

**WILLIAM LINES, INC. AND ESPIRITU TAN, AS MANAGER,
PETITIONERS, VS. EUGENIO LOPEZ AND COURT OF INDUSTRIAL
RELATIONS, RESPONDENTS.**

G.R. No. L-33013. March 28, 1980

Ponente: BARREDO, J.

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BARREDO, J.:

Petition for review by certiorari pursuant to Rule 43 of the Rules of Court of the decision of the respondent Court of Industrial Relations (CIR),[*] dated September 24, 1970,[1] penned by then Associate Judge Amando C. Bugayong, which was affirmed by a resolution en banc of the same court on November 3, 1970,[2] praying for the reversal of the aforesaid decision.

The factual and procedural antecedents follow. On May 5, 1947, petitioner corporation, which is engaged in shipping business in the Philippines, employed claimant, now respondent, Eugenio Lopez, as storekeeper of the M/V Luzon, with a monthly salary of P122.00. Later said claimant-respondent was transferred to the M/V Edward, then to M/V Victoriano, and finally to M/V Davao.

Claimant-respondent's services were terminated on October 13, 1962 when the M/V Davao was drydocked in Cebu. He received the separation pay of P1,586.00.

On March 17, 1964, approximately one (1) year, five (5) months and four (4) days after his services were terminated, claimant-respondent, who was refused readmission to work by petitioners, filed a petition with the CIR, claiming salary differentials in the amount of P2,816.00, premium pay for services rendered on Sundays and holidays, as well as daily overtime compensation, with a request for reinstatement.[3]

Petitioners herein (respondents below) filed a motion to dismiss on the ground that the CIR had no jurisdiction and that the petition stated no cause of action, but the CIR denied the motion and directed petitioners to file their answer.

Petitioners maintained in their answer that the dismissal of claimant-respondent was lawful because he had been paid his separation pay; that he was not entitled to premium pay because petitioner was a public utility corporation; that the various claims had already prescribed; and that claimant-respondent never rendered overtime service because the nature of his work was without fixed time and did not require him to work for more than eight (8) hours a day.[4]

In its decision dated September 24, 1970, subject of this appeal, together with resolution en banc of November 3, 1970, the CIR directed petitioner shipping corporation to –

"x x x immediately reinstate complainant Eugenio Lopez to his former work or to any equivalent position, pay him the corresponding overtime compensation at the rate of 2 hours a day for the duration of his employment, computed on the basis of his actual working days at his last rate." [5]

Petitioners moved for a reconsideration of the decision before the CIR en banc, but in its resolution of November 3, 1970 already adverted to, the motion was denied.[6] Hence, this appeal from the said CIR decision and resolution.

Petitioners raise five (5) issues:

"1. Whether or not the CIR has jurisdiction over the money claims x x x for salary differences, premium pay for Sundays and holidays and overtime pay, considering that herein claimant filed the said case long after the termination of the employer-employee relationship and considering further that he did not at all support his claim for reinstatement with any proof that his dismissal was wrongful or illegal;

"2. Whether or not the CIR, assuming it has jurisdiction over the case, could lawfully order the reinstatement of herein claimant who had been laid off and paid his severance pay, considering that there was no proof whatsoever presented by claimant that his dismissal was illegal or wrongful;

"3. Whether or not prescription and laches had set in to bar herein claimant's alleged right to reinstatement;

"4. Whether or not the CIR's finding of fact as to the number of claimant's working hours during his employment is binding upon this x x x Court, considering that such finding was not at all supported by the evidence submitted in the instant case;

"5. Whether or not the claim for overtime compensation of claimant, at least insofar as those that have accrued for more than 3 years, has already prescribed under C.A. 444, as amended by R.A. 1993 and R.A. 2377."

Issues Nos. 1, 2 and 3 – These issues are interrelated and will be discussed and resolved jointly.

With respect to the first issue, petitioner's position is that it is the regular courts, not the CIR, which have jurisdiction over claimant-respondent's claim; that the CIR has jurisdiction over the same only if "the employer-employee relationship is still existing or the employee seeks reinstatement"; that claimant-respondent's employment had already been terminated; that "a new claim for reinstatement by the employee in his petition is not sufficient to confer jurisdiction on the CIR if there is no averment made by the employee in his petition that his dismissal was wrongful or illegal"; and that to allow such an anomalous situation, i.e. the conferment of jurisdiction on the CIR by mere claim of reinstatement in the petition without questioning the validity of the dismissal "would practically leave the matter of jurisdiction of the court at the mercy of the whims and caprices of the employee" and is "violative of the well-established rule that money claims in cases where the employer-employee relationship is terminated and no reinstatement is sought, already fall within the jurisdiction of the regular courts." [7]

Claimant-respondent having failed to file brief within the period which expired on June 26, 1971, the case was considered submitted for decision without the said brief.[8]

We held in *Sy Huan v. Bautista*[9] that –

"The jurisdiction of the Court of Industrial Relations under the law and x x x jurisprudence extends only to cases involving – (a) labor disputes affecting an industry which is indispensable to the national interest and is so certified by the President to the Court, Section 10, Republic Act No. 875; (b) controversy about the Minimum Wage Law, Republic Act No. 602; (c) hours of employment under the Eight-Hour Labor Law, Commonwealth Act No. 444; and (d) unfair labor practice, Sec. 5-(a), Republic Act No. 875," citing cases.[10]

We further held in the same case that –

"x x x such disputes and controversies x x x must arise while the employer-employee relationship between the parties exists, or the employee seeks reinstatement. When such relationship is over and the employee does not

seek reinstatement, all claims become money claims that fall under the jurisdiction of the regular courts," also citing cases.[11]

In the particular case of *Price Stabilization Corporation v. Court of Industrial Relations, et al.*,[12] We held that –

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

In the case at bar, allegations were made by petitioner in the petition claiming, inter-alia, the right to be reinstated to his former work, with back wages . . . on the basis of which allegations, the jurisdiction asserted by the CIR appears to be in accord with *Sy Huan v. Bautista* and *Price Stabilization Corporation v. Court of Industrial Relations, et al. supra*.

And the records sustain that the dismissal of claimant-respondent was not wrongful. It is not controverted that his employment with petitioners was without a definite period. Under R.A. No. 1052 (otherwise known as the Termination Pay Law), an employee may be dismissed by the employer without just cause by serving at least one month advance notice to the employee, or by giving the said employee one-half month for every year of service of the employee, whichever is longer, a fraction of at least six months being considered as one whole year."[13] Petitioners contend that claimant-respondent was duly notified of the termination.[14] Although disputed,[15] the question of actual notice becomes immaterial in view of petitioners' compliance with the alternative requirement, as found by the CIR, that claimant-respondent accepted separation pay in the amount of P1,586.00.[16] Additionally, the CIR also found that there was no substantial evidence to show that the dismissal was illegal.[17] Since the burden of proof of illegal dismissal devolved upon claimant-respondent himself, his failure to discharge this burden defeats his allegation that he was illegally dismissed. In the absence of such proof, there is no basis for the CIR to order the reinstatement of claimant-respondent. Thus, under the circumstances, that court (now defunct) could not have lawfully directed the reinstatement of claimant-respondent even if it had jurisdiction over the subject matter of this action.

And, having concluded that no right to reinstatement exists, it becomes unnecessary to resolve the third issue – i.e. whether or not prescription and laches had set in to bar claimant-respondent's alleged right to be reinstated.

Issues Nos. 4 and 5 – With respect to the fourth issue, it is not true that there is no evidence to support the CIR's finding that claimant-respondent worked at an average of "no less than 10 hours a day, 2 hours more than the minimum requirement specified on the Eight-Hour Labor Law." [18] Claimant-respondent's testimony is to the effect that his main duties were – (a) to clean the storeroom and (b) to serve food to the passengers; that although there was "(N)o exact number of hours" for either of these duties, he would "estimate" that 2 hours, more or less, were spent each time in cleaning the storeroom, morning and afternoon, while 2 hours, more or less, were also needed to serve food, which he did 3 times a day – at 4:30 a.m., 10:00 a.m., and 3 p.m.[19] This clearly averaged 10 hours a day. On the basis of the foregoing testimony, the trial court's finding that he had been working no less than 10 hours daily is justified. At any rate, doubts should be resolved in his favor to pursue the ends of the Eight-Hour Labor Law (R.A. No. 444), as amended, which is a social legislation.

But, since Sec. 7-A of the Eight-Hour Labor Law allows the enforcement of an action "within three years after the cause of action accrued, otherwise, such action shall be forever barred", claimant-respondent can collect only the overtime compensation for the 2 hours in excess of the regular 8 hours a day which accrued within 3 years immediately before the filing of the petition on March 17, 1964. Similar claims which accrued prior to the 3-year

period or before March 17, 1961 have already prescribed, and can no longer be enforced in this action. However, since claimant-respondent's services were terminated on October 13, 1962, the computation of the 2-hour daily overtime will cover the period from March 17, 1961 to October 13, 1962, or a period of 1 year, 6 months and 26 days, from which shall be excluded Sundays and legal holidays, the lower court having correctly ruled that claimant-respondent is not entitled to premium pay for Sundays and legal holidays based on the principle that being on board the vessel on these days were "part and parcel of" and "inherent" in his work. The herein resolution likewise disposes of issue No. 5 raised by petitioners.

IN VIEW OF ALL THE FOREGOING, the appealed decision of the Court of Industrial Relations is affirmed with the modifications above indicated, namely: petitioners are directed to pay to claimant-respondent overtime compensation at the rate of 2 hours a day, based on the last monthly salary rate, from March 17, 1961 to October 13, 1962, excluding Sundays and legal holidays, without right to reinstatement.

Let the National Labor Relations Commission (NLRC) be furnished with a copy of this decision.

SO ORDERED.

Antonio, Aquino, Concepcion, Jr., Guerrero, and De Castro, JJ., concur.

[*] Now defunct, with the creation of the National Labor Relations Commission (NLRC) under Presidential Decree No. 21, effective October 14, 1972.

[1] Rollo, p. 103 (Annex "E").

[2] Id., p. 72 (Annex "F").

[3] Id., pp. 7-9; See also Annex "A".

[4] Id., pp. 9-10; See also Annex "D".

[5] Id., p. 87 (Decision).

[6] Id., p. 104 (Annex "G").

[7] Brief for Petitioners, pp. 10-12.

[8] See Resolution dated February 3, 1972, Rollo, p. 134.

[9] L-16115, Aug. 29, 1961; 2 SCRA 1045.

[10] Id., p. 1048.

[11] Id., p. 1049; Emphasis supplied.

[12] No. L-13906, May 23, 1960, 108 Phil. 134 (1960).

[13] "Section 1. In cases of employment, without a definite period, in a commercial, industrial, or agricultural establishment or enterprise, the employer or the employee may terminate at any time the employment with just cause; or without just cause in the case of an employee by serving notice on the employer at least one month in advance, or in the case of an employer, by serving such notice to the employee at least one month in advance or one-half month for every year of service of the employee, whichever is longer, a fraction of at least six months being considered as one whole year."

[14] Rollo, p. 8 (Petition).

[15] Id., p. 41 (Petition before the CIR, Annex "A").

[16] Id., p. 76 (Decision).

[17] Id., p. 77 (Decision).

[18] Id., p. 75 (Decision).

[19] Id., pp. 27-29 (Petition).

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