Court ruling grants bankruptcy protection to California city

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31 August 2013

On Thursday, a federal bankruptcy judge granted bankruptcy protection to the city of San Bernardino, California. The ruling allows the city, as part of its 2012 bankruptcy filing, to drastically cut payments to the state public pension that serves city worker retirees.

Despite the fact that nearly a year has passed since the initial filing and almost nine months since the city was granted a court-ordered reprieve from making pension payments, US bankruptcy judge Meredith Jury gave lawyers only a few hours to make arguments in the summary judgment proceeding that will likely permanently affect hundreds of current and future retirees.

Chapter 9 bankruptcy filings normally require municipalities and their creditors to negotiate with a neutral arbiter prior to filing. By invoking a fiscal emergency late last year, however, the city has been allowed to sidestep this requirement.

Moreover, the Supremacy Clause of the US Constitution, which allows federal law to supersede any legal conflict between states and localities, has been utilized to override California state law, which forbids cities from reneging on pension obligations.

The city of Detroit, now the largest municipality to file for bankruptcy in US history, is also being challenged in a Michigan court to stop bankruptcy proceedings and may likely utilize the San Bernardino case as a precedent to rip up worker pension contracts. The San Bernardino case may also set a precedent for several other California cities and municipalities that already have declared bankruptcy or are expected to do so.

While the San Bernardino case is not the first time that a municipality has cut pension benefits to workers, it is the first time in US history that such cuts have been imposed unilaterally and without the agreement of either the trade unions or the funds themselves. The ruling opens up the floodgates for hundreds of other cities across the country seeking to relieve themselves of pension debt.

In an interview with CNN Money, municipal bankruptcy expert Michael Sweet noted: “If a judge says you can use bankruptcy to [cut what is owed] to CalPERS, then everyone will line up to do it.”

In Thursday’s proceeding, lawyers for CalPERS, the country’s largest pension fund, argued that the city did not negotiate in good faith and that the bankruptcy should therefore be dismissed with the city resuming its fiscal obligations to creditors.

Judge Jury countered, “If CalPERS gets all the money they want, under what they say is their statutory right, who isn’t going to get paid? All the employees? How is that going to help CalPERS?” She then cynically claimed, “The citizens of San Bernardino need to have a voice.”

This contradicts the judge’s own decision last January in which she allowed the city to defer $1.7 million in pension payments as the city had not yet reached a fully worked-out plan to address its fiscal emergency. She ordered the city to restructure its financial plans and resume payments to CalPERS the following year. “If you don’t have some concept now, you’d better start thinking about it because it’s inconceivable to me that you don’t have some outlines of where you’re going,” she said.

When lawyers for CalPERS raised this point, the judge argued in effect that the January hearing was irrelevant. “Because they didn’t do something then, doesn’t mean they can’t now. The city desires and needs to formulate a plan; it is their only hope.”

CalPERS later issued a statement indicating that the fund may consider appealing the decision. “These payments are statutorily required and necessary to deliver on the pension benefits promised to San Bernardino employees as a form of deferred compensation. They have worked for and earned these benefits.”

Michael Gearing, attorney for CalPERS, called Judge Jury’s decision “a dangerous precedent,” one that encourages other cities to “create a crisis because they have a large number of creditors."

The city initially filed for bankruptcy after announcing a $46 million budgetary shortfall. The shortfall, less than a pittance when compared to the hundreds of billions given to the large banks since the onset of the 2008 financial crisis, was itself a product of the crisis and in particular the collapse in property tax revenue after mortgage lenders began the process of mass home foreclosures. Moreover, the CalPERS pension fund itself has used pensioners' contributions to speculate in highly volatile securities and several of its executives have in recent years been the targets of financial misconduct probes.

City workers have spent decades working and contributing to their pensions, which they have a right to utilize to secure a comfortable retirement. The city's financial woes have nothing to do, as the media constantly claims, with "soaring pension costs."

At the root of the city's bankruptcy is the financial parasitism and outright criminality that characterize the operations of US and world capitalism as a whole. The constant attempts to pit various sections of the working class against one another, current vs. retired workers, public sector vs. private sector, immigrant vs. native born, are used in an effort to divert attention away from those actually responsible and who enjoy the fullest protection of the federal government.

The latest bankruptcy ruling in San Bernardino underscores the fact that no defense of workers' hard-won rights, including pensions, can be won through court challenge. The courts will be utilized to do whatever is required to meet the demands of the ruling elite to slash pensions and claw back ever-greater amounts of surplus value from the working class. Existing pension agreements between public workers and their employers can be altered and nullified at will without any discussion.