

**PHILIPPINE NATIONAL CONSTRUCTION CORPORATION,
PETITIONER, VS. THE HONORABLE NATIONAL LABOR RELATIONS
COMMISSION, SECOND DIVISION, PHILIPPINE OVERSEAS
EMPLOYMENT ADMINISTRATION, ...**

G.R. No. 101535. January 22, 1993

Ponente: CAMPOS, JR., J.

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CAMPOS, JR., J.:

Subject of this petition is the Resolution[*] of the National Labor Relations Commission (NLRC) affirming the decision of the Philippine Overseas Employment Administration (POEA) which held herein petitioner Philippine National Construction Corporation (PNCC) liable to private respondents Raul Abrico, Rodrigo Vasallo, Eduardo A. Sibbaluca, and Benigno M. Manasis for salary, overtime pay, vacation and sick leave, and completion bonus differentials.

The facts are as follows:

Herein private respondents Raul C. Abrico, Rodrigo Vasallo, Eduardo A. Sibbaluca, and Benigno M. Manasis were deployed by herein petitioner for overseas employment to Iraq as security guards pursuant to individual appointment contracts dated April 15, 1985. These were submitted to the POEA and were validated by the latter on April 22, 1985. The contracts provided for a US\$350.00/month salary.

However, on May 12, 1985, a second overseas contract was executed by the PNCC which was accepted by private respondents. It modified the April 15, 1985 contract by providing for a monthly salary of US\$260.00 for the same position. The contract was for a two-year period. When the period lapsed, private respondents were repatriated and were extended local employment. However, all of them filed their voluntary resignation effective August 31, 1987 so that they could avail of more benefits under the Retirement Program offered by the PNCC.

On August 17, 1987, private respondents filed a complaint before the POEA for, among others, (a) non-payment of promotional pay increase for Raul C. Abrico and Rodrigo J. Vasallo; (b) underpayment of salaries, overtime pay, bonuses, night differential pay, sick leave and vacation leave benefits; (c) assigning Friday overtime guarding duties to non-guards.

In disposing of the complaint, the POEA ruled as follows:

"The issues to be resolved in these are:

1. Whether or not herein complainants are entitled to salary and overtime pay differentials.
2. Whether or not herein complainants are entitled to vacation leave and sick leave differentials, bonus differential and night shift differential.
3. Whether or not complainants Raul Abrico and Rodrigo J. Vasallo are entitled to promotional pay differential.

This Office, after a thorough examination of the allegations as well as the evidence of the parties finds the answer of the first issue to be affirmative, affirmative also to the second issue as far as vacation and sick leaves (sic) differentials as well as bonus differential are concerned and negative as to the rest of the issues.

x x x The only dispute which remains unsolved is whether or not the monthly salary of herein complainants is US\$350.00 a month or US\$260.00.

As correctly invoked by complainants paragraph (1) of Article 34 of the Labor Code prohibits the substitution or alteration of employment contracts approved and verified by the Department of Labor from the time (of) the actual signing thereof by the parties up to and including the period of expiration of the same without the approval of the Department of Labor.

With regard to the first issue in this case the approved contract of employment of the herein complainants with the respondent is US\$350.00 a month. This can be inferred from the POEA approved contract of employment and by the certification issued by respondent's chief recruiting officer. This being so, herein complainants have the right to be paid as monthly salaries the aforementioned amount.

Complainants having been granted voluntarily by the respondent a two-hour daily overtime (Exh. "G", "G-1") during the durations of their contract, are also entitled to be paid thereto based on the monthly salaries of US\$350.00 and not US\$260.00.

In connection with the second issues of vacation and sick leaves (sic) differentials as well as bonus differential, there being no refutation from the respondent of the allegation of the complainants that they were paid the said benefits in accordance with the monthly rate they were receiving while working in Iraq, that is US\$260.00, instead of US\$350.00, their salary rate in their approved employment contract, this Office finds it proper to award the complainants the difference of the two (2) aforementioned amounts as far as their vacation and sick leaves (sic) benefits as well as completion bonus are concerned. Subparagraph a of paragraph seven of the master employment contract of the respondent in its Iraq project during the year 1985 provides a vacation leave of 20 days and sick leave of 10 days or a total of thirty (30) days leave for each of their employee for twelve (12) months service. The said leaves (sic) benefits are commutable to cash at the rate of 100% of the employee's salary at the end of employees foreign assignment (subpar. c par. 7, respondent's Master Employment Contract). Respondent's master employment contract also provides for completion bonus of fifteen (15) days for every year of service (par. 15). Respondent having paid the complainants the said benefits in accordance with the monthly rate they actually received while working in Iraq, this Office finds it proper for the respondent to pay to complainants the difference of the two aforementioned amounts."^[1]

From the decision of the POEA, the PNCC appealed to the NLRC. It alleged that the POEA erred in applying Article 34(i) of the Labor Code; and in holding that the notice of employment, dated April 15, 1985, providing for a monthly salary of US\$350.00 was the actual overseas employment contract instead of the one dated May 12, 1985 which provided for a salary of US\$260.00/month.

In affirming the POEA decision, the NLRC stated:

"x x x suffice it to state that in its aforesaid Rejoinder respondent-appellant corporation admitted as "xxx beyond question xxx that the contracts dated April 15, 1985 were amended or modified on May 12, 1985" (Rollo 60), the latter sans "xxx the approval of the Department of Labor xxx" and/or the POEA, thus within the context of prohibited practices under Art. 34 (i) of the Labor Code, as amended.

As validated by the POEA, the approved employment contracts of complainants-appellees were for US\$350.00 a month salary. Ms. Solis certified to the aforesaid salary as PNCC Recruitment Head (Rollo 25-28); also, as per POEA Accreditation Department certification dated 25 June 1987. (Rollo 24).

x x x x x x x x

Relative to the last assignment of error, respondent-appellant corporation insists that the POEA('s) basis for the computation of the awarded differentials are erroneous for being without evidentiary basis or contrary to the evidence.

It must be noted that complainants-appellees presented its (sic) claims (Annex "M", "N", "O", "P"; Rollo 122-136, 73-98) for differentials in overtime pay, sick leave and vacation leave benefits and completion bonus, as well as its (sic) Exhibits "G" and "G-1", all of which served as POEA bases for entitlement (Rollo 181, 182) to the several money claims; and the formula bases for the aforesaid computation were detailed besides, in the assailed decision (pages 6, 7; Rollo 179, 180).

The record is bereft however, of evidence of compliance with the aforesaid employment contracts relative to the aforesaid claims.

Absolutely no evidence appears to have been submitted for respondents-appellants relative to satisfaction of the aforementioned claims: whether of payments for any overtime as authorized and rendered, or availment of leave benefits or its computation (sic) to cash, etc., where the pertinent employment records, particularly disbursements for services rendered, as well as for fringe benefits usually are for the account of the deploying employer."^[2]

A Motion for Reconsideration of this Resolution having been denied on August 23, 1991, petitioner filed this petition for certiorari alleging that the public respondents committed grave abuse of discretion amounting to lack or excess of jurisdiction in holding that the notice of employment dated April 15, 1985 was the actual employment contract and that Article 34(i) of the Labor Code was applicable.

We find no sufficient ground to annul the decision of the NLRC due to a capricious and whimsical exercise of judgment. The petitioner's claim that the public respondent NLRC gravely abused its discretion in holding that the private respondents were entitled to a monthly salary of US\$350.00 pursuant to the April 15, 1985 employment contract has not been adequately substantiated. One of the axioms governing judicial review through certiorari is that the administrative decision may properly be annulled or set aside only upon clear showing that the administrative official or tribunal has acted with grave abuse of discretion.^[3]

The assailed NLRC decision which affirmed the POEA ruling was based on the exhibits presented by the parties, among which were the confirmation letters^[4] issued to each of the private respondents and the certification^[5] issued by the POEA on June 25, 1987 stating that the approved rate for the position of a company guard for the PNCC was US\$350.00/month. More importantly, the NLRC relied upon the admission made by the PNCC. Thus, it held:

"x x x suffice it to state that in its aforesaid Rejoinder respondent-appellant corporation admitted [underscoring supplied] as "xxx beyond question xxx that the contracts dated April 12, 1985 were amended or modified on May 12, 1985" (Rollo 60), the latter sans "xxx the approval of the Department of Labor xxx" and/or the POEA, thus within the context of prohibited practices under Art. 34 (i) of the Labor Code, as amended."^[6]

The PNCC now finds fault in that decision by saying that the April 15, 1985 document was but a mere notice/offer of employment. Petitioner alleges further that it was never signed and accepted by private respondents. Consequently, it never became a binding contract between the parties concerned. Petitioner further stated that the real contract of employment was the one executed on May 12, 1985 which provided for a monthly salary of US\$260.00 and which was accepted by private respondents.

While the allegations of the PNCC may cast doubt on the real nature of the April 12, 1985 document, our Civil Code^[7]states:

"In case of doubt, all labor legislation and all labor contracts shall be construed in favor of the safety and

decent living for the laborers."

The mandate of the law for a liberal interpretation of labor contracts in favor of the working man was applied in the case of *Ditan vs. POEA Administrator*[8] where We made the following pronouncement:

"A strict interpretation of the cold facts before us might support the position taken by the respondents. However, we are dealing here not with an ordinary transaction but with a labor contract which deserves special treatment and a liberal interpretation in favor of the worker x x x the Constitution mandates the protection of labor and the sympathetic concern of the State for the working class conformably to the social justice policy. x x

x x x x x x

Under the policy of social justice, the law bends over backward to accommodate the interests of the working class on the humane justification that those with less privileges in life should have more privileges in law. x x x."

WHEREFORE, in view of the foregoing, the questioned Resolution of the NLRC is hereby AFFIRMED. Consequently, this petition is DISMISSED. With costs.
SO ORDERED.

Narvasa, C.J., (Chairman), Feliciano, Regalado, and Nocon, JJ., concur.

[*] NLRC Case No. POEA (L) 87-08-642, Raul Abrico, et. al. vs. Philippine National Construction Corporation, et. al., May 15, 1991, Commissioner Domingo H. Zapanta, ponente, Commissioners Edna Bonto-Perez and Rustico L. Diokno, concurring.

[1] Decision, pp. 3-5; Records, pp. 181-183.

[2] Resolution, pp. 12-14; Records, pp. 409-411.

[3] *Industrial Tower Sales, Inc. vs. Duma Sinsuat*, 160 SCRA 19 (1988).

[4] Annexes "A", "B", "C", "D", Comment of Private Respondents; Rollo, pp. 81-84.

[5] Annex "E", Comment of Private Respondents; Rollo, p. 85.

[6] *Supra*, note 2.

[7] Article 1702.

[8] 191 SCRA 823, 828, 829 (1990).

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