

MANILA TERMINAL COMPANY, INC., PETITIONER, VS. THE COURT OF INDUSTRIAL RELATIONS AND MANILA TERMINAL RELIEF AND MUTUAL AID ASSOCIATION, RESPONDENTS.

G.R. No. L-4148. July 16, 1952

Ponente: PARAS, C.J.

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PARAS, C.J.:

On September 1, 1945, the Manila Terminal Company, Inc., hereinafter to be referred to as the petitioner, undertook the arrastre service in some of the piers in Manila's Port Area at the request and under the control of the United States Army. The petitioner hired some thirty men as watchmen, on twelve-hour shifts at a compensation of P3 per day for the day shift and P6 per day for the night shift. On February 1, 1946, the petitioner began the post-war operation of the arrastre service at the request and under the control of the Bureau of Customs, by virtue of a contract entered into with the Philippine Government. The watchmen of the petitioner continued in the service with a number of substitutions and additions, their salaries having been raised during the month of February to P4 per day for the day shift and P6.25 per day for the night shift. On March 28, 1947, Dominador Jimenez, a member of the Manila Terminal Relief and Mutual Aid Association, sent a letter to the Department of Labor, requesting that the matter of overtime pay be investigated, but nothing was done by the Department. On April 29, 1947, Victorino Magno Cruz and five other employees, also members of the Manila Terminal Relief and Mutual Aid Association, filed a 5-point demand with the Department of Labor, including overtime pay, but the Department again failed to do anything about the matter. On May 24, 1947, the petitioner instituted the system of strict eight-hour shifts. On June 19, 1947, the Manila Port Terminal Police Association, not registered in accordance with the provisions of Commonwealth Act No. 213, filed a petition with the Court of Industrial Relations. On July 16, 1947, the Manila Terminal Relief and Mutual Aid Association was organized for the first time, having been granted certificate No. 375 by the Department of Labor. On July 28, 1947, the Manila Terminal Relief and Mutual Aid Association filed an amended petition with the Court of Industrial Relations praying, among others, that the petitioner be ordered to pay to its watchmen or police force overtime pay from the commencement of their employment. On May 9, 1949, by virtue of Customs Administrative Order No. 81 and Executive Order No. 228 of the President of the Philippines, the entire police force of the petitioner was consolidated with the Manila Harbor Police of the Customs Patrol Service, a Government agency under the exclusive control of the Commissioner of Customs and the Secretary of Finance. The Manila Terminal Relief and Mutual Aid Association will hereafter be referred to as the Association.

Judge V. Jimenez Yanson of the Court of Industrial Relations in his decision of April 1, 1950, as amended on April 18, 1950, while dismissing other demands of the Association for lack of jurisdiction, ordered the petitioner to pay to its police force—

(a) Regular or base pay corresponding to four hours' overtime plus 25 per cent thereof as additional overtime compensation for the period from September 1, 1945 to May 24, 1947;

- (b) Additional compensation of 25 per cent to those who worked from 6:00 p. m. to 6:00 a. m. during the same period;
- (c) Additional compensation of 50 per cent for work performed on Sundays and legal holidays during the same period;
- (d) Additional compensation of 50 per cent for work performed on Sundays and legal holidays from May 24, 1947 to May 9, 1949; and
- (e) Additional compensation of 25 per cent for work performed at night from May 24, 1947 to May 9, 1949.

With reference to the pay for overtime service after the watchmen had been integrated into the Manila Harbor Police, Judge Yanson ruled that the court has no jurisdiction because it affects the Bureau of Customs, an instrumentality of the Government having no independent personality and which cannot be sued without the consent of the State. (*Metran vs. Paredes*, 45 Off. Gaz., 2835.)

The petitioner filed a motion for reconsideration. The Association also filed a motion for reconsideration in so far as its other demands were dismissed. Judge Yanson, concurred in by Judge Jose S. Bautista, promulgated on July 13, 1950, a resolution denying both motions for reconsideration. Presiding Judge Arsenio C. Roldan, in a separate opinion concurred in by Judge Modesto Castillo, agreed with the decision of Judge Yanson of April 1, 1950, as to the dismissal of other demands of the Association, but dissented therefrom as to the granting of overtime pay. In a separate decisive opinion, Judge Juan S. Lanting concurred in the dismissal of other demands of the Association. With respect to overtime compensation, Judge Lanting ruled:

- The decision under review should be affirmed in so far as it grants compensation for overtime on regular days (not Sundays and legal holidays) during the period from the date of entrance to duty to May 24, 1947, such compensation to consist of the amount corresponding to the four hours' overtime at the regular rate and an additional amount of 25 per cent thereof.
- As to the compensation for work on Sundays and legal holidays, the petitioner should pay to its watchmen the compensation that corresponds to the overtime (in excess of 8 hours) at the regular rate only, that is, without any additional amount, thus modifying the decision under review accordingly.
- The watchmen are not entitled to night differential pay for past services, and therefore the decision should be reversed with respect thereto.

The petitioner has filed the present petition for certiorari. Its various contentions may be briefly summed up in the following propositions: (1) The Court of Industrial Relations has no jurisdiction to render a money judgment involving obligations in arrears. (2) The agreement under which its police force were paid certain specific wages for twelve-hour shifts, included overtime compensation. (3) The Association is barred from recovery by estoppel and laches. (4) The nullity or invalidity of the employment contract precludes any recovery by the Association. (5) Commonwealth Act No. 4444 does not authorize recovery of bade overtime pay.

The contention that the Court of Industrial Relations has no jurisdiction to award a money judgment was already overruled by this Court in *G. R. No. L-4337, Detective & Protective Bureau, Inc. vs. Court of Industrial Relations and United Employees Welfare Association*, decided on December 29, 1951, in this wise: "It is also argued that the respondent court has no jurisdiction to award overtime pay, which is a money judgment. We believe that under Commonwealth Act No. 103 the Court is empowered to make the order for the purpose of settling disputes between employer and employee[1]. As a matter of fact this Court has confirmed an order of Court of Industrial Relations requiring the Elks Club to pay to its employees a certain sum of money as overtime back wages from

June 3, 1939 to March 13, 1941. This, in spite of the allegation of lack or excess of jurisdiction on the part of said court. (45 Off. Gaz., 3829; 80 Phil., 272)"

The important point stressed by the petitioner is that the contract between it and the Association upon the commencement of the employment of its watchmen was to the effect that the latter were to work twelve hours a day at certain rates of pay, including overtime compensation, namely, P3 per day for the day shift and P6 per day for the night shift beginning September 1, 1945, and P4 per day for day shift and P6.25 per day for the night shift since February, 1946. The record does not bear out these allegations. The petitioner has relied merely on the facts that its watchmen had worked on twelve-hour shifts at specific wages per day and that no complaint was made about the matter until, first, on March 28, 1947 and, secondly, on April 29, 1947.

In times of acute unemployment, the people, urged by the instinct of self-preservation, go from place to place and from office to office in search for any employment, regardless of its terms and conditions, their main concern in the first place being admission to some work. Specially for positions requiring no special qualifications, applicants would be good as rejected if they ever try to be inquisitive about the hours of work or the amount of salary, or ever attempt to dictate their terms. The petitioner's watchmen must have railroaded themselves into their employment, so to speak, happy in the thought that they would then have an income on which to subsist. But, at the same time, they found themselves required to work for twelve hours a day. True, there was an agreement to work, but can it fairly be supposed that they had the freedom to bargain in any way, much less to insist in the observance of the Eight-Hour Labor Law?

As was aptly said in *Floyd vs. Du Bois Soap Co.*, 1942, 317 U. S. 596, 63 Sup. Ct. 159; 6 CCH Labor Cases, Par. 51, 147, "A contract of employment, which provides for a weekly wage for a specified number of hours, sufficient to cover both the statutory minimum wage and overtime compensation, if computed on the basis of the statutory minimum, and which makes no provision for a fixed hourly rate or that the weekly wage includes overtime compensation, does not meet the requirements of the Act."

Moreover, we note that after the petitioner had instituted the strict eight-hour shifts, no reduction was made in the salaries which its watchmen received under the twelve-hour arrangement. Indeed, as admitted by the petitioner, "when, the members of the respondent union were placed on strict eight-hour shifts, the lowest salary of all the members of respondent union was P165 a month, or P5.50 daily, for both day and night shifts." Although it may be argued that the salary for the night shift was somewhat lessened, the fact that the rate for the day shift was increased in a sense tends to militate against the contention that the salaries given during the twelve-hour shifts included overtime compensation.

Petitioner's allegation that the Association had acquiesced in the twelve-hour shifts for more than 18 months, is not accurate, because the watchmen involved in this case did not enter the service of the petitioner, at one time, on September 1, 1945. As Judge Lanting found, "only one of them entered the service of the company on said date, very few during the rest of said month, some during the rest of that year (1945) and in 1946, and very many in 1947, 1948 and 1949."

The case at bar is quite on all fours with the case of *Detective & Protective Bureau, Inc. vs. Court of Industrial Relations and United Employees Welfare Association*, supra, in which the facts were as follows: "The record discloses that upon petition properly submitted, said court made an investigation and found that the members of the United Employees Welfare Association (hereafter called the Association) were in the employ of the petitioner Detective & Protective Bureau, Inc. (herein called the Bureau) which is engaged in the business of furnishing security guards to commercial and industrial establishments, paying to said members monthly salaries out of what it received from the establishments benefited by guard service. The employment called for daily tours of duty for

more than eight hours, in addition to work on Sundays and holidays, nonetheless the members performed their labors without receiving extra compensation." The only difference is that, while in said case the employees concerned were paid monthly salaries, in the case now before us the wages were computed daily. In the case cited, we held the following:

"It appears that the Bureau had been granting the members of the Association, every month, two days off days in which they rendered no service, although they received salary for the whole month. Said Bureau contended below that the pay corresponding to said 2-day vacation corresponded to the wages for extra work. The court rejected the contention, quite properly we believe, because in the contract there was no agreement to that effect; and such agreement, if any, would probably be contrary to the provisions of the Eight-Hour Law (Act No. 444 sec. 6) and would be null and void ab initio.

"It is argued here, in opposition to the payment, that until the commencement of this litigation the members of the Association never claimed for overtime pay. That may be true. Nevertheless the law gives them the right to extra compensation. And they could not be held to have impliedly waived such extra compensation, for the obvious reason that they could not have expressly waive it."

The foregoing pronouncements are in point. The Association cannot be said to have impliedly waived the right to overtime compensation, "for the obvious reason that they could not have expressly waived it."

The principle of estoppel and laches cannot well be invoked against the Association. In the first place, it would be contrary to the spirit of the Eight-Hour Labor Law, under which, as already seen, the laborers cannot waive their right to extra compensation. In the second place, the law principally obligates the employer to observe it, so much so that it punishes the employer for its violation and leaves the employee or laborer free and blameless. In the third place, the employee or laborer is in such a disadvantageous position as to be naturally reluctant or even apprehensive in asserting any claim which may cause the employer to devise a way for exercising his right to terminate the employment.

If the principle of estoppel and laches is to be applied, it may bring about a situation, whereby the employee or laborer, who cannot expressly renounce their right to extra compensation under the Eight-Hour Labor Law, may be compelled to accomplish the same thing by mere silence or lapse of time, thereby frustrating the purpose of the law by indirection.

While counsel for the petitioner has cited authorities in support of the doctrine invoked, there are also authorities pointed out in the opinion of Judge Lanting to the contrary. Suffice it to say, in this connection, that we are inclined to rule adversely against petitioner for the reasons already stated.

The argument that the nullity or invalidity of the employment contract precludes recovery by the Association of any overtime pay is also untenable. The argument, based on the supposition that the parties are in *pari delicto*, was in effect turned down in *Gotamco Lumber Co. vs. Court of Industrial Relations*,[*] 47 Off. Gaz., 3421, wherein we ruled: "The petitioner maintains that as the overtime work had been performed without a permit from the Department of Labor, no extra compensation should be authorized. Several decisions of this Court are involved. But those decisions were based on the reasoning that as both the laborer and employer were duty bound to secure the permit from the Department of Labor, both were in *pari delicto*. However, the present law in effect imposed that duty upon the employer (C. A. No. 444). Such employer may not therefore be heard to plead, his own neglect as exemption or defense.

"The employee, in rendering extra service at the request of his employer has a right to assume that the latter has complied with the requirement of the law, and therefore has obtained the required permission from the Department of Labor."

Moreover, the Eight-Hour Law, in providing that "any agreement or contract between the employer and the laborer or employee contrary to the provisions of this Act shall be null and void ab initio," (Commonwealth Act No. 444, sec. 6), obviously intended said provision for the benefit of the laborers or employees. The employer cannot, therefore, invoke any violation of the Act to exempt him from liability for extra compensation. This conclusion is further supported by the fact that the law makes only the employer criminally liable for any violation. It cannot be pretended that, for the employer to commit any violation of the Eight-Hour Labor Law, the participation or acquiescence of the employee or laborer is indispensable, because the latter, in view of his need and desire to live, cannot be considered as being on the same level with the employer when it comes to the question of applying for and accepting an employment.

Petitioner also contends that Commonwealth Act No. 444 does not provide for recovery of back overtime pay, and to support this contention it makes reference to the Fair Labor Standards Act of the United States which provides that "any employer who violates the provisions of section 206 and section 207 of this title shall be liable to the employee or employees affected in the amount of their unpaid minimum "wages or their unpaid overtime compensation as the case may be,"—a provision not incorporated in Commonwealth Act No. 444, our Eight-Hour Labor Law. We cannot agree to the proposition, because sections 3 and 5 of Commonwealth Act 444 expressly provides for the payment of extra compensation in cases where overtime services are required, with the result that the employees or laborers are entitled to collect such extra compensation for past overtime work. To hold otherwise would be to allow an employer to violate the law by simply, as in this case, failing to provide for and pay overtime compensation.

The point is stressed that the payment of the claim of the Association for overtime pay covering a period of almost two years may lead to the financial ruin of the petitioner, to the detriment of its employees themselves. It is significant, however, that not all the petitioner's watchmen would receive back overtime pay for the whole period specified in the appealed decision, since the record shows that the great majority of the watchmen were admitted in 1946 and 1947, and even 1948 and 1949. At any rate, we are constrained to sustain the claim of the Association as a matter of simple justice, consistent with the spirit and purpose of the Eight-hour Labor Law. The petitioner, in the first place, was required to comply with the law and should therefore be made liable for the consequences of its violation.

It is high time that all employers were warned that the public is interested in the strict enforcement of the Eight-Hour Labor Law. This was designed not only to safeguard the health and welfare of the laborer or employee, but in a way to minimize unemployment by forcing employers, in cases where more than 8-hour operation is necessary, to utilize different shifts of laborers or employees working only for eight hours each.

Wherefore, the appealed decision, in the form voted by Judge Lanting, is affirmed, it being understood that the petitioner's watchmen will be entitled to extra compensation only from the dates they respectively entered the service of the petitioner, hereafter to be duly determined by the Court of Industrial Relations. So ordered, without costs.

Feria, Pablo, Bengzon, Padilla, Tuason, Bautista Angelo, and Labrador, JJ., concur.

* 85 Phil. 291.

[1] Cf. *The Shell Co. vs. National Labor Union*, 46 Off. Gaz. Supp. 1, p. 97; 81 Phil., 315.

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