

DETECTIVE AND PROTECTIVE BUREAU, INC., PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS AND UNITED EMPLOYEES WELFARE ASSOCIATION, RESPONDENTS.

G.R. No. L-4337. December 29, 1951

Ponente: BENGZON, J.

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BENGZON, J.:

Review of an order of the Court of Industrial Relations awarding to members of the respondent association a certain sum for back overtime wages.

The record discloses that upon petition properly submitted, said court made an investigation and found that the members of the United Employees Welfare Association (hereafter called the Association) were in the employ of the petitioner Detective & Protective Bureau Inc. (herein called the Bureau) which is engaged in the business of furnishing security guards to commercial and industrial establishments, paying to said members monthly salaries out of what it received from the establishments benefited by guard service. The employment called for daily tours of duty for more than eight hours, in addition to work on Sundays and holidays. Nonetheless the members performed their labors without receiving extra compensation.

By order of the court, one of its officers in the Auditing Department examined petitioner's books, made a computation of the additional payment for such overtime work, and reported that the amount owing to the members or employees totalled eight thousand five hundred and forty five pesos and forty-eight centavos (P8,545.48) as itemized in Exhibit A, Consequently the respondent Bureau was required to disgorge that sum for overtime wages.

It appears that the Bureau had been granting the members of the Association, every month, "two days off"—days in which they rendered no service, although they received salary for the whole month. Said Bureau contended below that the pay corresponding to said 2-day vacation corresponded to the wages for extra work. The court rejected the contention, quite properly we believe, because in the contract there was no agreement to that effect; and such agreement, if any, would probably be contrary to the provisions of the Eight-Hour Law (Act No. 444 sec. 6) and would be null and void ab initio.

It is argued here, in opposition to the payment, that until the commencement of this litigation the members of the Association never claimed for overtime pay. That may be true. Nevertheless the law gives them the right to extra compensation. And they could not be held to have impliedly waived such extra compensation, for the obvious reason that they could not have expressly waived it.

It is also argued that the respondent court has no jurisdiction to award overtime pay, which is a money judgment. We believe that under Com. Act No. 103 the Court is empowered to make the order for the purpose of settling disputes between employer and employee [1]. As a matter of fact this Court has confirmed an order of the Court of Industrial Relations requiring the Elks1 Club to pay to its employees a certain sum of money as overtime back wages from June 3, 1939 to March 13, 1941. This, in spite of the allegation of lack or excess of jurisdiction on the

part of said court. (45 O.G. 3329)

Again it is urged that no recovery may be had for work beyond the 3-hour daily period, because no permit had been obtained from the Secretary of Labor. On this point we have to reiterate our ruling in *Gotamco Lumber Co. vs. CIR* (G. R. No. L-2569).

"The petitioner maintains that as the overtime work had been performed without a permit from the Department of Labor, no extra compensation should be authorized. Several decisions of this Court are involved. But those decisions were based on the reasoning that as both the laborer and employer were duty bound to secure the permit from the Department of labor, both were in 'pari delict'. However the present law in effect imposed that duty upon the employer (C A. No. 444). Such employer may not therefore be heard to plead his own neglect as exemption or defenses. The employee, in rendering extra service at the request of his employer has a right to assume that the latter has complied with the requirement of the law, and therefore has obtained the required permission from the Department of Labor". (*Gotamco Lumber Co. vs. CIR*)

Wherefore, inasmuch as the petitioner does not raise the question that the amount determined by the Court does not accord with the number of extra hours or holidays for which overpayment must be made, and inasmuch as we find no error in the legal conclusions of the Court of Industrial Relations, the appealed order is affirmed, with costs against the petitioner. So ordered.

Paras, C.J., Pablo, Padilla, Tuason, Montemayor, Reyes, Jugo and Bautista Angelo, JJ., concur.

[1] Cf. *The Shell Co vs. National Labor Union*, 46 O.G. Suppl. 1, p. 97..

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