

VISAYAN STEVEDORE TRANSPORTATION COMPANY (HINIGARAN BRANCH) AND RAFAEL XAUDARO, PETITIONERS, VS. COURT OF INDUSTRIAL RELATIONS AND UNITED WORKERS AND FARMERS' ASSOCIATION (UWFA)...

G.R. No. L-37650. September 30, 1977

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

These are petitions filed respectively by the United Workers' and Farmers' Association (UWFA), Venancio Dano-og, Buenaventura Agarcio and 137 others (No. L-37693)[1] — hereinafter referred to as UWFA — and by the Visayan Stevedore Transportation Company (VISTRANCO) and Rafael Xaudaro (No. L-37650) — hereinafter referred to as the Company — both seeking the review of the order of the Court of Industrial Relations dated October 30, 1972 the dispositive part of which reads:

"WHEREFORE, let the Report of Examiner dated August 20, 1969 be, as it is hereby, APPROVED, and the respondents are hereby ordered to deposit said amount of P-78,468.48 representing the backwages of complainants from November 12, 1955 up to July 31, 1969 with the Court, for further disposition.

The Chief Examiner of this Court is further ordered to compute the backwages due complainants herein, from August 1, 1969 up to the date they are actually reinstated, and upon termination, to submit the same to the Court for further disposition.

SO ORDERED

Manila, October 30, 1972.

(SGD) ANSBERTO P. PAREDES
Acting Presiding Judge"[2]

and the Resolution en bane of said court dated September 26, 1973 denying the motions for reconsideration of the petitioners.[3]

The parties being the same and the actions having arisen out of the same incident, the two cases were consolidated.[4]

The Company is engaged in the loading and unloading of vessels, with a branch office in Hinigaran, Negros Occidental. Its workers were being supplied by UWFA. On November 11, 1955, the company terminated the services of the petitioners in G.R. No. L-37693 who are members of UWFA. A complaint for unfair labor practice was consequently instituted against the Company and, in due course, the Court of Industrial Relations found the Company guilty of unfair labor practice.[5] On appeal, this Court in No. L-21696 affirmed on February 25, 1967[6] said decision of the Court of Industrial Relations.

After this Court's decision had become final and executory, the Court of Industrial Relations directed the Chief

Examiner to compute the back wages due each of the 13 8 UWFA members. In his initial report, the Chief Examiner informed the court of his inability to make an intelligent and fair computation and asked for guidance as to the proper basis of computation. In an order dated February 24, 1969, the Court of Industrial Relations adopted the suggested basis of computation in the Company's motion dated May 10, 1968 in view of the conformity thereto of UWFA embodied in their motion dated June 29, 1968, stating that the same was "fair enough to determine the earnings of every complainant every season, basing the same from the individual earnings of those who were not discharged and which is also in consonance with the rules laid down by the Court in other cases similarly situated." [7]

The pertinent portion of the Company's motion which the Court of Industrial Relations adopted reads:

"2. That, inasmuch as the payrolls for the six (6) vessels stevedored at Hinigaran, Negros Occidental are still available (Report, p. 2) and it can be ascertained therefrom the percentage of the amounts actually paid to the complainants in relation to the payrolls prior to the stoppage of their work, it is respectfully submitted that the same percentage be used in ascertaining the amounts they could have earned had they participated in the stevedoring of the vessels that docked at Hinigaran from November 12, 1955 to June 27, 1961, the payrolls for said period being available for examination;

3. That respondents are hereby submitting a schedule showing the tonnage handled for each of the vessels during the period from November 2, 1955 to June 27, 1961, including the corresponding gang hours, to supplement Appendix "1" of the Report and which schedule is made an integral part hereof as schedule "A".

4. That the foregoing is the most reasonable method of computing the amounts due the several complainants, taking into consideration the nature of their work and the irregularity of their schedule." (Italics supplied.)

Complying with the order dated February 24, 1969, the Chief Examiner submitted his report dated August 20, 1969, wherein his computation was summarized as follows:

"10. That the computed backwages of the 183 complainants in this case — covering the period from November 12, 1955 (date of lay-off) until July 31, 1969 (they have not as yet been reinstated as of this date) — will amount to P78,468.48 (See Appendix "I" for details).

11. The computed backwages of the 138 complainants in the case — covering the period from November 12, 1955 (date of lay-off) until June 27, 1961 (there was no more operation or stevedoring work done from this date up to the present) it will amount to P32,906.59 (See Appendix "1" for details)." (Italics supplied)

Both UWFA and the Company filed their oppositions to the Chief Examiner's report of August 20, 1969. In the course of the hearing of their oppositions UWFA and the Company agreed that the Chief Examiner should prepare another computation report, which would only be "for the personal use of the counsels" in reaching a common ground for agreement. The report, dated December 15, 1969, did not, however, serve its purpose and the Chief Examiner was again required to prepare another supplementary report, which he submitted on October 10, 1970.

The October 10, 1970 supplementary report computed the back wages due the dismissed UWFA members on the basis of the total milling days of the two sugar centrals which employ the Company's stevedoring services. This report summarizes the computation as follows:

"1. Based from the total milling days of 2,605 (operating days) followed by the Binalbagan-Isabela Sugar Company Inc. and multiplied by daily basic rates of the complainants at the time of their dismissal on November 12, 1955, the total computed backwages of the complainants from November 12, 1955 (date of dismissal) up to November 30, 1967 (complainants had not been reinstated as at the close of office hours on this date) — before deducting whatever amounts, if any, the complainants might have been able to receive from

other employers or other establishments during this period covered by the back wages — is PI ,634,711.10 (See Appendix ' I ' for details).

2. Based from the total milling days of 2,347 (operating days) followed by the La Carlota Sugar Central and multiplied by the basic daily rates of the complainants at the time of their dismissal on November 12, 1955, the total computed back wages of the complainants from November 12, 1955 (date of dismissal) up to November 30, 1967 (complainants had not been reinstated as at the close of office hours on this date) —¹ before deducting whatever amounts, if any, the complainants might have been able to receive from other employers or other establishments during this period covered by the back wages, is pi ,473,427.60 (see Appendix ' I ' for details)."

After several hearings, the court issued its order dated October 30, 1972 approving the report dated August 20, 1969, directing the company to deposit with the court the amount of F78,468.48 representing the back wages of complainants from November 12, 1955 up to July 31, 1969, and directing the Chief Examiner to compute the back wages due the complainants from August 1, 1969 up to the date they are actually reinstated for submission to the court for further disposition.

Both UWFA and the Company filed their motions for reconsideration of the order dated February 24, 1969 but the court sitting en banc denied their motions in its Resolution dated September 26, 1973. Hence these petitions.

UWFA, the intervenors and the Company separately questioned the computation of back wages approved by the court on October 30, 1972. UWFA claims that the award of back wages amounting to P78,468.48 for the period covering thirteen (13) years, eight (8) months and nineteen (19) days is unfair, without foundation in fact and in law, and constitutes an abuse of discretion on the part of the court. The intervenors contend that the basis of computation approved was one-sided, adopted strictly from the suggestions of the Company, and thus, the back wages are unconsciously too meager to be fair, just and equitable. The Company, on the other hand, contends that since the 138 dismissed employees are not entitled to back wages after the cessation of operations at the Company's Hinigaran branch on June 27, 1961, the computation of back wages should not extend beyond that date.

UWFA and the intervenors never questioned the correctness of the actual computations in the report of the Chief Examiner dated August 20, 1969 in so far as it strictly conforms to the basis and mode of computation indicated in the order of the court dated February 24, 1969. What UWFA and the intervenors now seek is the adoption of a different computation which is based on the total milling days of the two sugar centrals as reported by the Chief Examiner on October 10, 1970.

In the brief filed for the complainants-petitioners by Atty. Eliseo P. Legaspi, Rollo, (L-37693), p. 598, it is averred that the correct computation of the back wages is:

"In the light of all the foregoing it is most respectfully prayed that the correct computation should be P4.60 x 138 claimants x 30 days x 8 months x 19 years as of November 12, 1974, this year equals P-2,894,688.00 back wages for 138 claimants-petitioners." [8]

The employer company, petitioner in G.R. No. L-37650, contends that no back wages should be paid to the complainants-laborers after the company had ceased to operate in Hinigaran, Occidental Negros, on June 27, 1961.

Anent the claim of the complainants-workers that the back wages as of November 12, 1974 had a total of P2,894,688.00, the employer company states:[9]

"Petitioners submit that 'the correct computation should be P4.60 x 138 claimants x 30 days x 8 months x 19

years as of November 12, 1974, this year equals P2,894,688.00 back wages for 138 claimants-petitioner.' As we have illustrated earlier in this refutation, such a computation in this refutation, such a computation overlooks the peculiar circumstances attending the stevedoring operations at Hinigaran. This computation ignores the fact that petitioners herein represented only a small faction of the total work force called upon to participate in the stevedoring operations at Hinigaran, and that because labor supply far exceeded the demand for it, it became necessary to institute the so-called 'rotation system.' where several groups or 'gangs' took turns. Apparently, this computation is also premised on the wrong assumption that petitioners worked everyday during the milling season and overlooks the more important consideration that there was stevedoring operation only whenever a foreign vessel was in Hinigaran. Furthermore, the amount of P2,894.688.00 being prayed by the petitioners overwhelmingly surpassed the total payroll of P628.347.06 found by the Court Examiner based on the actual operations of the respondent between November 12, 1955 and June 27, 1961, the date when the SS 'Patriakos' — the last foreign vessel to call at Hinigaran — left port.

In the light of the foregoing, it is therefore most respectfully submitted that the alternative computation being suggested by the petitioners this late hour in the day is not only fantastic and unrealistic, but also irrational and unjust." [10]

The employer company insists that the correct amount to be paid as back wages is P78,468.48 as found by the Court of Industrial Relations.

It is thus seen that there is a wide divergence between the amounts fixed by the employer company and the workers.

The records of both cases disclose that there is no accurate basis for computing the back wages. Attached to the record of case No. L-37693 as Annex "T" [11] is the following computation submitted by the Chief Examiner on December 12, 1969:

"VISAYAN STEVEDORE TRANSPORTATION COMPANY

Rate Per Case No. 62 ULP-CEBU

Claimants

No.

Year

1 Year

6 Years

10 Years

14 Years

Cabo

1

900.00

900.00

5,400.00

9,000.00

12,600.00

Winchman

6

800.00

4,800.00

28,800.00

48,000.00

67,200.00

Signalman

5

700.00

3,500.00

21,000.00

35,000.00

49,000.00

Stevedores

126

500.00

63,000.00

378,000.00

630,000.00

882,000.00

Total s

P72,200.00

P433,200.00

P722,000.00

P1,010,800.00

How Much Each Claimant Will Receive

1 Year

6 Years

10 Years

14 Years

Cabo

900.00

5,400.00

9,000.00

12,600.00

Winchman

800.00

4,800.00

8,000.00

11,200.00

Signalmen

700.00

4,200.00

7,000.00

9,800.00

Stevedore

500.00

3,000.00

5,000.00

7,000.00

Manila, Philippines, December 15, 1969.

Respectfully submitted:

(SGD) FELIPE C. TERSO

Chief Examiner"

This computation was prepared pursuant to the agreement of the parties at the hearing on December 4, 1969.¹² It was understood, however, that the said computation to be prepared by the Chief Examiner "shall be for the personal use of the counsels as a basis to meet on a common ground to expedite matters."

It is futile to order a new computation of the back wages of the complaining workers as prayed for by the petitioners in Case No. L- 37693. To avoid further delay, we adopt as basis the computation prepared by the Chief Examiner dated December 15, 1969, Annex "T",¹³ but we fix an amount equivalent to only five (5) years for the whole period from November 12, 1955 up to the present computed as follows:

1 Cabo

at 900 x 5

4,500.00

6 Winchmen

at 800 x 5 x 6

24,000.00

5 Signalmen

at 700 x 5 x 5

17,500.00

126 Stevedores

at 500 x 5 x 126

315,000.00

P361,000.00

The amount of P361,000.00 should be paid to the workers as computed above without qualification or deduction. This computation is in consonance with the ruling of this Court in FEATI University Faculty Club (Paflu) vs. FEATI University[14] the pertinent portion which reads:

"As to the amount of backwages, the Court applies the precedent recently set in Mercury Drug Co. vs. CIR31 of fixing the amount of backwages to a just and reasonable level without qualification or deduction so as to avoid protracted delay in the execution of the award for backwages due to extended hearings and unavoidable delays and difficulties encountered in determining the earnings of the laid-off employees ordered to be reinstated with backwages during the pendency of the case for purposes of deducting the same from the gross backwages awarded.

As has been noted, this formula of awarding reasonable net wages without deduction or qualification relieves the employees from proving or disproving their earnings during their lay-off and the employers from submitting counterproofs, and obviates the twin evils of idleness on the part of the employee who would 'with folded arms, remain inactive in the expectation that a windfall would come to him' and attrition and protracted delay in satisfying such award on the part of unscrupulous employers who have seized upon the further proceedings to determine the actual earnings of the wrongfully dismissed or laid-off employees to hold unduly extended hearings for each and every employee awarded backwages and thereby render practically nugatory such award and compel the employees to agree to unconscionable settlements of their backwages award in order to satisfy their desire need.[15]

The total amount of back wages of P361,000.00 shall be for the whole period from November 12, 1955 until the present. It is no longer necessary to determine when the Company stopped operating in Hinigaran, Occidental Negros.

WHEREFORE, the order appealed from is hereby modified in that the Visayan Stevedore Transportation Company is ordered to pay the total amount of P361,000.00 without qualification or deduction to the 138

petitioners-workers in Case No. G.R. No. L-37693, without pronouncement as to costs.

SO ORDERED.

Teehankee (Chairman), Makasiar, Muñoz Palma, Martin, and Guerrero, JJ., concur.

[1] Attys. Luis M. Treyes and Isabelo Sanson, the original counsel of the petitioners, have filed their petition in intervention under permission granted by Resolution of the First Division dated June 19, 1974 Rollo, (L-37693), pp. 507-508.

[2] Annex "R", Rollo. (L-37693). pp. 111-112.

[3] Annex "S", Rollo.(L-37693). p. 113.

[4] Per Resolution Of this Court en bane dated January-22. 1976. ordering the consolidation of L-37650 and L-37693, Rollo, (L-37693). p. 665.

[5] CIR Case No. 62-ULP-Cebu. (United Workers and Farmers Association, et al. vs. Visayan Stevedore Transportation, Co. et al.).

[6] Visayan Stevedore Transportation, Co., et al. vs. C. I. R.. et at., 19 SCRA 426.

[7] (L-37693), p. 101

[8] Brief for Complainants-Petitioners, p. 11.

[9] Brief for the Respondents in G. R. No. 1,-37693. Rollo. p. 644.

[10] Idem, pp. 25-27.

[11] G. R. No. 1,-37693. Rollo, p. 114.

[12] Annex "I-P. (i. R. No. L-37693. Rollo, p. 115.

[13] G. R. No. L-37693. Rollo. p. 114.

[14] 58 SCRA 395.

[15] Idem, pp. 418-419.

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