

**NATIONAL WATERWORKS AND SEWERAGE AUTHORITY,
PETITIONER, VS. NWSA CONSOLIDATED UNIONS, SIMEON CHONGCO
AND COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.***G.R. No. L-32019. October 26, 1973*

Ponente: ANTONIO, J.

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Appeal by certiorari, petitioner contending as not in accord with law, the order of the Court of Industrial Relations in Case No. 19-IPA(4), dated February 25, 1970, (a) directing the payment of basic time compensation for services rendered by Simeon Chongco, in excess of the official time of five (5) hours but within eight (8) hours, during the summer months, (b) holding that Republic Act No. 1993, which bars claims for overtime services rendered beyond three (3) years prior to the demand, is not applicable, and (c) ruling that any service rendered exceeding thirty (30) minutes beyond the official working hours as evidenced in time records, is overtime service for which the employee should be paid. Petitioner also assails the order of February 25, 1970 for its purported failure to express "clearly and distinctly the facts and the law on which it is based," as required by Section 12, Article VIII, of the former Charter, now Section 9, Article X, of the new Constitution.

On October 23, 1967, Simeon Chongco filed with respondent Court of Industrial Relations a "Motion to Extend Benefits" docketed as Case No. 19-IPA(4), alleging that he was employed as Administrative Assistant of the National Waterworks and Sewerage Authority (hereinafter referred to as the NWSA), and at the time of filing of his motion, Chief of the Recreation Section, with a salary of P4,860.00 per annum, with free quarters; that from January, 1955 to June, 1965, he rendered overtime, night time, Sunday, legal holiday and basic time services, but he was not paid in full for the said services despite the decision of the Supreme Court in G.R. No. L-18938, entitled "National Waterworks and Sewerage Authority vs. NWSA Consolidated Unions, et al.," promulgated on August 31, 1964 (11 SCRA 766); and that pursuant to said decision, he was also entitled to an adjustment of his basic weekly salary beginning July 1, 1957, equivalent to seven-fifths (7/5) of his overall weekly wage prior to said date, but such adjustment was not effected by the NWSA. Movant Chongco prayed that the Court Examiner be directed to determine the amount of his claims, and that the report of said examiner be submitted to respondent court preceding a hearing in order that the merits of the motion and the correctness of the report could be heard together.

On November 10, 1967, the NWSA filed an opposition to Chongco's motion professing lack of knowledge or information sufficient to form a belief as to the truth of the averments in the motion regarding the movant's alleged unpaid services. By way of special and affirmative defenses, the NWSA alleged that the claim for overtime compensation accruing for more than three (3) years prior to the filing of the motion had already prescribed; that movant Chongco had no written authority from the NWSA's General Manager to render overtime, night time, Sunday and legal holiday services; and that Republic Act No. 1880 does not apply to employees like movant Chongco who receive salaries on a monthly basis.

In an Order dated November 23, 1967, Associate Judge Joaquin M. Salvador of respondent court directed the court's Examining Division to compute the claims of movant Chongco and to submit a report of the computation for further disposition by the court.

On March 14, 1968, the Court Examiner submitted to the court a report which found movant Chongco entitled to the following benefits: overtime differential - P1,023.69; Sunday and legal holiday differential - P8,219.53; and basic time differential - P4,773.44, in the aggregate amount of P14,016.66.

Both parties registered objections to the report. Movant Chongco's objections were as follows: (a) The Court Examiner's report did not include salary adjustment, which should have been effected on July 1, 1957, as required by the court's Order of January 16, 1961, which was affirmed by the Supreme Court in its decision in G.R. No. L-18938. (b) In computing his overtime and other fringe benefits, the Court Examiner failed to take into account the money value of the lodging furnished free by the NWSA to him in the nature of quarters.

The objections of the NWSA to the report were as follows: (a) The alleged overtime and night time services covered in the report were not duly authorized in writing by the NWSA General Manager, and any service rendered in excess of eight (8) hours a day or at night time was voluntary and did not redound to the NWSA's benefit. (b) The movant is not entitled to additional compensation for work rendered on Sundays and legal holidays. (c) The Examining Division arrogated unto itself judicial powers when it included in the report additional compensation for services rendered within eight (8) hours a day, which was not an award in the main case.

On June 7, 1968, Chongco filed a Petition to Admit Amended Motion to Extend Benefits so as to include in his claim additional compensation for work rendered on Saturdays after the effectivity of Republic Act No. 1880. In an opposition filed by it on June 20, 1968, the NWSA denied the material averments of movant's petition and argued that there is no law authorizing payment of additional compensation for work done on Saturday, and that payment for Saturday work was not among the awards made in the main case.

After trial, Associate Judge Joaquin M. Salvador of respondent court issued an Order on February 25, 1970, the dispositive portion of which reads:

"WHEREFORE, (a) The portion of the motion to extend benefits (including the amended motion of June 7, 1968) relative to the claims for payment of (1) overtime, (2) Sundays & legal holidays and (3) Saturdays after June 30, 1957, and (4) basic time services is hereby granted; (b) The Report of the Court Examiner dated March 14, 1968 covering the amount of P14,016.66 is hereby approved; and (c) Respondent is hereby ordered to deposit with the Clerk of Court within fifteen (15) days from receipt hereof the sum of P14,016.66, plus the amount of deposit fee, for further disposition.

"The Clerk of Court is directed to issue the corresponding writ of execution should NWSA fail to deposit the required amount within the stated period.

"The claims of movant for salary adjustment and adjusted overtime are held in abeyance for further deliberation and proceedings. In the meantime, the Court Examiner is directed to compute the added overtime differential movant would receive by including a new factor, the value of his living quarters tentatively fixed at P100.00 a month, and submit the same in a Report for further disposition.

"SO ORDERED."

The NWSA moved for a reconsideration of the aforesaid Order of February 25, 1970. In a resolution dated April 1, 1970, respondent court en banc denied NWSA's motion. Hence, the present recourse.

- Petitioner is of the view that Section 564 in relation to Section 652 of the Revised Administrative Code[1]

confers upon the head of a department, bureau or office, the discretion to enforce a longer period of labor during the summer months, depending on the exigencies of the service, notwithstanding an Executive Order of the President of the Philippines, reducing to five (5) continuous hours the period of labor from April 1 to June 15 of every year. In other words, when the petitioner required respondent Chongco to work during the summer months, eight (8) hours a day, after July 1, 1957, when Republic Act No. 1880 went into effect, and seven (7) hours a day prior thereto, those were his regular hours of work for which he is not entitled to additional compensation, for the same were already compensated as they were included in his regular salary.

The same argument was advanced by petitioner in "National Waterworks and Sewerage Authority vs. NWSA Consolidated Unions, Jesus Centeno, et al. and Court of Industrial Relations" (G.R. No. L-30567) where petitioner, on the same grounds, assailed the validity of the Order of the Court of Industrial Relations dated March 31, 1969 in Case No. 19-IPA (Seventh Partial Report) and the resolution of the said court en banc, sustaining said order. In the aforecited order, the Court of Industrial Relations found, however, as fully established by the evidence, that the NWSA Board had committed itself, per Resolution No. 561, to the proposition that the official time of employees, in accordance with the Executive Order of the President, during the summer months, is five (5) hours, and, as a matter of fact, the NWSA paid the summer differential claims of the intervenors covered by the First, Second, Third and Fifth Partial Reports of the Court Examiner, after the Auditing Department of the NWSA had verified the said claims and found them correct, viz.: the 6th to 8th hours, during summer before and after the approval of Republic Act No. 1880. On appeal by certiorari to Us, petitioner contended that respondent CIR committed grave abuse of discretion when it held that claimant-intervenor Ernesto Tongson, an employee of the NWSA, was entitled to additional basic compensation for work performed on the 6th, 7th and 8th hours during the summer months from 1955 to 1965 when he was required by the NWSA to work eight (8) hours a day after the effectivity of Republic Act No. 1880, and seven (7) hours prior to the effectivity of said law.

This petition of the NWSA was denied by the Court for lack of merit. Having resolved that contention adversely against NWSA, the latter cannot raise it anew against claimant Simeon Chongco, who is similarly situated as the claimants in G.R. No. L-30567. We find no error, therefore, in the respondent Court's finding that Simeon Chongco was entitled to overtime differential during the summer months.

- Petitioner, however, invokes the provisions of Republic Act No. 1993 to bar Chongco's claims for overtime services. It is true that respondent Chongco filed on October 23, 1967, his claim for payment of overtime service rendered prior to October 23, 1964, but the controlling date should be the date of the filing of the petition in the main case. Thus in *National Waterworks and Sewerage Authority vs. NWSA Consolidated Union, et al.*, L-26894-96, February 28, 1969, 27 SCRA 227, this Court held that Republic Act No. 1993 is not applicable to bar the claims of the movants therein (CIR Case No. 19-IPA), namely, Aurelio B. Zurbano, Francisco P. Domingo and Rufo R. Febregas, who were not among the original intervenors in the main case, because "[a]t 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," but "even as to that aspect, this alleged error need not occasion further thought," considering "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," and only "upon such rendition were such doubts erased." x x x "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." Respondent Chongco being similarly situated as the movants in L-26894-96, Our holding on the inapplicability of Republic Act No. 1993 must perforce apply in his case.

- Petitioner further contends that the respondent Court erred in ruling that any service exceeding thirty (30) minutes beyond the official working hours as evidenced in time records is overtime service, as it would make the employer liable for overtime service the moment an employee punches his card late, i.e., thirty (30) minutes from the end of the regular time. We find such argument unpersuasive.

As applied to respondent Chongco's case, this argument has failed to consider, first, that a written authorization to render overtime service is not indispensable, a verbal order being sufficient (*National Waterworks and Sewerage Authority vs. NWSA Consolidated Union, et al.*, L-26894-96, *supra*), and according to the respondent Court, "thru Resolution No. 561, Series of 1961 (Exh. F) the NWSA Board of Directors itself waived the written authorization requirement and authorized payment of overtime work supported by any official records of the NWSA, such as payrolls, salary index cards, time cards. . ."; and second, the Chief of the Water Sources & Treatment Division, Balara Filtration Plant, testified that he approved all the services of respondent Chongco reflected in the time cards, including services rendered beyond the regular official working hours.

- On the question whether or not the Order of February 25, 1970 awarding the claimant basic time differential has complied with Section 12, Article VIII of the Constitution of the Philippines, which provides that "[n]o decision shall be rendered by any court of record without expressing therein clearly and distinctly the facts and the law on which it is based,"[2] suffice it to state that the aforesaid order actually makes reference to the facts and the law on which it is based. Thus, in the Order of February 25, 1970, respondent Court stated that the issue whether a written authorization for overtime work is necessary, has already been resolved by the Supreme Court in the negative in G.R. No. L-18938. In ruling favorably on Chongco's claim for overtime differential the respondent Court, as basis thereof, made reference to (a) respondent Chongco's uncontradicted testimony that he rendered official service as evidenced by his time cards, and that his hours of work on Saturdays, Sundays and legal holidays were occasioned by the exigencies of the service; (b) the testimony of Mr. Salvador Rono, Chief of the Water Sources & Treatment Division, Balara Filtration Plant, to the effect that he signed the time cards of respondent Chongco covering the period from April, 1964 (except May, 1964), and his signatures meant that he was approving all the services rendered by respondent Chongco on the dates specified therein, including services rendered beyond the regular official working hours; (c) the resolution in G. R. No. L-30657, promulgated on June 25, 1969, wherein this Court in effect affirmed the payment of services rendered in excess of the official time during summer months, but within eight (8) hours; and (d) the records of the case showing that Chongco's claim for basic time differential had previously been clarified by the Examining Division of the court, and that the same consists of the 8th hour on ordinary days prior to July 1, 1957 and the 6th, 7th and 8th hours on summer days prior to and after July 1, 1957.

WHEREFORE, the order appealed from is hereby affirmed, without pronouncement as to costs.

Makalintal, C.J., Zaldivar, Ruiz Castro, Barredo, Makasiar, and Esguerra, JJ., concur.

Fernando, J., concurs in part and submits a separate opinion on the constitutional question involved.

Teehankee, J., no part.

[1] "Sec. 652. - Legal hours of labor - minimum requirement. - The Chiefs of Bureaus and Offices in every branch of the Government Service shall require of all employees of whatever grade or class not less than the legal number of hours of labor.

"Such hours, except for schools, courts, hospitals and health clinics, or where the exigencies of the service so require, shall be as prescribed in the Civil Service Rules, and as otherwise from time to time disposed in temporary executive orders in the discretion of the President of the Philippines, but shall be eight (8) hours a day, for five (5) days a week, or a total of forty (40) hours a week, exclusive of time for lunch x x x."

"Sec. 564. - On Saturdays and during hot season. - On Saturdays throughout the year and on all days during the hot season, from April first to June fifteenth, inclusive, the period of labor may be reduced to five continuous hours; Provided, That in the case of the City of Baguio the short hours will be observed from July first to September fifteenth, inclusive; but an executive order so disposing shall not oblige the head of any department, bureau or office so to reduce the hours of labor in his branch of work but shall leave the same in his discretion subject to the requirements of the service."

[2] Now Section 9, Article X, Constitution of the Republic of the Philippines.

CONCURRING

FERNANDO, J.:

The opinion of the Court with Justice Antonio as ponente is distinguished by its qualities of lucidity and thoroughness that invariably mark the products of his pen. I concur therefore with the result reached and, except for the penultimate paragraph dealing with the question of when there is compliance with the constitutional provision requiring that a decision to be rendered by a court of record must express clearly and distinctly the facts and the law on which it is based,[1] with the reasoning by which it is reached. If I have reservations on the mode of the disposition of the constitutional question raised, it is only because I feel that the Court of Industrial Relations, being essentially an executive body discharging quasi-judicial powers, is not embraced within the term "court of record." Moreover, while Justice Antonio did show how futile is the contention against its alleged disregard, it is not amiss to set forth anew the standard by which such a constitutional provision is satisfied.

- As far back as *Ang Tibay v. Court of Industrial Relations*[2] decided in 1940, Justice Laurel made clear that the Court of Industrial Relations is "more an administrative board than a part of the integrated judicial system of the nation. It is not intended to be a mere receptive organ of the Government. Unlike a court of justice which is essentially passive, acting only when its jurisdiction is invoked and deciding only cases that are presented to it by the parties litigant, the function of the Court of Industrial Relations, as will appear from perusal of its organic law, is more active, affirmative and dynamic." [3] In January of this year, in *Philippine American Management Company, Inc. v. Philippine American Management Employees Association*, [4] this Court had occasion to state: "What was done by him, as a department head, in the regular course of business and conformably to a statutory provision is, according to settled jurisprudence that dates back to an authoritative pronouncement by Justice Laurel in 1939 in *Villena v. Secretary of the Interior*, presumptively the act of the President, who is the only dignitary who could, paraphrasing the language of the decisions, disapprove or reprobate it. What other response could be legitimately expected from respondent Court then? It could not just simply fold its hands and refuse to pass on the dispute. 'It is,' as pointed out by Justice Laurel in the leading case of *Ang Tibay v. Court of Industrial Relations*, decided in 1940, 'more an administrative board than a part of the integrated judicial system of the nation.' Only last August, there was a reiteration of such a view." [5] The August decision referred to is *Philippine Charity Sweepstakes Employees Association v. Court of Industrial Relations*. [6] For me, then, the decisive question is whether this constitutional provision calls for application. The answer cannot be in doubt. In *Serrano v. Public Service Commission*, [7] the first error allegedly committed by respondent administrative body was its failure to make a statement of facts in conformity with this constitutional provision. In rejecting such a contention, this Court stated: "The above constitutional mandate does not lend support to petitioner's plea. Its wording is clear and definite. The obligation to state clearly and distinctly the facts and the law on which the decision is based is incumbent on a court of record. The Public Service Commission is not a court of record within the meaning of the above constitutional provision. So it was held by us in *Dagdag v. Public Service Commission*, with its categorical pronouncement of the Commission not being 'a judicial tribunal,' its functions being 'limited and administrative in nature.' Reference was made in the above decision to the earlier case of *Filipino Bus Co. v. Philippine Railway Co.*, where not once but twice it was explicitly stated that the Public Service Commission is 'not a court.'" [8] It is by virtue of the above that I am unable to concur fully with the mode of approach followed by Justice Antonio as far as this point is concerned.

- Assuming, however, that such a constitutional provision thus calls for application, the then Assistant Corporate Counsel, Lorenzo R. Mosqueda ought to have displayed a greater degree of awareness of the implications of such constitutional requirement. Had he done so, he would not have raised such a question at

all, for as clearly explained in the opinion of Justice Antonio, the absence of any plausibility in such a plea is quite marked. Reference to *Jose v. Santos*[9] ought to have cautioned him against raising such an issue. As was there pointed out: "It is worth noting that this provision of the Constitution did not provide any debate. The delegates apparently were of one mind as to its desirability. It is intended to assure that judicial decisions can stand the light of scrutiny both from the bar and the informed public and that party litigants are not left in the dark as to the basis of the decision arrived at." [10] More specifically, it was also therein stated: "Nor is there any rigid formula as to the language to be employed to satisfy the requirement of clarity and distinctness. The discretion of the particular judge in this respect, while not unlimited, is necessarily broad. There is no sacramental form of words which he must use upon pain of being considered as having failed to abide by what the Constitution directs. This is a realm where his individuality is not stifled, his habitual mode of giving expression to his thoughts respected. It suffices that his decision is not tainted with that degree of ambiguity that opens vistas of doubt both as to what the facts really were and the significance attached to them by the law." [11]

It is by virtue of the above considerations that, for the undersigned, there was a need for this brief concurrence.

[1] According to Art. VIII, Sec. 12 of the 1935 Constitution: "No decision shall be rendered by any court of record without expressing therein clearly and distinctly the facts and the law on which it is based." Under the present Constitution, that provision reads: "Every decision of a court of record shall clearly and distinctly state the facts and the law on which it is based. The Rules of Court shall govern the promulgation of minute resolutions." Art. X, Sec. 9.

[2] 69 Phil. 635.

[3] *Ibid*, 639-640.

[4] L-35254, January 29, 1973, 49 SCRA 194.

[5] *Ibid*, 205.

[6] L-34688, August 30, 1972, 46 SCRA 754.

[7] L-24165, August 30, 1968, 24 SCRA 867.

[8] *Ibid*, 870-871.

[9] L-25510, October 30, 1970, 35 SCRA 538.

[10] *Ibid*, 542.

[11] *Ibid*, 543.

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