The Christian Science Monitor

Supreme Court rules on union dues: what it means for organized labor

A Supreme Court decision Monday dealt labor unions a fresh blow at a time when their clout is decreasing. It's a narrow ruling, but unions will have to scramble to cope.

By Mark Trumbull

June 30, 2014

Washington — A Supreme Court ruling Monday erodes the strength of organized labor in representing workers whose jobs put them on a blurry boundary line between the public and private sector.

The ruling says that home health-care aides in Illinois, although they receive their paychecks from the state through Medicaid, are not full-fledged state employees and therefore cannot be required to pay union dues.

The court's decision could affect 500,000 US workers in 10 states and hurt the labor unions that seek to bargain on their behalf. It's a setback for organized labor at a time when unions are struggling to gain new momentum.

But unions might have dodged a worse potential outcome. The court's conservative justices, who were the majority in the 5-to-4 decision, stopped short of overturning mandatory union dues for government workers across the board, though they referred to the 1977 ruling that enshrined the "union shop" concept in the public sector as having "questionable" foundations.

The "union shop" concept is based on the idea that, since government employees are covered by collective bargaining, they must help cover the costs of that bargaining whether they choose to join the union or not.

Monday's decision means that workers in the gray area of home health aides are no longer subject to paying that kind of fee. Labor-union allies say the ruling undercuts bargaining efforts that have won substantial wage and benefit gains in a very low-wage industry.

"Most home health care workers had no health insurance themselves" and earned around the minimum wage before they got union representation, says Ross Eisenbrey, a labor law expert at the Economic Policy Institute in Washington.

The case pitted Pamela Harris, a home care worker who argued that the union fees violated her constitutional free-speech rights, against Illinois Gov. Pat Quinn (D) and the union SEIU Healthcare Illinois (part of the Service Employees International Union).

The ruling doesn't spell the end of collective bargaining for home health workers. But it could impose a steep cost on the SEIU, which represents not only the 26,000 home care workers in Illinois but also about 400,000 such workers nationwide. The ruling promises to disrupt the flow of some dues from non-members and could prompt an erosion of membership.

Keith Kelleher, president SEIU Healthcare Illinois, tells the Associated Press that the union will reach out to home health care workers in the private sector to help make up the lost revenue.

Unions like the one in Illinois will now have the challenge of how to deal with "free riders," workers who don't pay dues but benefit from wage and benefit victories scored by union bargaining.

"That's a difficult task, but not an impossible one," writes Benjamin Sachs, a Harvard Law School professor who follows labor issues, in an online commentary. Unions "have an excellent track record adjusting to difficult Court decisions."

The decision comes at a time when organized labor has been generally declining as a force in the US economy, but also as the public has shown growing concern about inequality. About 11 percent of US wage and salary workers were union members in 2013, down from 20 percent in 1983, according to Labor Department numbers.

AFL-CIO president Richard Trumka said legal attacks on unions "are a direct cause of an economy in which middle class families can't get a break because their wages have stagnated and their incomes have declined."

On the conservative side, a blog post by the libertarian Cato Institute said that "while the Court did not go all the way to striking down compulsory support of public-sector unions – as union supporters feared it would – it does deal a major blow to organized labor where it hurts the most: members and money."