

**NATIONAL WATERWORKS & SEWERAGE AUTHORITY,
PETITIONER, VS. NWSA CONSOLIDATED UNION, JESUS CENTENO, ET
AL., & THE COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.**

G.R. Nos. L-26894-96. February 28, 1969

Ponente: FERNANDO, J.

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FERNANDO, J.:

In *National Waterworks & Sewerage Authority v. NWSA Consolidated Unions*,^[1] we made clear beyond doubt that employees of such government owned and controlled corporation, who intervened therein, were entitled to the benefits not only of the Eight-Hour Labor Law^[2] but also to those arising from any contractual obligation that might have been incurred by it. Subsequently, on May 12, 1965, the aforesaid labor union, acting for and in behalf of Aurelio B. Zurbano,^[3] Francisco P. Domingo^[4] and Rufo R. Fabregas,^[5] filed a motion alleging that such individuals were similarly situated as they rendered work in excess of the regular eight-hour period, including nighttime, having performed overtime services as well on Sundays and legal holidays and therefore entitled to a similar award in accordance with the aforesaid decision. The National Waterworks & Sewerage Authority, hereinafter referred to as the Nawasa, was duly heard. After which, on August 10, 1966, such a claim for financial benefits was granted in the respective amounts of P29,640.81 for Zurbano, P9,212.78 for Domingo and P22,711.24 for Fabregas, the order being issued by the Hon. Joaquin M. Salvador, Associate Judge of respondent Court of Industrial Relations. This order was subsequently affirmed by respondent Court en banc in a resolution dated September 22, 1966, denying a motion for reconsideration. Dissatisfied with such turn of events, this petition for review was filed by the Nawasa. We sustain respondent Court.

The intervenors in the first Nawasa case decided by us in 1964 were admittedly "holding positions of responsibility." That we duly noted, for one of them was the Secretary of the Board of Directors, another was the private secretary of the general manager, a third, the public relations officer, while many were division or section chiefs, including supervisors and overseers. Nonetheless, the Court of Industrial Relations, as pointed out in such decision, "after examining carefully their respective functions, duties and responsibilities found that their primary duties do not bear any direct relation with the management of the Nawasa, nor do they participate in the formulation of its policies nor in the hiring and firing of its employees. The chiefs of divisions and sections are given ready policies to execute and standard practices to observe for their execution. Hence, it concludes, they have little freedom of action, as their main function is merely to carry out the company's orders, plans and policies."

We made clear in that decision our agreement with respondent Court, our opinion likewise containing the following: "As a matter of fact, they are required to observe working hours and record their time work and are not free to come and go to their offices, nor move about at their own discretion. They do not, therefore, come within the category of 'managerial employees' within the meaning of the law."

So it is in the case before us. What was set forth in the challenged order of August 10, 1966 by respondent Court

adhered to the above appraisal insofar as the work performed by Domingo, who discharged the function of a supervisor and later coordinating engineer, Zurbano, who since September 13, 1955 until the date of his retirement was corporate legal counsel and Fabregas, who was the chief of the administrative division during the period of his claim were concerned. Thus: "The most obvious distinction of a 'managerial employee' is his participation in formulating company policies. Another is his power to hire or fire employees, and under Rep. Act No. 2377, his exemption from the rigid observance of regular office hours. Examining the above described duties of the three movants, the Court fails to find any indication that their primary duties bear any direct relation with the [Nawasa] management or that they help formulate its policies. Neither is there any indication that the three movants have the power to hire or fire employees of the [Nawasa]. On the contrary, the very exhibits presented by the [Nawasa] * * * show that the power to hire and fire, and to formulate policies exclusively belong to the Board of Directors and the General Manager. What is more, all the three movants were required to observe official time, so much so that any undertime or absence incurred by them were deducted from their accrued vacation or sick leave. They had to accomplish their daily time records in Civil Service Form No. 48, wherein they had to record their time of arrivals and departures, hence lack the freedom to come and go to their offices, or move about at their own pleasure, which is the unmistakable mark of a 'managerial employee.'"[6]

It was the conclusion of respondent Court then: "For the purpose of Rep. Act No. 2377, therefore, the movants do not fall within the category of 'managerial employees', hence are not barred from claiming overtime."[7]

As noted at the outset, we sustain respondent Court. Our August 31, 1964 decision in the main Nawasa suit is decisive of the case at hand. It furnishes the law of the case. As was recently held by this Court, speaking through Justice J. B. L. Reyes, in *People v. Olarte*,[8] a ruling constituting the law of the case, "even if erroneous, * * * may no longer be disturbed or modified since it has become final * * *. A subsequent reinterpretation of the law may be applied to new cases but certainly not to an old one finally and conclusively determined. * * *." To the same effect is the following from the pen of Justice Makalintal: "It need not be stated that the Supreme Court, being the court of last resort, is the final arbiter of all legal questions properly brought before it and that its decision in any given case constitutes the law of that particular case. Once its judgment becomes final it is binding on all inferior courts, and hence beyond their power and authority to alter or modify."[9] So it has always been from 1919, when we announced that a decision that has become the law of the case "is not subject to review or reversal in any court."[10]

The challenged order then bears on the face the impress of validity. Clearly, the burden of proof is on petitioner, if it were to succeed in setting it aside.

How did petitioner propose to discharge it? It would assign as errors allegedly committed the holding of respondent Court that it had jurisdiction over the claim of Domingo; the award to Zurbano, Domingo and Fabregas of the aforesaid additional compensation for work rendered during Sundays and legal holidays on the ground that previously respondent Court did deny such a claim and that no amount should have been granted for work rendered in excess of eight hours a day as there was no written authorization by petitioner's general manager; and the failure to sustain its plea of prescription of whatever claim could have been made by the aforesaid individuals. We are satisfied that on the above facts as found by the Court of Industrial Relations and the law as previously declared by us, such errors alleged cannot be accorded acceptance.

1. The first error alleged is the holding of respondent Court that it had jurisdiction over the claim of Domingo. Petitioner's basis for so asserting that respondent Court erred in that respect was the allegation that at the time the motion to extend benefits was filed, "Francisco P. Domingo was no longer in the service of the National Waterworks and Sewerage Authority because he reached the retirement age. Since there was no employer-employee relationship when the action was filed in court, the respondent CIR did not have jurisdiction

over the same.”[11]

It is to be admitted that it was not until May 11, 1965 that there was such a motion to that effect. It cannot be denied either that as of October 11, 1961, Domingo was no longer in service of the petitioner, having retired on that day. Nonetheless, the assertion of petitioner in this assignment of error is not entitled to prevail. The second paragraph of our opinion in the main case states clearly that the dispute which resulted in its certification by the President between petitioner and its employees as duly represented by their unions occurred earlier than December 5, 1957, when the hearing was conducted by respondent Court. Thereafter, a stipulation of facts was submitted on December 13, 1957. Petitioner in that case filed a motion to dismiss on February 5, 1958. The decision of respondent Court was rendered on January 16, 1961 and affirmed by us on August 31, 1964.

It would appear, therefore, that whatever right Domingo could assert was in existence all the while the main case was being heard both before respondent Court and by this Court. It could not be denied that until his retirement on October 11, 1961, he was in the employ of petitioner. As noted, our August 31, 1964 decision, which affirmed the action taken by respondent Court, supplies the law of the case. The allegation, therefore, that respondent Court lacked jurisdiction because of the absence of an employer-employee relationship falls of its own weight, or more appropriately, of its own lack of weight. The decision referred to in petitioner's brief in support of such assignment of error,[12] while announcing the correct principle that after the termination of employer-employee relationship and no reinstatement being sought, the claim for pecuniary benefits comes within the jurisdiction of regular courts, while undoubtedly correct, is not controlling as it finds no application to the case before us.

2. The second assigned error is equally without merit. It is there alleged that respondent Court committed a grave abuse of discretion amounting to lack of jurisdiction, when it awarded to Zurbano, Domingo and Fabregas additional compensation for work rendered during Sundays and legal holidays considering that such a demand was denied by it in the main case.

In support of such an alleged error, petitioner cited in its brief this portion of the order of January 16, 1961 of respondent Court: "The intervenors, in their Memorandum, wanted to include the claim for additional compensation for services rendered on Sundays and legal holidays before and after the effectivity of R. A. No. 1880 and also on Saturdays after the effectivity of the said law, contending that Saturday becomes an off-day or day of rest. This particular claim is not covered by the present petition, which only seeks payment of additional payment for night work and overtime pay. The records show that the respondent Company interposed its timely objection to the evidence tending to establish such claim. The intervenors did not file any amended petition covering the claim for extra premium for work performed on Saturdays, Sundays and legal holidays, contrary to their announcement made in open court. And neither was it touched by the respondent Company during the presentation of its evidence.”[13] Its very own brief, however, two pages later, duly took note of this excerpt from the aforesaid order thus: "It is, therefore, our resolution that respondent NWSA should pay its employees and laborers concerned additional compensation equivalent to 25% of their basic salaries or wages for work on Sundays and legal holidays even if the same should fall within the staggered five working days effective on the date their working days were staggered.”[14]

Respondents, in their brief, could thus correctly conclude: "The awardees are not solely the petitioners in the said cases, but all 'the employees and laborers concerned' of the NWSA. Obviously, a member of the NWSA Consolidated Unions, who has not rendered work on Sundays and legal holidays, is not concerned with the benefit in question. The Industrial Court did not impose any limitation affecting the qualification of the intended recipients of the award, except that they should be employees, or laborers, of the NWSA, and must be concerned with the benefit in question, i.e., that they rendered services on Sundays and legal holidays. Indeed, the intervenors were very much concerned about the afore-stated benefit because they did actually perform said

services; so much so, that they demanded it during the hearing and likewise in their memorandum." [15]

Whatever doubt could conceivably exist should be erased if heed be paid to what was explicitly set forth by us in our opinion in the main case. As we stated there: "It is to be noted, however, that in the case at bar it has been stipulated that prior to the enactment of Republic Act No. 1880, providing for the implementation of the 40-Hour Week Law, the Metropolitan Water District had been paying 25% additional compensation for work on Sundays and legal holidays to its employees and laborers by virtue of Resolution No. 47, series of 1948, of its Board of Directors, which practice was continued by the [Nawasa] when the latter took over the service. And in the collective bargaining agreement entered into between the [Nawasa] and respondent unions it was agreed that all existing benefits enjoyed by the employees and laborers prior to its effectivity shall remain in force and shall form part of the agreement, among which certainly is the 25% additional compensation for work on Sundays and legal holidays theretofore enjoyed by said laborers and employees. It may, therefore, be said that while under Commonwealth Act No. 444 a public utility is not required to pay additional compensation to its employees and workers for work done on Sundays and legal holidays, there is, however, no prohibition for it to pay such additional compensation if it voluntarily agrees to do so. The [Nawasa] committed itself to pay this additional compensation. It must pay not because of compulsion of law but because of contractual obligation." [16]

It would be to defy rather to defer to the above decision, which is the law of the case, if petitioner is to be indulged in its unwarranted assertion that the award of additional compensation for work rendered during Sundays and legal holidays was done with grave abuse of discretion.

3. The third assigned error suffers from grave inaccuracy. Moreover, on its face it is indicative of a failure to abide by what has long been settled law. It would impute to respondent Court a grave abuse of discretion when it granted to Zurbano, Domingo and Fabregas additional compensation for work rendered in excess of eight hours a day as well as nighttime compensation in the absence, so it is alleged, of a written authorization by the general manager of the Nawasa.

The third assigned error would boldly assert that all three, Zurbano, Domingo and Fabregas, were not authorized in writing to perform overtime work. Nonetheless, in the discussion thereof explicit reference was made not to all the three individuals but only to Zurbano and Fabregas. It would quote the order of respondent Court of August 10, 1966 thus: "'Aurelio Zurbano and Rufo Fabregas, on the other hand, had no prior written authority to do overtime or night work similar to the directives of Domingo.'" [17]

As is clear from the above statement, Domingo had such a directive and therefore should not have been included in this alleged error. Moreover, what is to be deplored is that only a portion of the order of August 10, 1966 is quoted by petitioner, perhaps, because of the realization that if the paragraph were quoted in full this particular assignment of error would be exposed as baseless.

The brief for respondents, quoting the paragraph in full, renders the matter crystal clear. Thus: "'Aurelio Zurbano and Rufo Fabregas, on the other hand, had no prior written authority to do overtime or night work similar to the directives of Domingo. The records is replete with their declaration, however, made again and again, that they had been verbally ordered by the general manager to perform almost daily overtime and night work and in addition to work on Saturdays, Sundays and legal holidays. Not only was this evidence corroborated by other witnesses, it was also unrefuted by respondent NWSA.'" [18]

What was thus omitted by petitioner would erase all doubts as to the existence of such authorization. Under the circumstances, such an omission is to be deplored. It could yield the highly unfavorable impression that through inadvertence, to say the least, this Court could have been misled. Greater care is therefore incumbent on petitioner.

What petitioner would therefore seek is a reversal of a finding of fact of respondent Court. That cannot be done. It would be different if there were no evidence in support thereof. Then there would be a grave abuse of discretion. That is not the case however. According to the proven facts, it would be to trifle with the truth to assert that no such authorization to the three above-named individuals was given.

The controlling doctrine recognizes the wide discretion enjoyed by respondent Court in ascertaining what actually did occur in labor disputes of whatever sort. Its conclusion once reached is invariably accorded the seal of our acceptance. Its disposition of a case before it usually elicits assent from us. It could happen of course that we may fail to view matters similarly. We have that power; it must be made use of when warranted. It does not occur often though. That is not merely so as to the facts found. The acceptance of its legal conclusion reached is not a rare event either. This is merely to recognize that on labor matters, its recognized expertise has well-nigh earned for its decrees the title-deed to recognition, unless there be a rank failure to observe the constitutional and statutory limitations which it must observe.

In the more familiar terminology, only on a showing of clear and grave abuse of discretion are we justified in disturbing its finding of facts. So it has been uniformly and uninterruptedly held from *Manila Electric Company v. National Labor Union*,^[19] a 1940 decision, the opinion being rendered by Justice Laurel, to *Philippine Educational Institution v. MLQSEA Faculty Association*,^[20] decided late last year.

We reiterate such a doctrine. The third error assigned, like the first two, is thus clearly bereft of any persuasive force.

4. Nor is there anything in the fourth assigned error that would call for a reversal. What is there relied upon is the alleged prescription of the claims of Zurbano, Domingo and Fabregas under Republic Act No. 1993, which would bar any action to enforce any claim under the Eight-Hour Labor Law if not commenced within three years after the accrual of such a cause of action. At the most what could be challenged even assuming that this contention was impressed with plausibility would be the statutory claim, not that arising from the collective bargaining agreement.

Even as to that aspect, this alleged error need not occasion further thought. Petitioner must be aware that before our 1964 decision, there were doubts sincerely and honestly entertained as to whether or not officials of the category now seeking to enjoy the benefits of the Eight-Hour Labor Law were managerial employees. Only upon such rendition were such doubts erased. In addition, we made certain in such decision that the benefits must be conferred to all similarly situated and not to be withheld from some. To now assert that the three officials, whose claims are under consideration, are barred is to misread the import of our decision, which, as made clear from the beginning, supplies the law of the case. The last assigned error is thus equally groundless.

It would be unfortunate and unwarranted if a recognition of both statutory and contractual obligation sustained alike by the express terms of a previous decision which is the law of the case and the dictates of equity would now be frustrated. Such a result does not commend itself for acceptance.

WHEREFORE, the order of August 10, 1966, the reconsideration of which was denied in a resolution of September 22, 1966, is affirmed. With costs against petitioner.

Concepcion, C.J., Reyes, Makalintal, and Barredo, JJ., concur.

Dizon, Castro, and Teehankee, JJ., in the result.

Sanchez, J., did not take part.

[1] G.R. No. L-18938, August 31, 1964.

- [2] Commonwealth Act No. 444 as amended by Republic Act No. 2377.
- [3] G.R. No. L-26894.
- [4] G.R. No. L-26895.
- [5] G.R. No. L-26896.
- [6] Brief for Petitioners, pp. 29-30.
- [7] Ibid, p. 30.
- [8] G.R. No. L-22465, February 28, 1967.
- [9] Kabigting v. Acting Director of Prisons, G.R. No. L-15548, October 30, 1962.
- [10] Compagnie Franco-Indochinoise v. Deutsch--Australische Dampschiffs Gesellschaft, 39 Phil. 474, 476.
- [11] Brief for Petitioner, p. 13.
- [12] Price Stabilization Corporation v. Court of Industrial Relations, G.R. No. L-13806, May 23, 1960.
- [13] Brief for Petitioner, pp. 14-15.
- [14] Ibid, p. 17.
- [15] Brief for Respondents, p. 11.
- [16] National Waterworks & Sewerage Authority v. NWSA Consolidated Unions, L-18938, August 31, 1964.
- [17] Brief for Petitioner, p. 19.
- [18] Brief for Respondents, p. 16.
- [19] 70 Phil. 617.
- [20] G.R. No. L-24019, November 29, 1968.

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