

**FELIPE DE LEON, BALDOMERO SALVADOR, MARTINIANO
EVANGELISTA, VICENTE PANLAQUI, CASTOR TUASON, FRANCISCO
GONZALO, ENRIQUE PAGCU, CLAUDIO SICHON, ESTANISLAO
SICHON, RUBEN ICBAN, AB...**

G.R. No. L-26844. September 30, 1969

Ponente: RUIZ CASTRO, J.

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RUIZ CASTRO, J.:

Review on certiorari of the resolution dated October 14, 1966 of the Court of Industrial Relations (CIR) dismissing the petitioners' complaint in case 38-V.

The respondent Pampanga Sugar Development Company (PASUDECO) operates a sugar central at San Fernando, Pampanga. The petitioners, 21 all told, were its security guards required to work eight hours a day, seven days a week. On November 28, 1961 the petitioners filed with the CIR a complaint seeking payment to them of premium or differential pay in the total amount of P49,581.79, plus attorney's fees of P3,000 and costs of suit. Upon the finding that the "petitioners were paid their monthly salaries plus 25% additional compensation for work on Sundays and holidays as provided for by law and that work on said days is one of the terms and conditions of their employment as security guards," CIR Judge Joaquin M. Salvador dismissed the case. Acting on the petitioners' motion for reconsideration, the court en banc affirmed Judge Salvador's order. Hence this appeal

The petitioners' claim, in essence, is that under the authority of section 4 of Commonwealth Act 444 as amended (Eight-Hour Labor Law), for a Sunday or legal holiday work of not more than eight hours, each of them is entitled to his monthly salary and his premium or differential compensation, i.e., his wage for the said. Sunday or legal holiday plus at least 25% thereof.

Sec. 4 of C.A. 444, as amended, reads:

"No person, firm, or corporation, business establishment or place or center of labor shall compel an employee or laborer to work during Sundays and legal holidays, unless he is paid an additional sum of at least twenty-five per centum of his regular remuneration: Provided, however, That this prohibition shall not apply to public utilities performing some public service such as supplying gas, electricity, power, water, or providing means of transportation or communication."

The issue which the petitioners here pose is not one of novel perception. In *Manalo vs. Pampanga Sugar Development Company, Inc.*, L-26776, June 30, 1969, this Court disposed of a similar contention, thus:

"The law is plain and unambiguous. It directs payment for work done not exceeding eight hours during Sundays and legal holidays by an employee or laborer not falling under the exception 'an additional sum of at least twenty-five per centum of his regular remuneration'. And we already said in one case that '(t)he minimum legal additional compensation for work on Sundays and legal holidays is - - - 25% of the laborer's regular remuneration'. Thus, if said employee or laborer regularly receives P6 a day for an eight-hour work on an ordinary day and he is made to work for eight hours on a Sunday or legal holiday, he is entitled to his base pay

of P6 plus P1.50 (25% of P6), or a total of P7.50. His pre-mium pay is P1. 50, the 'twenty-five per centum of his regular remuneration' of P6. It does not include his base pay of P6. He gets that P6 for an eight-hour work performed any day. And he gets the extra P1.50 if such eight-hour work is rendered on a Sunday or legal holiday. This is the most logical and reasonable import of the law. The CIR did not err in follow-ing it.

"The same signification is, contrary to peti-tioners' contention, given to the term 'premium pay' by the Department of Labor, as may be gleaned from the following formula it devised in determining the daily wage of monthly-salaried employees, ex-cept those employed by public utilities, working the whole year round, including Sundays and legal holi-days:

"Monthly salary multiplied by 12 (months) equals yearly salary; yearly salary divided by 380.5 (days) equals daily wage.

"The figure 380.5 above is the sum of the 303 ordinary days of the year and the 62 Sundays and legal holidays of the same year and 15.5 (25% of 62). Stated otherwise, the last figure 15.5 is the difference between 380.5 (theoretically, the number of days worked by the employee in one year) and 365 days (the actual number of days in a year). It is, in short, the equivalent in days of the employ-ee's 25% premium pay for 52 Sundays and 10 legal holidays in one year. The premium pay is not therefore, 125% as petitioners want us to believe. Thus, if the employee's daily wage is P6, his total premium pay for one year is P93 (P6 times 15.5). Computed in another way, with the same daily wage, his premium pay for one Sunday or legal holiday is 1.50 (25% of P 6); multiplying P1.50 by 62 (the num-ber of Sundays and legal holidays in one year), we get the same amount of P93. This is the amount of premium pay to which he is entitled in one year in addition to his fixed yearly salary.

"Petitioners postulate that the monthly sala-ry or, for that matter, the yearly salary applies on-ly to the ordinary working days and does not take into account the Sundays and legal holidays found in a given calendar month or year.

"The position thus taken by petitioners-appellants, that they are entitled to 125% premium, or extra pay, for work done in each Sunday and ho-liday, would only apply if it is shown that the month-ly or yearly salaries stipulated are intended to cover work on ordinary working days only or where the na-ture or conditions of employment do not require work on Sundays and holidays. But where, in agreeing to the monthly or yearly stipend, the parties knew, or had reason to know, that the work would be con-tinuous, without interruption on Sundays and holi-days, then the wage earner would only be entitled to the 25% supplement (or extra pay) provided by section 4 of the Eight-Hour Labor law, as the re-regular monthly or yearly wage already covered the work done on Sundays and holidays."

The import of the law and the decision in *Manalo* is that for work on Sundays and legal holidays, the employer must pay the em-ployee (1) his regular remuneration, or 100%, and (2) an additional sum of at least 25% of the regular remuneration, which is called the "premium pay. In other words, the pay for Sundays and legal holidays is 125% of the pay for ordinary days, but only the excess of 25% is premium pay. With respect to employees paid on a month-ly basis, the first 100% (of the 125%), corresponding to the regular remuneration, may or may not be included in the monthly salary. If it is, then the employee is entitled to collect only the premium of 25%. If it is not, then the employee has a right to receive the en-tire 125%.

The question that thus emerges is whether the petitioners' monthly salaries already cover the 100% regular remuneration for Sundays and legal holidays.[1]

From the allegations in paragraph 3 of the petitioners' com-plaint it can be clearly inferred that such regular remuneration of 100% is already encompassed in the petitioners' monthly salaries. We hereunder quote the itemization of the claim (which is essential-ly the same in respect to the other petitioners) of the petitioner Fe-lipe de Leon:

"Period of employment

for which claim is based - - - - -

January 1, 1946 to

October 31, 1957

Salary per month from

January 1, 1946 to

December 31, 1950 - - - - -

P95.00

Number of Sundays and

Holidays from January 1,

1946 to December 31, 1950 - - - - -

300

Rate per day plus 25% - - - - -

P3.95

300 Sundays and Holidays

multiplied by P3.95 rate per

each Sunday and Holiday - - - - -

P1,185.00"

From the particular precise statement, "Rate per day plus 25% - - - P3.95,"[2] it follows that the regular rate per ordinary day is P 3.1666, which is 1/30th of the monthly salary of P95. This means that in computing the daily wage, each of the petitioners di-vided his monthly salary by 30, the average number of days in a month, which includes Sundays and legal holidays. This is an ef-fective admission, or at least demonstrates awareness on the part of the petitioners, that their monthly salaries covered work not on-ly on ordinary days but also on Sundays and legal holidays.[3] The allegation, "300 Sundays and holidays multiplied by P 3.95 rate per each Sunday and Holiday - - - - P1,185.00," is correct. However, it must be remembered that of the amount of P1,185, the sum of P948 had already been paid to De Leon as part of his salary for the five-year period from January 1, 1946 to December 31, 1950.

The only question remaining is whether the 25% premium pay has also been paid. In the order of Judge Salvador, affirmed by the court en banc, there is a finding that the "petitioners were paid their monthly salaries plus 25% additional compensation for work on Sundays and holidays." The factual findings of the trial judge, unaltered or unmodified by the court en banc, cannot be re-viewed by this Court.[4] The findings of fact of the CIR are conclu-sive on this Court, where they are supported by substantial evi-dence, and the lower court has not acted with grave abuse of discretion in reaching them.[5]

ACCORDINGLY, the judgment a quo dismissing the com-plaint is affirmed. No pronouncement as to costs.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

Reyes, JBL, J., on official leave.

[1] In *Manalo vs. Pasudeco*, supra, this Court remanded the case to the CIR because the latter failed to make a finding on this pivotal point.

[2] Actually, it should be P3.9582 or P3.96.

[3] Otherwise, the petitioners would have divided their monthly salaries only by the number of regular working days, in which situation, with respect to De Leon's aforementioned claim, the daily wage should have been P3.74 and his Sunday and legal holiday pay should have been P4.67 (Computation here is based on 365 days with only 60 Sundays and holidays a year, the latter being the number claimed by the petitioners).

[4] *Liberation Steamship Co. & NDC vs. CIR*, L-25389-25390, June 27, 1968.

[5] *Laguna Colleges vs. CIR*, L-28927, Sept. 25, 1968; *Luzon Stevedoring Corporation vs. Celorio*, L-22542, July 31, 1968; *Tanglaw ng Paggawa vs. CIR*, L-24498, Sept. 21, 1968; *Mechanical Department of Labor Union vs. PNC vs. CIR*, L-28223, August 30, 1968.

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