

NATIONAL MARKETING CORPORATION, PETITIONER, VS. PRISCO WORKERS UNION, ET AL., AND COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G.R. No. L-19945. December 29, 1966

Ponente: RUIZ CASTRO, J.

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RUIZ CASTRO, J.:

This is a petition for review by writ of certiorari of an order of the Court of Industrial Relations (CIR) dated March 30, 1962, affirmed by the court en banc on June 18, 1962, extending the benefits of the order of the said court of May 20, 1960, issued in CIR Case 840-V, to a number of employees of the National Marketing Corporation (hereinafter referred to as the NAMARCO) whose names are listed in Annex A-I of the petition dated January 10, 1961, for the reason that the said employees are similarly situated to the beneficiaries of the aforementioned order of May 20, 1960.

The background antecedents are found in the decisions of this Court in three previous cases, namely, Price Stabilization Corporation vs. Court of Industrial Relations, L-9834, November 29, 1957; Price Stabilization Corporation vs. Prisco Workers' Union et al., L-9268, December 29, 1956; and National Marketing Corporation and Price Stabilization Workers' Union, etc. vs. CIR, Prisco Board of Liquidators and NAMARCO, L-17804, January 31, 1963. On March 18, 1953, 58 workers, represented by the Prisco Workers Union, filed a petition with the CIR (Case 840-7) to enforce certain demands made upon their employer, the Price Stabilization Corporation (hereinafter referred to as the PRISCO). On August 25, 1953 the CIR rendered a partial decision ordering the PRISCO to pay 25% additional compensation for unpaid overtime work and for Sunday and legal holiday service rendered from June 8, 1951. On May 9, 1955 the CIR extended the benefits of the said partial decision to other workers of the PRISCO who are similarly situated. This order was affirmed by this Court in L-9288, *supra*, for the reason that the "workers involved in a dispute include other workers, unionist or not, who are presumed interested in the outcome of the demands or strike one way or another." And on the merits of the other demands of the union in CIR Case 846-V, this Court likewise upheld the CIR's ruling that the PRISCO is a government-owned corporation run and operated like an ordinary business corporation, and that "when the Government engages in business it becomes subject to the laws and regulations governing the relations of labor and management," and is therefore not exempt from the provisions of the Eight-Hour Labor Law (C.A. 444) (L-9834, *supra*). On June 17, 1955 the PRISCO was abolished by R.A. 1345 which at the same time created the NAMARCO and transferred the employees and fixed assets of the former the latter, and its other choses in action, obligations and liabilities to the PRISCO Board of Liquidators. Thereafter, both the NAMARCO and the PRISCO Board of Liquidators were impleaded as respondents in the CIR, when, on March 20, 1958, 202 other employees and workers of the PRISCO, among them 45 employees of the General Auditing Office (GAO) assigned thereto, filed a petition for payment of overtime, Sunday and legal holiday work rendered from June d, 1951 to June 30, 1953, based on the partial decision of the CIR of August 25, 1953. On April 2, 1956 the PRISCO opposed this claim on the grounds that the partial decision aforesaid covers only the 58 original petitioners; that the claim had already prescribed

under section 7-A, C.A. 444, as amended by R.A. 1993; and that some 45 employees among the claimants therein were, and some still are, employees of the GAO and not of the PRISCO. Notwithstanding the opposition, the CIR on June 10, 1960 granted the petition, and ordered the payment of their claims after a computation thereof to be made by the CIR examiner or his duly authorized representative. The motion for reconsideration of the last named order was denied by the CIR en banc, and the PRISCO appealed to this Court (L-17804, supra). We affirmed on January 31, 1963 the decision subject of review with the sole modification that the 45 GAO employees, not being employees of the PRISCO, are not entitled to compensation for overtime, Sunday and legal holiday service.

It will be noted that the CIR order of May 20, 1960 was an offshoot of a petition filed by the petitioning union for contempt of court against the NAMARCO. This petition alleged, among other things, that the PRISCO was succeeded by the NAMARCO, hence, the inclusion of the latter as party respondent in all the cases by the PRISCO Workers' Union against the PRISCO (Cases 840-V, 840-V-1, 840-V-2, 840-V-3, 840-V-4, 840-V-5 and 840-V-6); that the NAMARCO violated the decision of the CIR of August 25, 1953 in not paying its employees and laborers for work done on Sundays and legal holidays, as well as the decision of June 10, 1955 in not paying its employees and workers for night service from January 1, 1956. The respondents therein demanded a bill of particulars which would enumerate the names of the employees and laborers of the NAMARCO and specify the period covered by their claims. The petitioners then filed annex A which lists the names of the employees and laborers so affected and specifies the period covered by their claims. The CIR then Issued the order of May 20, 1960, which states in part:

"Considering the decision of this Court of August 25, 1953 ordering the respondent to 'pay all its employees and workers involved herein 25% additional compensation for unpaid overtime and legal holidays work rendered beginning June 8, 1951'; the decision of June 10, 1955 ordering the respondent to 'pay additional compensation of at least 25% to its security guards and other employees performing night work, that is, from 6:30 p.m. to 6:00 a.m., as shown above, effective August, 1946; the order dated January 15, 1957 and also the decision of this Court dated February 4, 1957 wherein the NAMARCO was included as party respondent in Cases Nos. 840-V; 840-v(1); 840-v(2); 840-v(3); 840-v(5); 840-v(61) and the fact that respondents did not deny the allegations of the petitioners that the list mentioned in Annex A of petitioners' reply to motion for bill of particulars, rendered work on Sundays and legal holidays and night work from January 1, 1956, respondent NAMARCO is hereby ordered to pay those mentioned in said Annex A their unpaid additional compensation for work performed on Sundays and legal holidays and night work from January 1, 1956, in accordance with the above-cited decisions dated August 25, 1953 and June 10, 1955.

"Accordingly, the Court examiner or his duly authorized representative is hereby directed to compute the amount due said workers as appearing on said Annex A, and thereafter to submit his report to the Court for further disposition thereof."

The above constitutes a narration of the antecedent facts.

Now to the petition at hand.

Prior to the rendition of our decision in L-17804, or on the previous January 10, 1961, the aforesaid union (present respondent) filed a petition with the CIR, docketed as Case S40-V(9), entitled PRISCO WORKERS UNION, et al. vs. PRISCO Board of Liquidators and NAMARCO, praying that the benefits of the CIR order of May 20, 1960, affirmed by the CIR en banc resolution of July 11, 1960, now final and executory, be extended to "some employees and laborers of the NAMARCO who also rendered Sundays, legal holidays and night work services from January 1, 1956 up (to) the present but who were not included therein and their names, designations, departments or offices where they work, and the period covered by their claims, are enumerated in a list which is attached to this petition as Annex A-I;[1] and that the said employees and laborers be adjudged entitled to the benefits of said order of May 20, 1960 and their claims be included in the computation then being undertaken by

the examiner duly designated by the CIR.

The petitioner herein opposed the petition upon the grounds that the claims have already prescribed pursuant to R.A. 1993; that there is no employer-employee relationship between the petitioner and the claimants who are GAO employees; and that the decisions of the CIR of August 25, 1953 and June 10, 1955 can no longer be enforced because more than five years had elapsed from the entry of said judgments when the instant petition was presented on January 10, 1961.

On March 30, 1962 the CIR issued an order of the following tenor:

"The present petition has not yet prescribed. Although more than three years have elapsed after the present action was instituted and more than five years have elapsed after the proposed enforcement of the present action, the same defenses are untenable for the present action is a continuation of the original case as well as an implementation of the decision of the Court dated August 25, 1953.

"The employees who were not working at the time the present petition was filed are also entitled to overtime pay and night time work pay. This is so, because even if they were no longer working with the firm when the present petition was instituted, the Court had already acquired jurisdiction over the questioned persons when the original case was filed. Since the Court had already acquired jurisdiction over the same persons, it should not now be divested of the same.

"The employees who are GAO personnel are not entitled to additional compensation from the PRISCO for there is no employee-employer relationship existing between them and the respondents. Since this is the state of affairs existing between the union and these employees, the employer incurs no legal obligation to pay them their additional compensation."

Both parties moved to reconsider the above order, and the CIR en banc, by resolution of June 10, 1962, ruled in effect that the claims of the additional claimants have not yet prescribed as their petition merely seeks the implementation of the August 25, 1953 and June 10, 1960 decisions; that the aforesaid decisions can still be enforced although more than five years have elapsed from the dates of entry of said judgments; and that the GAO employees are "similarly circumstanced" to those embraced by the order of June 10, 1960, and are, therefore, entitled to overtime compensation.

Hence the present recourse by the NAMARCO.

The two issues tendered for resolution are: (1) are the employees embraced in the instant petition entitled to the benefits granted by the CIR decisions of August 25, 1953 and June 10, 1960?; and (2) have their claims for overtime and Sunday and legal holiday work prescribed?

The petitioner contends that the claimants in the present petition (Case 340-V-[9]) are different from the claimants in the main case (Case 840-V), for whose benefit the decisions of August 25, 1953 and June 10, 1955 were rendered; that for this reason the instant petition is not a continuation of the original case nor an implementation of the aforesaid decisions, but should be considered a "new cause;" that the benefits in the aforesaid decisions were intended only for the petitioners whose names appear in the record as original parties in the main case; that because R.A. 1993, amending section 7-A of the Eight-Hour Labor Law (C.A. 444), prescribes the period of three years for the filing of an action thereunder, the present petition has already prescribed having been filed only on January 10, 1961, or more than three years from June 10, 1955; and that therefore the CIR is without power to extend the benefits of its decisions of August 25, 1953 and June 10, 1955 to the employees of the NAMARCO listed in Annex A-1 of the instant petition.

The CIR order of March 30, 1962 treats of two different sets of employees and workers, namely, (1) employees of

the NAMARCO; and (2) employees of the GAO who receive their salaries from, and work with, the NAMARCO. The employees constituting the first set ask for the extension to them of the benefits of the CIR order of May 20, 1960, affirmed by the CIR en banc resolution of July 11, 1960,[2] for their services rendered on "Sundays, legal holidays and night work service from January 1, 1956 up to the present but who were not included therein * * *." This quoted portion of the petition undoubtedly shows that these employees are similarly situated to the petitioners embraced in the order of May 20, 1960, because the latter also sought unpaid additional compensation for services performed on Sundays and legal holidays and night work from January 1, 1956, up to the filing of their petition on March 20, 1958. This Court considered the petition of March 20, 1958 not to be a new petition but one for the execution of the partial CIR decision of August 25, 1953, with regard to the other workers and employees who had not been paid for overtime and Sunday and legal holiday services (L-17804, supra).[3]The present petition is one for the execution of the partial decision of May 20, 1960, to affect the employees of the NAMARCO who have not yet been paid their overtime and Sunday and legal holiday services rendered from January 1, 1956. May 20, 1960 is the date of the latest execution of the partial decisions of August 25, 1953 and June 10, 1955. The present petition was filed on January 10, 1961, less than eight months from the said last date of execution. The petitioner's contention that the present claims have already prescribed is therefore patently untenable.

The case of the GAO employees presents a different problem. These employees serve in, and are paid by, the NAMARCO. Are they entitled to compensation for overtime service?

The respondents maintain that these GAO employees are so entitled. They cite *Republic of the Philippines vs. Hemando, et al.* 99 Phil. 637; *San Miguel Brewery vs. CIR*, 83 Phil. 663; and *Manila Terminal Co., Inc. vs. CIR*, 83 Phil. 559, as well as Opinion 223 of the Secretary of Justice of Sept. 10, 1954.

The *Hernando* case is not in point. The vital issue there was, who is the real party in interest in an action affecting government employees and laborers employed in public works, concerning a claim for death benefits. The *San Miguel Brewery* and the *Manila Terminal Co., Inc.* cases are likewise not pertinent. The employees concerned were each "policia especial no es funcionario publico." Nor has Opinion 223 of the Secretary of Justice any relevance. It speaks of gratuity, which is different from overtime pay. The former concept signifies a gift, reward, present, or something that is given and received by lucrative title (see *Mendoza vs. Dizon*, 77 Phil. 533, 537), while the latter means compensation for work performed beyond eight hours a day (C.A. 444, sec. 3).

We uphold the contention, of the petitioner that the GAO employees and officials are not entitled to recover overtime compensation from the NAMARCO, as there is no employer-employee relationship between them. In three previous occasions we held that the GAO employees assigned to the National Development Company (NDG), the PRISCO, and the National Waterworks and Sewerage Authority (NAWASA), even if their salaries are paid by those entities, are not their corporate employees, as they are agents of the Government, appointed and supervised by the Auditor General, have an independent tenure, and perform their work subject to orders and instructions of the Auditor General and not to those of the management of the said entities (*Batungbakal vs. National Development Co.*, 93 Phil. 162; *National Marketing Corporation, et al. vs. CIR, et al.*, L-17804, Jan. 31, 1963; *Nawasa vs. NWSA Consolidated Unions, et al.*, L-1893S, Aug. 31, 1964).

Moreover, in the last mentioned case, we explicitly declared that these employees are "not covered by the 8-Hour Labor Law, but by other pertinent laws on the matter", more specifically sections 566 and 259 of the Revised Administrative Code. Section 566 provides that "When the interest of the public so requires, the head of any Department, Bureau, or Office may extend the daily hours of work, in what manner soever fixed, for any or all of the employees under him, and may likewise require any or all of them to do overtime work not only on work days but also on holidays." Section 259 declares that "In the absence of special provision, persons regularly and

permanently appointed under the Civil Service Law or whose salary, wages, or emoluments are fixed by law or regulation shall not, for any service rendered or labor done by them on holiday or for other overtime work, receive or be paid additional compensation." (*Italics ours*)

ACCORDINGLY, we affirm the CIR order of March 30, 1962 as well as the CIR resolution en banc of June 18, 1962, insofar as they extend the benefits of the CIR order of May 20, 1960 to the employees and workers of the NAMARCO, but reverse and set aside the same with respect to the GAO employees who work in and with the said entity. No pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar and Sanchez, JJ., concur.

[1] Annex A-I is not in the record before this Court.

[2] The petition for certiorari filed by the same petitioner from the said order and resolution (*National Marketing Corporation vs. CIR, et al., L-17196*) was dismissed by this Court's resolution of August 30, 1960.

[3] See also *National Shipyards and Steel Corp. vs. Artoz, et al., L-17349*, April 23, 1962.

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