102 Phil. 219

[G.R. No. L-9831. October 30, 1957]

ISAAC PERAL BOWLING ALLEY, PETITIONER, VS. UNITED EMPLOYEES WELFARE ASSOCIATION AND THE COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

D E C I S I O N

FELIX, J.:

This is a petition filed by the Isaac Peral Bowling Alley, owned and operated by the Philippine Advertising Corporation, to review by certiorari the decision of the Court of Industrial Relations in Case No. 751-V. The facts of the case are as follows:

On October 6, 1952, the United Employees Welfare Association, a legitimate labor union, presented a petition before the Department of Labor on behalf of the 36 pinboys of the Isaac Peral Bowling Alley, allegedly affiliated with said union. The petition (Case No. 754 of the Department of Labor) made specific demands from the company among which were the conversion of their (pinboys') wages from hourly to daily basis; vacation and sick leaves; medical and hospital bills; payment of their wages during a strike if such strike had to be declared due to the refusal of the company to consider their demands; and that the United Employees Welfare Association be recognized as the sole bargaining agency.

This petition was certified by the Department of Labor to the Court of Industrial Relations on October 10, 1952, and was docketed therein as Case No. 751-V. On the same day, however, the 36 pinboys concerned therein staged a strike, whereupon the Court intervened and a commissioner of the same called the parties to a conference. It was agreed that the striking pinboys would return and be admitted to their work under the same working conditions and arrangements prevailing before the declaration of the strike, pending the final disposition of the case, and the management on the other hand was precluded from accepting pinboys other than those appearing in its payrolls before the strike unless the Court expressly authorize the admission of new ones.

The company filed its answer denying the material averments of the petition and contended that in view of the nature of the business of the company, the payment of the wages of its pinboys can not be converted from the hourly to daily basis; that said pinboys were receiving wages in accordance with law and were being paid additional compensation for any work rendered on Sundays; that the company was actually shouldering medical and hospital bills of those injuried or who become ill in line of duty; that the pinboys were just casual workers and not permanently employed by the company; that the Union cannot be recognized as the sole bargaining agency because aside from the fact that the pinboys were not the only ones working in that establishment, the company had no confidence in said union. It was, therefore prayed that the petition be dismissed with costs against therein petitioner.

Due hearing on the matter was held and on. August 22, 1955, the Court rendered decision finding the petitioning pinboys as permanent and regular employees and not merely casual workers of the company; that from the start of its business on March 1, 1951, to July 31 of the same year, the company paid its pinboys wages at the rate of P80 a month and that from August 1, 1951, to date, the pinboys received wages at the rate of P0.50 per hour of actual work; that the pinboys in said company were working on 2 shifts, the morning shift working or staying, at the instance of the management, in their respective alleys from 8:00 a.m. to 5:00 p.m., or for 9 hours on ordinary days and legal holidays, whereas the second shift began their work from 5:00 p.m. until 12:00 midnight or 1:00 a.m. on regular days and legal holidays and from 4:00 p.m. to 1:00 a.m. on Sundays. The Court thus ordered the company to pay the pinboys in the day-shift 25 per cent additional compensation over their basic wages for 1 hour overtime on ordinary days and legal holidays to pay those in the night shift 25 per cent additional compensation for 1 hour overtime on Sundays, which should be computed from the date they had been rendered; and another 25 per cent additional compensation over their basic pay for those working from 6:00 p.m. until 12:00 or 1:00 a.m. as the case may be, to be computed from the time the petition was filed in court. The Court also held that the pinboys were entitled yearly to 8 days vacation leave and 7 days sick leave with pay, and the United Employees Welfare Association was recognized as the sole bargaining agency for its members (pinboys). The other demands were denied.

A motion for the reconsideration of said decision, filed by the company, was subsequently denied by the Court *en banc* in its resolution of September 23, 1955. Isaac Peral Bowling Alley thus filed a petition for certiorari with this Court which was given due course by resolution of December 1, 1955. Said petition raised the following questions:

(1) whether the case at bar should be governed by the provision on certification of election of Repubic Act No. 875 and not of Commonwealth Act No. 213;

(2) whether the evidence on record supports the conclusion of the lower court that the pinboys involved in this ease are permanent "workers of the company and that they rendered service for more than 8 hours;

(3) whether those working in the night shift are entitled to 25 per cent additional compensation; and

(4) whether the Court was right in awarding1 vacation and sick leave to the said 36 pinboys.

Respondents Court of Industrial Relations and the United Employees Welfare Association filed separate answers both contending that petitioner assigned only questions of fact which this Court is precluded to review. We believe that there are certain points that need some clarification.

I. Petitioner questions the ruling of the Lower Court recognizing the United Employees Welfare Association as the sole collective bargaining agency in behalf of its members, maintaining that said union failed to comply with the provisions on certification election laid down by Republic Act No. 875. The records show that the petition in this case was originally filed with the Department of Labor on October 6, 1952, and was subsequently certified to and docketed in the Court of Industrial Relations on October 10, 1952. The pertinent law on the matter at that time was. Commonwealth Act No. 213, section 2 of which reads as follows:

> "Sec. 2. All associations which are duly organized and registered with, and permitted to operate by, the Department of Labor, *shall have the right to collective bargaining* with employers for the purpose of seeking better working and living conditions, fair wages, and shorter working hours for laborers, and, in general, to promote the material, social and moral well-being of their members, and no labor organization shall be denied such registration and permission to operate except such whose object is to undermine and destroy the constituted government or to violate any law or laws of the Philippines, in which case it shall he refused registration and permission to operate as a legitimate labor organization. The registration of, and the issuance of a permit to, any legitimate labor organization shall entitle it to all the rights and privileges granted by law."

Under the aforecited law, it is sufficient for a labor union to be duly organized and registered with the Department of Labor to be possessed of the right to collective bargaining with employers on behalf of its members. In virtue thereof, the petition of the United1 Employees Welfare Association in representation of the 36 pinboys of the company was ventilated in the Court of Industrial Relations which acquired jurisdiction over the same, and We can, therefore, presume that said union had complied "with, the requirements of Section 2 of Commonwealth Act No. 213 for said petition was even coursed through the Department of Labor. While the action was pending consideration, Republic Act No. 875, better known as the Industrial Peace Act, was enacted and took effect on June 17, 1953, which prescribes the following:

> "Sec. 12. Exclusive Collective Bargaining Representation fob Labor Organizations.— (*a*) The labor organization designated or selected for the purpose of collective bargaining by the majority of the employees in an appropriate collective bargaining unit shall be the exclusive representative of all the employees in such unit for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment: *Provided*, That any individual employee or group of employees shall have the right at any time to present grievances to their employer".

It is all too apparent that one of the major aims of the Industrial Peace Act is to make the process of collective bargaining one of the most effective means for insuring harmonious labor-management relations (Francisco's Labor Laws, Vol. I. 3rd ed., p. 229), and to arrive at this end it tries to make of collective bargaining a mutual obligation on both employer and employee; a duty on the part of the employees to comply with certain requirements before they could be recognized and a corresponding obligation on the employer to engage in the negotiations designed for the betterment of the workers. Thus it could be seen that for a union to acquire proper representation as the sole bargaining agency, such union must be selected or designated by a majority of the employees .and an employer may even request reasonable proof that such union represents a majority of the employees and in the absence of the same may refuse to bargain, if the employer in good faith doubts the union's majority (N. L. R. B. vs. Crown Can Co., C. C. A. 8, 1943 138 F. 2d 263—I Francisco's Labor Laws, 3rd ed., p. 496).

Although in the case at bar there is no showing that the United Employees Welfare Association had been selected by a majority of the employees of the Isaac Peral Bowling Alley, We must remember that the petition herein was duly filed before the effectivity of the Industrial Peace Act allegedly on cause of action accruing since 1951. Petitioner, however, argues that since Republic Act No. 875 is procedural in nature, same should be given retroactive effect and be made applicable in the instant action. We cannot subscribe to this view. Under Commonwealth Act No. 213, a legitimate labor union once registered and permitted by the Department of Labor to operate acquires the right to bargain collectively for its members, and becomes entitled to all the rights and privileges granted by law. It is not controverted that the United Employees Welfare Association is a legitimate labor union, nor the fact that the 36 complaining pinboys are members thereof. It cannot also be denied that at the time the Court of Industrial Relations acquired jurisdiction over the demands (which jurisdiction was never assailed1), the law on the matter was Commonwealth Act No. 213. Even granting that Republic Act No. 875 on certification elections were procedural in nature, same cannot be given retroactive effect if it were to affect a right already acquired before the effectivity of said law. It is an elementary rule of procedure that an action shall be governed by the law on the matter at the time the cause of action accrues. We may even add that although petitioner alleged that the 36 pinboys were not the only workers employed in said establishment, it failed to establish the fact that these 36 pinboys did not compose the majority of its employees. It may even be noted that no proof was even presented that another union or organization represents or claims to represent the other group. Anyway, if any doubt could spring from the union's representation of the 36 pinboys

affected herein, the company, could have easily dispelled that doubt by presenting any or all of the said pinboys to, deny or repudiate the union's representation, but no such evidence was produced by the company and nothing on record shows that any of the 36 pinboys has ever protested against the alleged misrepresentation of the union.

II. Although the question of the nature of the employment of the pinboys appears more to be factual, We may linger on one point, i.e., the finding of the lower Court that the pinboys in the day shift worked for 9 hours on ordinary days and legal holidays and those in the night shift for the same number of hours on Sundays.

We are aware of Our doctrine laid down in the case of Carmen de la Paz Vda,. de Ongsiako vs. Teodoro Gamboa et al., 86 Phil., 50, "that this Court is not empowered to look into the correctness of the findings of fact in an award, order or decision of the Court of Industrial Relations", and that "as long as there is. evidence to support a decision of the Industrial Court We may not revoke or reverse said decision just because it is not based on overwhelming or preponderant evidence" (Philippine Newspaper. Guild, Evening News Local *vs*. Evening News, Inc., 86 Phil., S03), but We must not forget that the company pays its pinboys wages at the rate of P0.50 per hour* of actual work which, as a matter of fact was a wage allowed by the Wage Service *considering* the nature of the business of the company (Exhibit 30), and that the finding of the lower Court on this point was made before the promulgation of Our doctrine in the case of Luzon Stevedoring Co., Inc., *vs*. Luzon Marine Department Union,[1] G. R. No. L-9265, April 29, 1957, wherein We pronounced that "to constitute non-working hours for the purpose of the Minimum Wage Law, the laborer or worker need not leave the premises of the factory, shop or boat (or establishment) in order that his period of rest shall not be counted, it being enough that he 'cease to work', may rest completely and leave or may leave at his will the spot where he actually stays while working to go somewhere else, whether within or outside the premises of said factory, shop or boat (establishment). If these requisites are complied with, such period shall not be counted". In view of what appears in the payrolls and vouchers *signed by the pinboys*, We are inclined to believe that such requisites had been satisfied, there being no evidence to the contrary. Such being the case, the *conclusion* arrived at by the lower Court to the effect that for the period above-mentioned the pinboys worked for 9 hours a day just because they remained in the premises of the Bowling Alley, finds no support to stand on and, consequently, said conclusion should be adjusted to what the evidence really show.

In view of the evidence presented and the circumstances obtaining in this ease which lend to the employment of the 36 pinboys the charter of permanency, as no other pinboys were

employed' (except in their absence) during the period involved in this ease, the finding of the lower Court that said workers of the company are regular employees thereof should be sustained.

III. The grant of additional compensation to those working at night has been recognized by this Court as a valid exercise of the general powers of the Court of Industrial Relations and may be allowed for "hygienic, medical, moral, cultural and sociological reasons" (Shell Co. of the Phil. Islands, Ltd. *vs*. National Labor Union,[2] G. R. No. L-1309, July 26, 1948), and We find no reason why the lower Court cannot apply the same measure to the workers involved herein considering that irrespective of the nature of their jobs, those working at night suffer a continued general loss of energies and are deprived of the same comfort. The ruling of the court a quo on this, matter should be, therefore, affirmed.

IV. In view of the absence of express legislation granting employees of private firms or establishments the benefits of vacation and sick leaves with pay, said employees are not assured of such privileges, which are proper subject matters for collective bargaining between employers and employees. Although strictly speaking, therefore, there is no ground for the granting of said privileges, the Court of Industrial Relations in the exercise of its broad powers under Commonwealth Act No. 103 had on several occasions dealt with and granted claims for these benefits. With the enactment of Republic Act No. 875 and the abolition of the Court's general jurisdiction over labor disputes, this power seems to have been curtailed. It is believed, however, that whenever the Court of Industrial Relations may exercise its power of compulsory arbitration, as when a case is certified to it by the President of the Philippines, being again possessed of general powers, said Court may still grant these benefits. (See authorities cited in Franciscos' Labor Laws, Vol. II, 3rd ed., p. 508 *et seq*)

In the case at bar, We cannot ignore the fact that the claim was passed upon by the lower Court when it was still possessed of its broad powers and could have validly granted' the same, as it did. But it also appears that the Court *a quo* was aware of the financial condition of the company as "not very sound due to losses reported during the years 1952 and 1953 although it had a little profit in 1951" (p. 6 Decision), and considering that the ability of the employer to make payment of these privileges must also be reckoned with, it is but just that this demand (sick and vacation leaves with pay) be denied, at least for the time being. Anyway, this could be made the subject of a future agreement between the workers and the management.

Wherefore, the decision appealed from is modified in so far as it grants the 36 pinboys represented by respondent Union Employees Welfare Association sick and vacation leaves, a matter which is left to further bargaining agreement between the parties, and with regard to the payment of the hours of overtime allegedly earned by said pinboys which shall be determined in the proper incident in the lower Court after this decision becomes final, subject to the doctrine on the point laid down by this Court in the case of Luzon Stevedoring Co., Inc. *vs*. Luzon Marine Department Union (101 Phil., 257). Without pronouncement as to costs. It is so ordered.

Bengzon, Padilla, Montemayor, Reyes, A,, Bautista Angelo, Labrador, Concepcion, and *Endencia, JJ.*, concur.

Paras, C. J., concurs in the result.

Judgment modified.

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[1] 101 Phil., 257.

[2] 81 Phil., 315, 46 Off. Gaz., [1] 97.

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