

P. G. TOMAS & CO., INC., PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS AND JOLLY ALMIN, RESPONDENTS.

G.R. No. L-25034. December 29, 1971

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

In this petition to review the decision of the Court of Industrial Relations dated February 12, 1964 as well as its resolution dated April 20, 1964, the decisive issue is one of jurisdiction.

On September 20, 1961 Jolly Almin, respondent here, and Marcos Vasquez, both former employees of the P. G. Tomas & Co., Inc., filed separate petitions with the Court of Industrial Relations for reinstatement with backwages, recovery of salary differentials under the Minimum Wage Law, and attorney's fees. In his petition - Case No. 1590-V - Jolly Almin alleged that he worked for herein petitioner as laborer from April 1, 1957 until August 9, 1961, when he was abruptly dismissed without cause; that he worked six days a week and was paid a daily wage of P2.00 from April 1, 1957 to June 30, 1957; P2.50 from July 1, 1957 to September 30, 1957; P3.00 from October 1, 1957 to March 31, 1958; P3.50 from April 1, 1958 to September 30, 1958; P4.00 from October 1, 1958 to May 31, 1959; and P4.25 from June 1, 1959 to August 9, 1959. The petition filed by Marcos Vasquez – Case No. 1589-V contained similar allegations.

On October 16, 1961 P. G. Tomas & Co. moved to dismiss for lack of jurisdiction on the ground that each of the petitions involved only one work and that the alleged dispute was not causing and was not likely to cause a strike or lockout.

Upon opposition of the claimants the Court denied the motion to dismiss. A subsequent motion for reconsideration was likewise denied.

Separate answers to the petition were then filed, alleging that the claimants were hired only in 1958 and that they voluntarily resigned on August 9, 1959.

After hearing, the C.I.R. rendered a joint decision on February 12, 1964, denying reinstatement with backwages on ground that no union activity was involved in the dismissals, but ordering, for reasons of equity and justice, P. G. Tomas & Co. to pay two months separation pay to the claimants. The claim for differential pay was denied because the subject-matter thereof was below the statutory minimum wage and therefore outside the jurisdiction of the Court.[1]

P. G. Tomas & Co. thereupon filed a motion for reconsideration of that portion of the decision granting two months separation pay to each of the claimants.

The C.I.R., after considering the two cases separately en banc, arrived at a tie vote. In both cases Judge Jose Bautista (who penned the separate resolutions) and Judge Emiliano Tabigne voted to deny the motion for reconsideration. Judge Amando Bugayong dissented, with Judge Arsenio Martinez concurring in the dissent, on the ground that since the C.I.R. had no jurisdiction over the main petition it also had no jurisdiction to grant

separation pay. Judge Ansberto Paredes abstained from voting.

Upon the request of the C.I.R., the Secretary of Justice designated Judges Federico Alikpala and Francisco Geronimo of the Court of First Instance to sit temporarily in the C.I.R. in order to break the tie in the two cases. Case No. 1589-V of claimant Marcos Vasquez was assigned to Judge Federico Alikpala, who concurred in the dissenting opinion of Judge Amando Bugayong, holding that the C.I.R. had no jurisdiction over the petition and in effect granting the motion for reconsideration. But Judge Francisco Geronimo, who was given Case No. 1590-V, voted to deny the motion for reconsideration therein. In due time P. G. Tomas & Co. filed this appeal only with respect to Case No. 1590-V.

Petitioner, citing the case of *Philippine Association of Free Labor Unions versus Tan*,^[2] maintains that the C.I.R. has no jurisdiction to entertain the petition as well as to grant separation pay.

The jurisdiction of the court must of course appear first of all in the petition or complaint. The pertinent allegation in the petition of Jolly Almin states that he was abruptly dismissed from employment without any valid cause and that from April 1, 1957 to September 30, 1958 he was receiving wages below the minimum allowed by law. His prayer, as already observed, is for reinstatement with backwages, salary differentials and attorney's fees.

Apropos the aforesaid prayer, two factors must be considered: First, this case comes within the purview of the Termination Pay Law (R.A. No. 1052) under which the dismissal without just cause of an employee, whose employment has no definite period, would not entitle him to reinstatement but only to separation pay.^[3] Thus a prayer for reinstatement is a useless plea if the petition does not show on its face that the right to be reinstated exists, and would not be a material consideration for purposes of vesting jurisdiction in the Industrial Court. Second, the claim for salary differentials refers to wages below the statutory minimum and therefore constitutes a violation of the Minimum Wage Law which pertains to the jurisdiction of regular courts, as distinguished from a claim for salary differentials above the statutory minimum.

In the case of *Magdalena Estate, Inc. versus Bangilan*, 7 SCRA 655, 657, this Court said:

"Is an action (1) for recovery of underpayment under the Minimum Wage Law, and (2) for the recovery of separation pay under Republic Act 1052, as amended by Republic Act 1787, within the jurisdiction of the Court of Industrial Relations? With respect to the first item, we are of the opinion that the proper court before which the claim should be presented is the Court of First Instance and not the Industrial Court, particularly where, as in this case, there is no labor dispute involved and the claim pertains exclusively to the past and has nothing to do with current wages.

x x x x x

"With respect to the claim for a separation or terminal pay by respondent Maximino Bautista, the same is not within the jurisdiction of the Industrial Court either. It was so ruled in the case of *Hacienda Luisita Estate v. Artemio Alberto, et al.*, G. R. No. L-12133, Oct. 31, 1958, where we said:

"Alberto's petition, after relating the dates of employment and separation, merely complained that 'they were removed summarily or separated without justifiable cause.' It described no other concurring or qualifying incidents or data in connection with the removal. The controversy was therefore, a matter not within the scope of the power of the Industrial Court."

Regardless of the question of jurisdiction, the petitioner disputes the right of respondent Almin to the separation pay awarded to him. The ground for such award, as stated in the decision of respondent court, is that "while it is the prerogative of an employer to terminate the employment of employees, especially where there is no definite agreement as to their tenure, yet for reasons of equity and justice, such prerogative could not be exercised by any

employer as to ignore or deprive what little right is left to its employees of this category, such as prior notice provided by law."

The foregoing statement is correct as a general rule, and in fact is in accordance with Republic Act No. 1052, as amended by Republic Act No. 1787. However, the uncontradicted evidence shows that respondent Almin voluntarily resigned from his employment. His letter resignation, dated August 12, 1961, and marked as Exhibit 1, was written after he was implicated by one of his co-workers in the theft of some equipment belonging to the employer. The argument on this point in the brief for the petitioner has not been rebutted, respondent Almin having filed no brief in reply.

In view of the foregoing considerations the judgment appealed from is reversed, and the complaint dismissed, without costs.

Concepcion, C.J., Reyes, Zaldivar, Ruiz Castro, Barredo, Villamor, and Makasiar, JJ., concur.

Fernando, J., no part.

Teehankee, J., in the result.

[1] SEC. 16. Jurisdiction of the Courts. - a) The Court of First Instance shall have jurisdiction to restrain violations of this Act; action by the Secretary or by the employees affected to recover underpayment may be brought in any competent Court, which shall render its decision on such cases within fifteen days from the time the case has been submitted for decision; in appropriate instances, appeal from the decision of these courts on any action under this Act shall be in accordance with applicable law.

(b) In the event that a dispute case before the Court of Industrial Relations involves as the sole issue or as one of the issues a dispute as to minimum wages above the applicable statutory minimum, and the Secretary of Labor has issued no wage order for the industry or locality applicable to the enterprise, the Court of Industrial Relations may hear and decide such wage issue: Provided, however, That the Secretary of Labor shall not undertake to fix the minimum wage for an industry or branch thereof which involves only a single enterprise, or a single employer. x x x.

[2] 99 Phil. 854

[3] R.A. No. 1052, Sec. 1. "In cases of employment without a definite period in a commercial, industrial or agricultural establishment or enterprises, neither the employer nor the employee shall terminate the employment without serving notice on the other at least one month in advance.

"The employee, upon whom no such notice was served, shall be entitled to one month's compensation from the date of the termination of his employment."

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