

NATIONAL DEVELOPMENT COMPANY, PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS AND NATIONAL TEXTILE WORKERS UNION, RESPONDENTS.

G.R. No. L-15422. November 30, 1962

Ponente: REGALA, J.

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REGALA, J.:

This is a case for review from the Court of Industrial Relations. The pertinent facts are the following.

At the National Development Co., a government-owned and controlled corporation, there were four shifts of work. One shift was from 8 a.m. to 4 p.m., while the three other shifts were from 6 a.m. to 2 p.m.; then from 2 p.m. to 10 p.m. and, finally, from 10 p.m. to 6 a.m. In each shift, there was a one-hour mealtime period, to wit: from (1) 11 a.m. to 12 noon for those working between 6 a.m. and 2 p.m. and from (2) 7 p.m. to 8 p.m. for those working between 2 p.m. and 10 p.m.

The records disclose that although there was a one-hour mealtime, petitioner nevertheless credited the workers with eighth hours of work for each shift and paid them for the same number of hours. However, since 1953, whenever workers in one shift were required to continue working until the next shift, petitioner, instead of crediting them with eight hours of overtime work, has been paying them for six hours only, petitioner claiming that the two hours corresponding to the mealtime periods should not be included in computing compensation. On the other hand, respondent National Textile Workers Union whose members are employed at the NDC, maintained the opposite view and asked the Court of Industrial Relations to order the payment of additional overtime pay corresponding to the mealtime periods.

After hearing, Judge Arsenio I. Martinez of the CIR issued an order, dated March 19, 1959, holding that mealtime should be counted in the determination of overtime work and accordingly ordered petitioner to pay P101,407.96 by way of overtime compensation. Petitioner filed a motion for reconsideration but the same was dismissed by the CIR en banc on the ground that petitioner failed to furnish the union a copy of its motion.

Thereafter, petitioner appealed to this Court, contending, first, that the CIR has no jurisdiction over claims for overtime compensation and, secondly, that the CIR did not make "a correct appraisal of the facts, in the light of the evidence" in holding that mealtime periods should be included in overtime work because workers could not leave their places of work and rest completely during those hours.

In support of its contention that the CIR lost its jurisdiction over claims for overtime pay upon the enactment of the Industrial Peace Act (Republic Act No. 875), petitioner cites a number of decisions of this Court. On May 23, 1960, however, We ruled in *Price Stabilization Corp. vs. Court of Industrial Relations, et al.*, 108 Phil., 138, 139, that

"Analyzing these cases, the underlying principle, it will be noted in all of them, though not stated in express terms, is that where the employer-employee relationship is still existing or is sought to be reestablished because

of its wrongful severance, (at where the employee seeks reinstatement), the Court of Industrial Relations has jurisdiction over all claims arising out of, or in connection with the employment, such as those related to the Minimum Wage Law and Eight-Hour Labor Law. After the termination of their relationship and no reinstatement is sought, such claims become mere money claims, and come within the jurisdiction of the regular courts.

"We are aware that in 2 cases, some statements implying a different view have been made, but we now hold and declare the principle set forth in the next preceding paragraph as the one governing all cases of this nature."

This has been the constant doctrine of this Court since May 23, 1960[1]

A more recent definition of the jurisdiction of the CIR is found in *Campos, et al. vs. Manila Railroad Co., et al.*, G. R. No. L-17905, May 25, 1962, in which We held that, for such jurisdiction to come into play, the following requisites must be complied with: (a) there must exist between the parties an employer-employee relationship or the claimant must seek his reinstatement; and (b) the controversy must relate to a case certified by the President to the CIR as one involving national interest, or must have a bearing on an unfair labor practice charge, or must arise either under the Eight-Hour Labor Law, or under the Minimum Wage Law. In default of any of these circumstances, the claim becomes a mere money claim that comes under the jurisdiction of the regular courts. Here, petitioner does not deny the existence of an employer-employee relationship between it and the members of the union. Neither is there any question that the claim is based on the Eight-Hour Labor Law (Com. Act No. 444, as amended). We therefore rule in favor of the jurisdiction of the CIR over the present claim.

The other issue raised in the appeal is whether or not, on the basis of the evidence, the mealtime breaks should be considered working time under the following provision of the law:

"The legal working day for any person employed by another shall be of not more than eight hours daily. When the work is not continuous, the time during which the laborer is not working and can leave his working place and can rest completely shall not be counted." (Sec. 1, Com. Act No. 444, as amended. *Italics ours.*)

It will be noted that, under the law, the idle time that an employee may spend for resting and during which he may leave the spot or place of work though not the premises[2] of his employer, is not counted as working time only where the work is broken or is not continuous.

The determination as to whether work is continuous or not is mainly one of fact which We shall not review as long as the same is supported by evidence. (Sec 15, Com. Act No. 103, as amended; *Philippine Newspaper Guild vs. Evening News, Inc.*, 86 Phil. 303).

That is why We brushed aside petitioner's contention in one case that workers who worked under a 6 a.m. to 6 p.m. schedule had enough "free time" and, therefore should not be credited with four hours of overtime and held that the finding of the CIR "that claimants herein rendered services to the Company from 6:00 a.m. to 6 p.m. including Sundays and holidays, * * * implies either that they were not allowed to leave the spot of their working place, or that they could not rest completely." (*Luzon Stevedoring Co., Inc., vs. Luzon Marine Department Union, et al.*, 101 Phil., 257).

Indeed, it has been said that no general rule can be laid down as to what constitutes compensable work, but rather the question is one of fact depending upon the particular circumstances, to be determined by the courts in controverted cases. (31 Am. Jur. Sec. 626 pp. 877-378)

In this case, the CIR's finding that work in the petitioner company was continuous and did not permit employees and laborers to rest completely is not without basis in evidence and following our earlier rulings, We shall not

disturbed the same. Thus, the CIR found:

"While it may be corrected to say that it is well-nigh impossible for an employee to work while he is eating, yet under Section 1 of Com. Act No. 444 such, a time for eating can only be segregated or deducted from his work, if the same is not continuous and the employee can leave his working place and rest completely. The tune cards show that, the work was continuous and without interruption. There is also the evidence adduced by the petitioner that the pertinent employees cannot freely leave their working places nor rest completely. There is furthermore the aspect that during the period covered by the computation the work was on a 24 hour basis and as previously stated divided into shifts."

From these facts, the CIR correctly concluded that work in petition company was continuous and therefore the mealtime breaks should be counted as working time for purposes of overtime compensation.

Petitioner gives an eight-hour credit to its employees who work a single shift, say from 6 a.m. to 2 p.m.. Why cannot it credit them sixteen hours should they work in two shifts?

There is another reason why this appeal should be dismissed and that is that there is no decision by the CIR en banc from which petitioner can appeal to this Court. As already indicated above, the records show that petitioner's motion for reconsideration of the order of March 19, 1959 was dismissed by the CIR en banc because of petitioner's failure to serve a copy of the same on the union.

Section 15 of the rules of the CIR, in relation to Section 1 of Commonwealth Act No. 103, states:

"The movant shall file the motion (for reconsideration), in six copies within five (5) days from the date on which he receives notice of the order or decision, object of the motion for reconsideration, the same to be verified under oath with respect to the correctness of the allegations of fact, and serving a copy thereof, personally or by registered mail, on the adverse party. The latter may file an answer, in six (6) copies duly verified under oath." (Italics ours)

In one case (*Bien, et al. vs. Castillo, etc., et al.* G. R. No. L-7428, May 24, 1955), We sustained the dismissal of a motion for reconsideration filed outside of the period provided in the rules of the CIR. A motion for reconsideration, a copy of which has not been served on the adverse party as required by the rules, stands on the same footing. For "in the very nature of things, a motion for reconsideration against a ruling or decision by one Judge is in effect an appeal to the Court of Industrial Relations, en banc," the purpose being "to substitute the decision or order of a collegiate court for the ruling or decision of any judge." The provision in Commonwealth Act No. 103 authorizing the presentation of a motion for reconsideration of a decision or order of the judge to the CIR, en banc, and not direct appeal therefrom to this Court, is also in accord with the principle of exhaustion of administrative remedies before resort can be made to this Court (*Broce, et al. vs. The Court of Industrial Relations, et al.*, 106 Phil. 388; 56 Off. Gaz. (49) 7445).

Petitioner's motion for reconsideration having been dismissed for its failure to serve a copy of the same on the union, there is no decision of the CIR en banc that petitioner can bring to this Court for review.

Wherefore, the order of March 19, 1959 and the resolution of April 27, 1959 are hereby amended and the appeal is dismissed, without pronouncement as to costs.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, and Makalintal, JJ., concur.

[1] *Board of Liquidators, et al. vs. Court of Industrial Relations, et al.*, G.R. No. L-14366, Oct. 31, 1962; *Gagalawan vs. Customs Canteen, et al.*, 113 Phil., 386; *Sy Huan vs. Bautista, et al.*, 112 Phil., 914; *Cuison vs.*

Gaite, G.R. No. L-16611. March 25, 1961; Elizalde Paint & Oil Factory Inc. vs. Bautista, 110 Phil., 49; Sampaguita Pictures Inc. et al., vs. CIR, et al., 109 Phil., 816; Ajax Int. Corp. vs. Seguritan, et al., 109 Phil., 813; New Angat-Manila Transp. Co., et al., vs. CIR, et al., 110 Phil., 319; National Shipyards and Steel Corporation vs. Court of Industrial Relations, et al., 107 Phil., 1006.

[2] Luzon Stevedoring Co., Inc., vs. Luzon Marine Department Union, et al., 101 Phil., 257. See also Isaac Peral Bowling Alley vs. United Employees Welfare Ass'n., et al., 102 Phil., 219.

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