a stranger or a gratuity to a retired employee, but rather that such payment is made only to an existing employee, in addition to his regular salary, to procure efficient and faithful services from him. The Court observed that once the appellant extended this benefit and thereby renewed the contract, it was *estopped* from denying that the contract of employment had been renewed. The judgment of the lower court was therefore *affirmed.*

J. D. Gordon appeared for the appellant. *Julius Adighibe* appeared for the appellee.

MR. CHIEF JUSTICE GBALAZEH delivered the opinion of the Court. This appeal has found its way to this Court from the Sixth Judicial Circuit, Montserrado County. As is usual with labor matters, this case was first determined by a hearing officer of the Ministry of Labour in Buchanan, Grand Bassa County, who held for appellee and awarded him the sum of $2,352.84 as severance pay for fourteen years of service with the appellant, and the amount of $1,848.66, representing eleven months' salary for the unexpired life of the teaching contract making the total sum of $4,201.50.

The appellant company (LAC), being dissatisfied with the decision of the hearing officer, appealed to the Board of General Appeals of the Ministry of Labour. The Board, after a review of the matter, confirmed the decision of the hearing officer and the award made by him. Thereafter, the company appealed to the circuit court which also affirmed the Board's ruling.

Complainant alleged that he had been illegally dismissed by the appellant company, whom he had served on a contractual basis as a school teacher for a period of one year from January 1, 1983, to December 31, 1983. The appellee alleged that the contract was renewable upon a written request made before the December 31, 1983 expiration date of said contract. Prior to the contractual agreement, complainant Amos S. Etilo had consis-tently served the company in its school system as a regular school teacher since December 10, 1970. The last sentence in the contract of January 1, 1983, concluded between the parties, stipulated unequivocally that "This contract does not disturb merit increment and tenure of service."

On December 14, 1983, in conformity with the terms of the contract, exactly seventeen days prior to its expiration date of December 31, 1983, Mr. Etilo wrote the management expressing his desire to renew his teaching contract with the appellant company. However, December 31, 1983, the day on which the contract was scheduled to expire, came and passed without any reply from the management to Mr. Etilo's letter. January commenced while the school was closed, but the management gave the appellee the amount of $168.06, constituting his salary for the month of January 1984. This amount represented also an increment of $17.26, from a salary of $150.80 paid in December, 1983.

On February 14, 1984, however, about two months after Mr. Etilo had submitted his letter for the renewal of his contract, the management of LAC wrote him acknowledging receipt of the letter of application for the renewal of his contract and informing him that the Board had rejected the said application. In the response also, the management thanked him for the services rendered the company.

Based upon that letter, Mr. Etilo filed this action of illegal dismissal before the hearing officer for Grand Bassa County. After an investigation, the hearing Officer held for him appellee. The decision was affirmed by the Board of General Appeals on grounds that an implied contract had arisen after December 31, 1983, when the company paid complainant his salary for January, 1984, and especially, it said, because appellee had, prior to December 31, 1983, applied for renewal of the contract as was required. The Circuit Court for the Sixth Judicial Circuit, Montserrado County, affirmed the Board's decision, which prompted the appeal to this Court.

Appellant contended in its bill of exceptions and brief that no contract existed between itself and appellee since December 31, 1983, in view of its rejection of appellee's application for the renewal of the contract. Appellant contended that there was a total demise of the January 1, 1983 contract at that point, and that no court can otherwise disturb the terms of a contract, which are entirely plain and unambiguous. Appellant maintained further that according to its policy, it paid the employees of its school department their January salary only as an incentive and/or bonus. Therefore, it said, the payment made to the appellee can in no way be construed as constituting an implied renewal of the expired contract. Appellant therefore denied that appellee was in its employ when it gave appellee said bonus and incentive at the end of January 1984, about one month after the expiration of the erstwhile

contract on December 31, 1983.

Contrariwise, appellee argued in his brief that the payment made to him by appellant amounted to a renewal of the former contract since the payment was made after his application for a renewal of said contract, and by reason of the fact that it took the company two months to reply the letter of application for renewal of the employment contract. Further, he said, not only was his January salary paid him, but he was also supplied basic household commodities, for which deductions were made from his salary, as was the usual policy of the appellant's manage-ment. Therefore, appellee contended, that appellant company is *estopped* from denying an implied renewal of the previous contract, done by its own acts.

From the foregoing analyses, two issues appear pertinent here for our adjudication:

1. What is an incentive or bonus and to whom is it paid?
2. Whether a contract can legally be implied where after the expiration of a previous contract of employment payments are made to the employee either as salary, incentive or bonus.

Ballantine's Law Dictionary describes a bonus as something paid an employee above stipulated wages. BALLENTINE'S LAW DICTIONARY 147 (3rd ed.) That authority further describes an incentive wage as bonuses or other payments made to employees in addition to guaranteed hourly wages. *Id.*

Bouvier's Law Dictionary also describes a bonus as a consideration given for what is received. It maintains that a bonus is not a gift or gratuity, but is paid for some services or consideration, and is in addition to what would ordinarily be given. BOUVIER'S LAW DICTIONARY 378 (3rd ed.).

Also, Black's Law Dictionary describes a bonus as an extra consideration given for what is received, or something given in addition to what is ordinarily received by, or strictly due the recipient. BLACK'S LAW DICTIONARY 226 (4th ed.). It further defines bonus as an increase in salary or wages in contracts of employment; and as an offer to employees to procure efficient and faithful service. *Id.*

On account of the foregoing definitions, may we ask to whom can a bonus or incentive be given? Can it be made to a perfect stranger as a gift, or to a former employee as gratuity? Is it made to one actually in the active employment of the giver as an incentive for services being rendered, and to be continued to be rendered as the parties stipulate or as the courts may infer from their relationship of the parties?

This Court is of the opinion, considering the definitions herein above, that a bonus or an incentive is not a gift to a stranger or a gratuity to some retired employee, but rather it is an incentive paid to an employee, in addition to regular salary or in addition to what is received under the existing terms of a contract, to procure efficient and faithful services from him. All of the authorities cited above emphasize that a bonus or an incentive, when used with reference to labor matters, refer to additional benefits made to some employee in order to

engender greater efficiency in and satisfactory services from him, or in appreciation of satisfactory and efficient services already rendered by an employee.

Having satisfactorily established that a bonus or an incentive is only paid to employees in actual service as an inducement, we will now consider the overwhelming issue in this case: Whether or not after December 31, 1983, the parties in this case had an implied contractual relationship based on the prior contract. The relevant portions of that contract states:

> "This agreement is valid from January lst until December 31st A.D. 1983. It is mutually agreed by the parties hereto that either the company or the teacher may terminate the employment herein agreed upon earlier than December 31 by giving15 days notice in writing. . . . It is also agreed that, should the teacher wish to remain in the employment of the teaching section of the company schools department after 31st, he shall make application in writing before December 31st and enter into a new agreement with the company. . ." LAC/Etilo Teaching Agreement, dated December 10, 1982.

According to the express terms of the quoted agreement, it was due to expire on December 31st, 1983. However, it also provided that if the teacher wished to remain in the employ of the company after that date, he had to apply in writing before December 31, 1983, "and enter into a new agreement with the company". *Id.* Whether or not this latter portion of the agreement meant that the agreement is automatically renewed upon an application by the teacher in writing, or that thereafter some other procedure was to be followed as confirmation or rejection by the company, is anyone's guess since the contract is silent on that issue, and therefore raises some ambiguity.

Nevertheless, the records reveal that by a letter dated December 14, 1983, appellee applied to the appellant for the renewal of his contract of employment as was required under its terms. No reply was received by December 31, 1983 when the contract was due to expire. Then came January and still no reply was forthcoming from the company. The school was now on vacation and the contract should have ended since December 31, 1983. But at the end of January, 1984, appellant paid the appel-lee his regular salary under the contract plus a merit increment of $17.26. That is, while he received a salary of $150.80 for December, 1983, he now received a salary of $168.06 for January, 1984. The appellant also supplied the appellee regularly, as before, with rice, meat, fish, onions, etc., the cost of which was deducted from his salary.

Despite all these payments and supplies made to appellee after the date on which the contract of employment was to expire, and despite the fact that since December 14, 1983, appellee's application for the renewal of his contract had not been replied to, appellee lamentingly received a letter from the appellant management, dated February 14, 1984, terminating his services.

After consideration of all the surrounding circumstances, it is our opinion that by virtue of the action of the appellant company, enumerated herein, an implied contract existed between the parties following appellee's application on December 14, 1983, for the renewal

of his teaching contract, and after the appellant had paid him for the month of January 1984, the very month in which the former contract had begun. The principle in the case of *Francis v. Liberian French Timber Corporation*, applies to the present case, and we therefore affirm the rule in that case, that where an agreement expires by its own terms and without an express renewal, and the parties continue to perform as they had under the expired contract, a new contract containing the same provisions will thereby be deemed to have arisen by implication. 22 LLR 168 (1973).

As earlier mentioned, appellant maintained in its brief that the payment of January 1984 was a bonus or incentive paid to the company's teaching staff. By our holding, stated earlier herein, that a bonus or incentive in labour matters is only paid to employees actually in service, we further hold that by the payment of appellee's salary for January, 1984, which appellant referred to as a bonus and/or incentive, the appellant impliedly renewed the contract which had ended on December 31, 1983, and for the renewal of which, the appellee had applied since December 14, 1983. The rationale is that a bonus and/or incentive is only paid to employees, and appellee would not have been so paid for January, 1984, were he not an employee of the appellant company after December 31, 1983.The Court considers that teachers still employed are usually paid salaries during their period of vacation as an incentive to ensure proficiency in the following school year, except where they are terminated before the start of the vacation period. The period from December 14, 1983, when the appellee applied for the renewal of his contract, to December 31, 1983, 17 days before the expiration of the contract on December 31,1983, and the period up to his purported termination in February 1984, when schools in Liberia were usually supposed to reopened, were too long and unreasonable a time for appellant to reply to appellee's letter for the renewal of his contract. Moreover, with the subsequent payment of appellee's salary or "bonus and/or incentives"' in the interim at the end of January, it is reasonable to infer that appellant wished to continue the services of appellee. The appellant is therefore *estopped* from denying the renewal of the previous contract of employment. This Court has held that:

> "The plea of estoppel is a good plea and will prevent a party from denying his acts, if well founded; neither law nor equity will permit a party to disclaim his own acts. This same rule applies to privies." *Clarke v. Lewis*, 3 LLR 95 (1929).

Appellant's long unreasonable silence and the intervening payment amounted to an implied consent to renew.

From the foregoing analysis, it is the holding of this Court that appellant's letter of February 14, 1984, terminating the services of appellee amounted to an illegal dismissal, for the dismissal was without any justifiable cause shown to the satisfaction of this Court. The terms of said renewed contract state:

> "It is also agreed upon that if the termination is by the company without any justifiable cause, the company becomes liable to the teacher, the party of the Second Part to pay the balance period of the life of the agreement. And if the termination is by the teacher

without any justifiable cause, the teacher becomes liable to the company, the Party of the First Part for any and all damages that may accrue as a result of the termination of the agreement." LAC/Etilo Agreement, dated December 10, 1982.

By the terms stipulated in that agreement, the lower court was justified in awarding eleven months' salary for the unexpired term of the renewed contract which was to last one year. Since the contract was to last from January 1st to December 31st, and the appellee was paid only for January 1984, an illegal dismissal amounting to a breach of said contract means that the appellant should pay appellee for the unexpired term of eleven months, from February 1984, to December 31, 1984.

Since the award of severance pay below is conceded and is therefore not on this appeal, the judgment of the lower court is hereby affirmed with costs against appellant. And it is hereby so ordered.

Judgment affirmed.