

FORTUNATO F. HALILI (DECEASED), DOING BUSINESS UNDER THE NAME AND STYLE HALILI TRANSIT (SUBS-TITUTED BY EMILIA DE VERA VDA. DE HALILI), PETITIONER, VS. COURT OF INDUSTRIAL RELAT...

G.R. No. L-24864. February 26, 1968

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

On November 30, 1957, Fortunato F. Halili, doing bu-siness under the name and style of "Halili Transit", and the Halili Bus Drivers and Conductors Union (PTGWO) entered into a three-year Collective Bargaining Agreement[1] by virtue of which the former recognized the latter as exclusive bargaining agent of the drivers and conductors employed by Halili, and according to which they both agreed to abide by the schedule of the hourly regular and overtime rates of drivers and conductors set forth in Annex "B" of the Agreement.

On August 20, 1958, the union filed with the Court of Industrial Relations a petition docketed as Case No. 1099-V, which it subsequently amended on December 9, 1958, charging violation by Halili of Commonwealth Act No. 444 (the Eight-Hour Labor Law) in that he deducted from, and did not include in, the hours of work of the drivers and conductors the time consumed for filling gas or for tak-ing the bus from the "car-barn" and vice-versa, the time for trip intervals when the bus is waiting for passen-gers, and the time consumed on minor repairs of the en-gine and other parts of the bus. It therefore prayed the court to fix the compensable hours of work of the dri-vers and conductors, members of said union, according to the provisions of Commonwealth Act No. 444, and to order Halili to pay the drivers and conductors the compensable hours of work previously rendered by them from October 1, 1956 up to the filing of the petition.

Halili filed his amended answer on December 22, 1958.

After trial, the Court of Industrial Relations on August 7, 1961 rendered a decision[2] finding Halili guilty of having violated Commonwealth Act No. 444. It there-upon required the Examining Division of the Court of In-dustrial Relations to compute the compensable hours of work rendered by the drivers and conductors who were mem-bers of the union, from October 1, 1956[3] until the date of the decision, at the rate of P0.60 for drivers and P0.50 for conductors per hour, and the management of Ha-lili Transit to facilitate the examination by giving ac-cess to the Court examiner of all trip reports, time records, time books, payrolls, vouchers, ledgers, journals and all other pertinent records for the speedy computation of the compensable hours of work.

On August 14, 1961, Halili filed a motion for clari-fication and for reception of additional evidence, where-in he questioned the decision for not defining the compensable hours therein which may be credited to the dri-vers and conductors, claiming that in said order the court did not direct the Examining Division to determine the amount of compensation actually received by the particu-lar employees on any particular day, and contending further that the decision was not a judgment, because it did not determine any right or duty.

The Court of Industrial Relations, on August 17, 1961, issued an order wherein it clarified compensable hours as referring to work rendered over eight hours and the computation based on the trip report per hourly rate at P0.60 for drivers and P0.50 for conductors from October 1, 1956 until the date of the order. It further stated that the complainants were working more than eight hours since they start from 5:30 A.M. and stop at night, and declared that the judgment as to the liability of Halili was categorically concluded in the decision but the amount of said liability could not be determined until after the Court Examiner renders his report.

Acting on Halili's motion for reconsideration, the Court of Industrial Relations on April 6, 1962 entered a resolution[4] en banc affirming the decision of August 7, 1961, but remanding the case to the Court of Industrial Relations trial Judge for determination as to union membership of the claimants referred to in the decision because: "The determination of who are members of the petitioner union, especially that the decision would cover a period from October 1, 1956, is a judicial determination which entails the use of discretion and can not be left to the determination by the Court Examiner, upon the expediency of the examination of the books, records, pay-rolls, etc."

No judicial determination of the membership of the union was however made. Neither did Halili appeal from the decision nor from the clarificatory resolution of the same dated August 17, 1961. The resolution en banc on motion for reconsideration dated April 6, 1962 was not appealed by Halili.

On April 7, 1965, the Court of Industrial relations issued an order[5] directing the Court Examiner, assisted by a union representative, to investigate and examine all trip reports, time records, time books, payrolls, vouchers, ledgers, journals, and all other pertinent records of Halili Transit, and compute the compensable hours of work rendered by the drivers and conductors pursuant to the decision, dated August 7, 1961, for the period from January 1, 1961 up to the date of the order.

On April 14, 1965, Halili moved for a reconsideration to aforementioned order, and on April 24, 1965, filed his memorandum in support thereof - on the ground that the same is contrary to law, the facts and evidence. This motion was denied by the Court of Industrial Relations in its resolution en banc[6] dated July 12, 1965.

The present appeal by certiorari was thereupon taken by Halili from said resolution en banc of July 12, 1965 and the order of April 7, 1965. Petitioner seeks to raise three issues: (1) Whether or not the trial court erred in holding him liable for the payment under Commonwealth Act No. 444 of the compensable hours of work rendered by the drivers and conductors who are members of respondent union; (2) Whether or not the decision dated August 7, 1961 is incomplete and interlocutory and therefore the respondent court erred in enforcing it by entering its order dated April 7, 1965 and promulgating its resolution en banc dated July 12, 1965; and (3) Whether or not the respondent court erred in directing its Examiner to examine and investigate the records of petitioner Halili from January 1, 1961 up to the present.

The first issue is not properly raised because petitioner stated in his notice of appeal[7] that he was appealing from the order dated April 7, 1965 and the resolution en banc dated July 12, 1965, and also because the decision of the Court of Industrial Relations dated August 7, 1961 and its clarificatory resolution of August 17, 1961 already became final and executory, the petitioner not having appealed therefrom.

Petitioner argues that the decision of the Court of Industrial Relations dated August 7, 1961 is incomplete and interlocutory in nature and therefore said court erred in issuing its enforcing order dated April 7, 1965 and promulgating its resolution en banc dated July 12, 1965.

The word interlocutory is defined as "something intervening between commencement and the end of a suit which decides some point or matter but is not a final decision of the whole controversy." [8] As stated by

Bouvier,[9] it is "something which is done between the commencement and the end of a suit or action which decides some point or matter which however, is not a final decision of the matter in issue."

The matter in issue in the main case below (Case No. 1099-V) is whether or not petitioner Halili is guilty of violating the Eight-Hour Labor Law (C.A. No. 444) in that he deducted from the working hours of the drivers and conductors, members of respondent union, the time spent for taking the buses from the car-barn and filling it with gas, oil or water; the interval for waiting for passengers; and the repair of the engine and other parts of the bus in case of breakdown. The trial court found him guilty of the charge and held him "liable categorically" for the compensable hours and overtime pay from October 1, 1956 up to the present at the rate of P0.60 for drivers and P0.50 for conductors per hour. This finding of the trial court in its decision of August 7, 1961 and affirmed in all respects [] except the "x x x determination as to the union membership of the claimants referred to in the decision x x x" - by the court en banc in its resolution of April 6, 1962, is a finding of fact which is final and conclusive and not subject to review, no appeal having been interposed therein.

The decision, therefore, is a final adjudication on the main issue submitted to the court, and cannot be considered as interlocutory. The main case is now at its execution stage and what only remains to be threshed out is the precise compensable hours or work rendered by, and the amount of compensation owing to, the drivers and conductors who are members of the respondent union from October 1, 1956 to date.

We must state, in this connection, that petitioner cannot adopt inconsistent stands. He cannot assail the decision of August 7, 1961 finding him guilty of violating the Eight-Hour Labor Law (C.A. No. 444) and at the same time argue that said decision is incomplete and interlocutory.

Finally, it is petitioner's stand that since the appealed order of respondent court, sustained by the assailed resolution en banc, authorizes its Examiner to go over the records of Halili Transit from January 1, 1961 up to the present, the examination may unnecessarily cover the records of those drivers and conductors who, although members of the respondent union as of January 1, 1961, were not members thereof as of October 1, 1956 - in violation of the decision as modified which calls for the judicial determination of respondent union's membership.

In the first place, it was merely for the sake of convenience and facility in the computation of compensable hours of work that the respondent court authorized its Examiner, first to go over the records of Halili Transit from January 1, 1961 up to the present, and later on to examine the records from October 1, 1956 up to the end of 1960. It observed that the parties were experiencing difficulty with respect to the records from October 1, 1956 up to 1960, whereas those from 1961 up to the present are more readily available because the law requires business concerns to preserve and keep intact their records for five years.[10]

In the second place, petitioner misconstrues the import of the questioned order of the trial court dated April 7, 1965. It does not seek to implement the dispositive portion of the decision dated August 7, 1961 standing by itself, but as modified by the resolution en banc of April 6, 1962. Said order merely directs the Court Examiner, assisted by a union representative, to "compute the compensable hours of work rendered by the drivers and conductors pursuant to the decision, dated August 7, 1961, for the period from January 1, 1961, up to the present" and directs the Chief of the Examining Division, "to submit a weekly report on the examination." The order does not require the computation of the compensable hours of work rendered by the drivers and conductors "who are members of the petitioner union." Stated otherwise, the determination of the union membership of the claimants - as ordered by the resolution en banc dated April 6, 1962 - must still be done by the trial court, not by the court Examiner. There is still need for respondent union to prove before the trial court the union membership of its claimants.

Thus, for the purpose only of facilitating the disposition of this case, the Court of Industrial Relations must order

its Examining Division to start with the computation of the compensable hours of work rendered by, and the corresponding compensation payable to, the drivers and conductors admitted by both parties to be union members as of October 1, 1956, and then later to proceed with those contended by the union to be such members but disputed by Halili. At all events, however, the resolution of the issue of their union membership must be resolved by the trial judge himself.

WHEREFORE, the appealed order and resolution en banc are hereby affirmed and the Court of Industrial Relations is hereby enjoined to make a judicial determination of the union membership of the claimants, while the Examining Division of said court shall proceed with its computation of the compensable hours of work rendered by, and the corresponding compensation payable to, the drivers and conductors admitted by both parties to be union members since October 1, 1956 and the contended by the union to be such members but dispute by the employer. No costs.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

[1] Annex "A" to the Petition for Certiorari; Rollo p. 30.

[2] Rollo, p. 51.

[3] This, instead of November 30, 1957 which was the date of the Collective Bargaining Agreement, is the starting date of computation because in his answer to the complaint against him by the union before the Public Service Commission in Case No. 48603-C, Halili averred "that effective last Monday, October 1, 1956, all drivers and conductors of the respondent are on fixed salary basis, that is to say, conductors are paid at the rate of P0.50 an hour, and drivers are paid at the rate of P0.60 an hour, thereby making their wages in conformity with the order of this Honorable Commission and with Republic Act 602, known as the Minimum Wage Law." (Rollo, pp. 53-54, under-scoring supplied)

[4] Rollo, p. 58.

[5] Rollo, p. 70.

[6] Rollo, p. 83

[7] See Rollo, p. 84.

[8] Black's Law Dictionary, 4th Ed., 1951, p. 952.

[9] Bouvier's Law Dictionary, 3rd Revision, Vol. 1, p. 1651.

[10] Rollo, pp. 70-71, Order of April 7, 1965.

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