

CHAD COMMODITIES TRADING, PETITIONER, VS. THE NATIONAL LABOR RELATIONS COMMISSION (2ND DIV.), VALENTINO DUPITAS, FRANKIE DUPITAS, JIMMY DUPITAS AND BERNARDO TAASAN, JR., RESPOND...

G.R. No. 112409. December 04, 1996

Ponente: VITUG, J.

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VITUG, J.:

Petitioner questions, in the instant special civil action for certiorari, the decision and resolution, respectively dated 31 May 1993 and 15 July 1993, of the National Labor Relations Commission ("NLRC") awarding to private respondents 13th month pay for a 3-year period.

On 04 April 1989, Valentino Dupitas, Jimmy Dupitas, Bernardo Taasan, Jr., and Frankie Dupitas filed a complaint for money claims against petitioner Chad Commodities Trading. The complainants averred that petitioner had failed to pay them the minimum wage mandated by law, the corresponding correct amount of their 13th month pay and the cash equivalent of a 5-day service incentive leave. Respondent Jimmy Dupitas additionally sought to recover unauthorized deductions from his salary of P2,000.00 representing alleged unpaid obligations of customers then being serviced by him. Valentino Dupitas and Frankie Dupitas included in the complaint a charge for illegal dismissal.

Petitioner Chad Commodities Trading, a registered establishment engaged in the business of distributing assorted adhesive products, packaging tapes, and similar items, conceded that private respondents had been its employees.

Respondent Valentino Dupitas was hired in 1986 as an account executive/salesman at a total monthly compensation of P7,435.00. Some time during the early part of 1989, petitioner discovered that Valentino had several unremitted collections. Petitioner called for a formal hearing but Valentino refused to undergo any investigation prompting petitioner to instead file a criminal complaint for estafa with the Office of the City Fiscal of Quezon City. Valentino sought a compromise settlement with petitioner by offering to withdraw his complaint with the Labor Arbiter.

Respondent Frankie Dupitas was employed in August of 1986. He was assigned as a delivery helper but, from time to time, he also worked as a collector. When he left his work, he was receiving P1,455.00 a month inclusive of his basic monthly salary, transportation allowance and meal allowance

Respondent Jimmy Dupitas was taken in by petitioner as an account executive in 1986 receiving P4,610.00 a month, more or less, which included his basic monthly salary, transportation allowances and incentives on sales plus commission. He filed his resignation letter on 10 April 1989.

Petitioner engaged the services of Bernardo Taasan, Jr., in 1986, as a salesman receiving a monthly pay of P3,110.00, inclusive of transportation allowance and commission on sales. On 11 April 1989, Bernardo filed his letter of resignation. Petitioner discovered that anomalies had been committed by Bernardo; thus, a case for estafa

was thereupon filed against him.

In his decision of 28 February 1990, Labor Arbiter Edgardo Madriaga ruled in favor of petitioner. The money claims of complainants were all dismissed. He also concluded that Valentino Dupitas and Frankie Dupitas were terminated for just causes, and that due process was observed in both instances.

Private respondents appealed the decision to the NLRC, asserting that petitioner should have been held liable to pay them the correct amount of the minimum wage mandated by law, the 5-day incentive leave and the corresponding adjustment in their 13th month pay. The complaint of Frankie Dupitas for illegal dismissal was not elevated on appeal; hence, the finding of the arbiter a quo on this issue was decreed to be final.

On 31 May 1993, respondent NLRC affirmed the decision of the Labor Arbiter which, like the latter, found no valid cause to charge petitioner with underpayment of compensation. The NLRC, however, ordered petitioner to pay private respondents 13th month pay^[1] for 3 years merely because of petitioners failure to include in its position paper this particular item in the list of remunerations paid to the complainants during their employ. Petitioners motion for reconsideration was denied.

The present petition assails public respondent's order on the aspect of the 13th month pay.

The petition has merit.

The New Rules of Procedure of the NLRC provides:

"(c) Subject to the provisions of Article 218, once the appeal is perfected in accordance with these rules, the Commission may limit itself to reviewing and deciding specific issues that were elevated on appeal."^[2]

In the appeal memorandum of private respondents to the NLRC, the issue raised for resolution has been defined, thus:

"Whether or not complainants are entitled to the payment of the correct amount of the minimum wage, the 5-day incentive leave and an adjustment of the 13th month pay."^[3]

Private respondents clearly were claiming only the balance in their 13th month pay such as would result from an adjustment in their salaries once (and if) the alleged wage underpayment is proved and finally decreed. The position paper that private respondents submitted to the Labor Arbiter was explicit:

"Due to the failure of respondent to pay complainants the minimum wage as mandated by law, the 13th month pay given them is definitely lower than what they should be paid. Hence, there should be a corresponding adjustment of their 13th month pay.

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"As to the adjustment on the 13th month pay and the 5-day incentive leave with pay which is convertible into cash, complainants cannot make the proper computation as records of payments made to them are with respondent. It is requested that this Hon. Office require respondent to furnish it with the pertinent data." ^[4]

Hence, in paragraph 2 of their prayer, private respondents asked the Labor Arbiter to order petitioner -

"To pay all the complainants the balance of the 13th month pay and the 5-day service incentive leave in such amount as may be determined by this Hon. Office."^[5]

Understandably, petitioner did not have to touch on the 13th month pay in its position paper. Indeed, the 13th month pay was never an independent issue.

Considering that, as it now so appears, private respondents have not been underpaid their salaries, and that the

total compensation package for each of them was within the minimum level prescribed by law, there is no reason for any corresponding adjustment in their 13th month pay. The Solicitor General himself finds similarly and he, too, has recommended the nullification of the questioned NLRC's decision.

WHEREFORE, this petition for certiorari is GRANTED, and the impugned order of respondent NLRC, directing payment of the 13th month pay for 3 years to private respondents, is set aside. No costs.

SO ORDERED.

Padilla (Chairman), Bellosillo and Hermosisima, Jr., JJ., concur.

Kapunan, J., on leave.

[1] The Arbiter's decision was thus modified by directing petitioner to pay private respondents their 13th month pay computed as follows:

"Valentin Dupitas P22,305 (7,435 x 3)

"Frank Dupitas (11,265 [2,300 +1,455]x 3)

"Jimmy Dupitas P13,830 (4,610 x 3)

"Bernardo Taasan, Jr. P9,330 (3,110 x 3)

(Data based on respondent position paper filed on 6/15/89 p. 71, record)" (Rollo, p. 57).

[2] Paragraph (c), Sec. 3 of Rule VI.

[3] Rollo, p. 45.

[4] Rollo, pp. 21-23.

[5] Rollo, p. 24.

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