

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

G.R. Nos. L-27463, 27503 & 27504. May 16, 1969

Ponente: DIZON, J.

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DIZON, J.:

Appeal on purely questions of law taken by the National Waterworks and Sewerage Authority, hereinafter referred to as NAWASA, from the order issued on February 20, 1967 by the Court of Industrial Relations, referred to hereinafter as CIR, for the former to deposit the amount of P99,332.21 representing overtime, night time, Sunday, holiday and basic time salaries, within thirty days (Annex D attached to the Petition for Review), and from the CIR's resolution, en banc dated March 13, 1967 (attached to the petition for review as Annex F) denying NAWASA's motion for reconsideration, both issued in Cases Nos. 19-IPA, 19-IPA(1) and 19-IPA(2).

It appears that on January 16, 1961 the CIR issued in the abovementioned cases an order awarding additional compensation to Engineer Jesus Centeno and 12 others - referred to in the record as Intervenors - for work rendered in excess of eight hours a day, as well as for work rendered at night time, etc., the dispositive portion of which reads as follows:

"In view thereof, we are of the opinion and so hold, that the respondent Company shall pay to the intervenors who have not been paid the additional compensation of 25% of their basic salary for services rendered in excess of the regular eight (8) hours a day, from February 6, 1956 onward, the same, benefit effective on the same date, based on the written authorizations of the General Manager of the NAWASA x x x."

In relation to their claims for additional compensation for work rendered on Sundays and legal holidays before and after the effectivity of Republic Act 1880 and also on Saturdays after the effectivity of said law, the CIR said the following:

"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 Republic Act 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.

"We are, therefore, of the opinion that it will be improper and illegal to take cognizance of and consider in this case such claim of the intervenors x x x."

To implement its provisions, the same order directed the Chief Examiner of the CIR to make the necessary

computation to determine said additional compensation in accordance with its findings, as follows:

"x x x to proceed to the office of the National Waterworks and Sewerage Authority to examine the payrolls and other pertinent records and to make the necessary computation for additional compensation for work on Sundays and legal holidays, distress pay, wage differentials night compensation and overtime pay of the employees and laborers concerned in accordance with the findings of the Court." (Under-lines Supplied)

In connection with the portion of the order of January 16, 1961 quoted in the immediately preceding paragraph, We have noticed that the petition for review under consideration has, on page three thereof and after the words "for work", deliberately omitted the following words "on Sundays and legal holidays, distress pay, wage differentials", presumably to bolster petitioner's claim that, in the body of the order itself, the CIR had expressed the opinion that it was improper and illegal to take cognizance of, and consider the claim of the intervenors for additional compensation for services rendered on Sundays and legal holidays before and after the effectivity of RA 1880 and also on Saturdays after the effectivity of said law in the proceedings then before it.

It appears further that in National Waterworks and Sewerage Authority, Petitioner vs. NWSA Consolidated Unions and others (G. R. No. L-18938) in which the CIR's order of January 16, 1961 was directly involved, We said, inter alia, the following:

"Acting on a certification of the President of the Philippines, the Court of Industrial Relations conducted a hearing on December 5, 1957 on the controversy then existing between petitioner and respondent unions which the latter embodied in a 'Manifesto' dated December 5, 1957, namely: implementation of the 40-Hour Week Law (Republic Act No. 1880); alleged violations of the collective bargaining agreement dated December 28, 1956 concerning 'distress pay'; minimum wage of P5.25; promotional appointments and filling of vacancies of newly created positions; additional compensation for night work; wage increases to some laborers and employees; and strike duration pay. In addition, respondent unions raised the issue of whether the 25% additional compensation for Sunday work should be included in computing the daily wage and whether, in determining the daily wage of a monthly salaried employee, the salary should be divided by 30 days.

"On December 13, 1957, petitioner and respondent unions, conformably to a suggestion of the Court of Industrial Relations, submitted a joint stipulation of facts on the issues concerning the 40-Hour Week Law, 'distress pay,' minimum wage of P5.25, filling of vacancies, night compensation, and salary adjustments, reserving the right to present evidence on matters not covered therein. On December 4, 1957, respondent intervenors filed a petition in intervention on the issue for additional compensation for night work. Later, however, they amended their petition by including a new demand for overtime pay in favor of Jesus Centeno, Cesar Cabrera, Feliciano Duiguan, Cecilio Remotigue, and other employees receiving P4,200.00 per annum or more.

"On February 5, 1958, petitioner filed a motion to dismiss the claim for overtime pay alleging that respondent Court of Industrial Relations was without jurisdiction to pass upon the same because, as mere intervenors, the latter cannot raise new issues not litigated in the principal case, the same not being, the *lis mota* therein involved. To this motion the intervenors filed an opposition. Thereafter, respondent court issued an order allowing the issue to be litigated. Petitioner's motion to reconsider having been denied, it filed its answer to the petition for intervention. Finally, on January 16, 1961, respondent court rendered its decision stating substantially as follows:

"The NAWASA is an agency not performing governmental functions and, therefore, is liable to pay additional compensation for work on Sundays and legal holidays conformably to Commonwealth Act No. 444, known as the Eight-Hour Labor Law, even if said days should be within the staggered five-work days authorized by the President; the intervenors do not fall within the category of 'managerial employees' as contemplated in Republic Act 2377 and so are not exempt from the coverage of the Eight-Hour Labor Law; even those intervenors attached to the General Auditing Office and the Bureau of Public Works come within

the purview of Commonwealth Act. No. 444; the computation followed by NAWASA in computing overtime compensation is contrary to Commonwealth Act 444; the undertime of a worker should not be set-off against the worker in determining whether the latter has rendered service in excess of eight hours for that day; in computing the daily wage of those employed on daily basis, the additional 25% compensation for Sunday work should be included; the computation used by the NAWASA for monthly salaried employees, to wit, dividing the monthly basic pay by 30 is erroneous; the minimum wage awarded by respondent court wayback on November 25, 1950 in Case No. 359-V entitled MWD Workers Union v. Metropolitan Water District, applies even to those who were employed long after the promulgation of the award and even if the workers are hired only as temporary, emergency and casual workers for a definite period and for a particular project; the authority granted to NAWASA by the President to stagger the working days of its workers should be limited exclusively to those specified in the authorization and should not be extended to others who are not therein specified; and under the collective bargaining agreement entered into between the NAWASA and respondent unions on December 28, 1956, as well as under Resolution No. 29, series of 1957 of the Grievance Committee, even those who work outside the sewerage chambers should be paid 25% additional compensation as 'distress pay.'

"Its motion for reconsideration having been denied, NAWASA filed the present petition for re-view raising merely questions of law."

x x x x x x x x x x

"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."

x x x x x x x x x x

"In resume, this Court holds:

(1) The NAWASA though a public corporation, does not perform governmental functions. It performs proprietary functions, and hence, it is covered by Commonwealth Act No. 444;

(2) The NAWASA is a public utility. Although pursuant to Section 4 of Commonwealth Act 444 it is not obliged to pay an additional sum of 25% to its laborers for work done on Sundays and legal holidays, yet it must pay said additional compensation by virtue of the contractual obligation it assumed under the collective bargaining agreement;"

x x x x x x x x x x

"With the modification indicated in the above resume as elaborated in this decision, we hereby affirm the decision of respondent court in all other respects, without pronouncement as to costs." (Underlines supplied)

In further implementation of its order of January 16, 1961, as modified by Us in G. R. L-18938, the CIR issued on October 5, 1964 an order holding in abeyance the writ of execution issued in connection with the former until

after a complete report upon the matter had been submitted to it, saying the following in its dis-positive portion:

"Consequently, the Auditing Examiner who is as-signed to these cases is hereby directed to compute immediately all the money claims awarded by the Court to the parties concerned, taking into consideration the decision promulgated by the supreme Court on August 31, 1964, and forthwith submit his report to this Court for further disposition.

"The Clerk of Court is directed to furnish copies of said report of examiner to the parties concerned who are given twenty (20) days counted from the re-ceipt of a copy thereof, within which to file ob-jections, if any. Failure to file objections there-to within the specified period above-mentioned, said report of examiner shall be considered approved and final for further disposition of this Court."

Pursuant to the above decision and orders the Chief Examiner of the CIR submitted to the latter, from time to time, a series of partial reports, the sixth of which dated March 26, 1966 - which is the one involved in the present appeal - covers the claims of the thirteen Intervenors with a total money value of P99,332.21. There is no serious dis-pute as to the fact that the procedure and method of com-putation followed by the Examiner in connection with this sixth partial report were the same as those used and followed in connection with the five previous reports.

On April 19, 1966 the NAWASA filed a motion entitled "Motion for Bill of Particulars" claiming therein that the sixth partial report mentioned above did not specify the period covered by each claim, thus failing to state the claims with sufficient definiteness to enable it to check the correctness thereof, to prepare its pleadings and thereafter prepare for trial, and prayed that the Court Examiner be di-rected to specify the period covered by each claim and that, pending period of the desired information, the running of the period for filing a responsive pleading be suspended.

On 25, 1966 the Intervenors, Jesus Centeno and 12 others, filed a reply to the motion referred to above, pointing out that the information sought therein was speci-fically indicated in Appendix 1 attached to the report it-self, and prayed that the suspension of the period for the filing of a responsive pleading be denied for lack of merit.

On May 5, 1966, said Intervenors filed a motion for the approval of the sixth partial report and for an order requiring the deposit in court of the amount of P99,332.21, in view of the fact that the period of twenty days for the submission of objections thereto had already elapsed.

On June 3, 1966, the NAWASA filed its objection to the report claiming: (1) that it was not mathematically correct; (2) that it included Sunday and legal holiday dif-ferentials to which Intervenors were not entitled; and (3) that overtime services covered by the report were not sanctioned by written authority.

On June 11, 1966 the Intervenors filed a reply to NAWASA'S objection, praying that it be overruled having been filed beyond the period fied by the Court, and prayed fur-ther that the report be approved and considered final in accordance with the order of October 5, 1964 and that the NAWASA be directed to deposit the total amount of P99,322.21 with the CIR for its further disposition.

Finally, on February 20, 1967 the CIR issued at order approving the sixth partial report of the Court Examiner and directing the NAWASA to deposit the amount of P99,332.21 with the Court within thirty (30) days from notice, for its further disposition. This order was affirmed by the Court en banc on March 13, 1967.

To sustain its appeal from the orders mentioned in the preceding paragraph, petitioner now claims that the CIR erred (1) in not holding that the filing of its "motion for bill of particulars" stayed the running of the period for the filing of its objection to the sixth partial report of the CIR Examiner; (2) in holding that petitioner's objection to said report was filed out of time, and lastly, (3) in depriving it of due process when, acting en banc, it affirmed the

order of February 20, 1967.

It is not disputed that petitioner was served with a copy of the sixth partial report on April 4, 1966. It is, on the other hand, conceded that petitioner had the right to object thereto and to be heard in connection therewith. But in this connection it is worth remembering that the litigation over intervenors' claim was one of very long standing and had previously reached this Court for adjudication of the principles involved (G. R. L-18938). It is not strange, therefore, that after our decision in the case just mentioned, the CIR, intent upon preventing any further delay in the final disposition of intervenors' claim, issued on October 5, 1964 an order directing its Examiner to make the necessary computations of the money claims awarded by the court; to furnish copy of his report to the parties concerned, and gave the latter a period of twenty (20) days counted from receipt of a copy thereof within which to file objections against it, if any, and finally, warning the parties that failure to file objections to the report within the specified in period, said report will be considered approved and final for further disposition by the court.

The record discloses that notwithstanding the clear meaning and intent of the order of October 5, 1964, NAWASA, instead of filing its objections to the report a copy of which was received by it on April 4, 1966, took another step manifestly intended to delay the final disposition of the claims, by filing a motion for a bill of particulars. This pleading was not only filed clearly in violation of the order of the CIR of October 5, 1964 but was beyond doubt, without merit, it appearing from the contents of the report and the document thereto attached that the information NAWASA sought to obtain through a bill of particulars was already there.

It is of course true that under Rule 12 of the Rules of Court a party against whom a complaint has been filed is entitled to compel the plaintiff to submit a bill of particulars in relation to such allegations of the latter's pleading as appear to be indefinite and uncertain, and that the filing of the motion for the purpose suspends the running of the period for the filing of the corresponding responsive pleading. Even under this rule, however, it is doubtful whether the filing of a motion for a bill of particulars would automatically suspend the running of the period for the filing of the required responsive pleading if it appears, as it does in the present case, that it was filed manifestly for delay and was entirely without merit. Be that as it may, it is settled that the Rules of Court are not of strict application but merely suppletory to the CIR's own Rules of Procedure, and when, as in the present case, by formal order the CIR had clearly given the direction for the filing of objections to the report under question within a definite period to prevent the parties from resorting to dilatory tactics, We do not believe said court erred in disregarding a pleading violative of its order and clearly intended to delay the proceedings in a case which had started almost eight years before. We, therefore, find no merit in the First assignment of error.

In view of our conclusion set forth heretofore in connection with the first assignment of error, no lengthy discussion need be made of the second error. Petitioner having received a copy of the sixth partial report of the CIR Examiner on April 4, 1966, and having filed its objection thereto only on June 3, 1966, it is obvious that the same was filed long after the expiration of the twenty (20) day period given to it for the purpose in the CIR's order of October 5, 1964.

In the light of our views in relation to the first two assignments of error, the third can not stand or prosper. If petitioner had no opportunity to prove the grounds upon which it objected against the sixth partial report of the CIR Examiner, that was entirely its own fault. If instead of resorting to a clearly unfounded demand for the submission of a bill of particulars it had filed its objection to said report within twenty days after it had received a copy thereof, that would not have happened. Having failed to do so, the CIR was entirely correct in proceeding to the approval of the questioned report - a step strictly in accordance with the terms of its order of October 5, 1964.

Finally, in relation to the specific grounds upon which NAWASA objected against the Examiner's sixth partial

report, the following should be borne in mind:

(1) Nowhere in its pleading nor in its brief submitted in the present case did NAWASA attempt to prove its contention that said report: "is not mathematically correct" in any particular respect, nor did it in any manner give even an inkling of the evidence it had to prove such assertion.

(2) As to (a) the inclusion of Sunday and legal holiday differentials to which, in NAWASA's opinion, the herein Intervenor were not entitled and (b) the alleged lack of written authorization to render overtime work for the period covered by the report, We only need to say that both questions were squarely resolved by Us in National Waterworks Sewerage Authority, Petitioner, vs. NWSA Consolidated Union, Jesus Centeno, et al., respondents, (G.R. L-26894-96) promulgated on February 28 of the present year. The cases involved a similar award in favor of other intervenors and against which NAWASA had raised exactly the same grounds as the ones relied upon against the award in favor of the pre-sent Intervenor. In disposing of them We said, among other things:

"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."

x x x x x x x x x x

"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."

x x x x x x x x x x

"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 petitioners 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."

x x x x x x x x x x

"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.'⁶ 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.'⁷

"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.'⁸

"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 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.'⁹

"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."

WHEREFORE, the orders appealed from are hereby affirmed, with costs.

Reyes, J.B.L., (Acting C.J.), Makalintal, Zaldivar, Sanchez, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

Concepcion, C.J., and Ruiz Castro, J., on official leave.

[1] L-18938, August 31, 1964.

[2] Commonwealth Act No. 444 as amended by Republic Act No. 2377.

[3] L-26894.

[4] L-26895.

[5] L-26896.

6 Brief for Petitioner, pp. 14-15.

7 Ibid, p. 17.

8 Brief for Respondents, p. 11.

9 National Waterworks & Sewerage Authority v. NWSA Consolidated Unions, L-18938, August 31, 1964.

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