A. D. GOTHONG MANUFACTURING CORPORATION EMPLOYEES UNION-ALU, PETITIONER, VS. HON. NIEVES CONFESOR, SECRETARY, DEPARTMENT OF LABOR AND EMPLOYMENT AND A. D. GOTHONG MANUFACTURING ...

G.R. No. 113638. November 16, 1999

Ponente: GONZAGA-REYES, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-113638/

GONZAGA-REYES, J.:

Petitioner A. D. Gothong Manufacturing Corporation Employees Union-ALU seeks to reverse and set aside the decision of the Secretary of Labor promulgated on September 30, 1993 affirming in toto the Resolution of Mediator-Arbiter, Achilles V. Manit declaring Romulo Plaza and Paul Michael Yap as rank- and-file employees of A. D. Gothong Manufacturing Corporation.

On May 12, 1993, petitioner A. D. Gothong Manufacturing Corporation Employees Union-ALU ("Union") filed a petition for certification election in its bid to represent the unorganized regular rank-and-file employees of respondent A. D. Gothong Manufacturing Corporation ("Company") excluding its office staff and personnel. Respondent Company opposed the petition as it excluded office personnel who are rank and file employees. In the inclusion-exclusion proceedings, the parties agreed to the inclusion of Romulo Plaza and Paul Michael Yap in the list of eligible voters on condition that their votes are considered challenged on the ground that they were supervisory employees.

The certification election was conducted as scheduled and yielded the following results:

YES - - - - - - - - - - - - - - - - 20

NO - - - - - - - - - - - - - - - - - 19

Spoiled - - - - - - - - - - - - - - 0

Challenged - - -- - - - - - - - - 2

Total votes cast - - - - - - - - - 41

Both Plaza and Yap argued that they are rank-and-file employees. Plaza claimed that he was a mere salesman based in Cebu, and Yap argued that he is a mere expediter whose job includes the facilitation of the processing of the bills of lading of all intended company shipments.

Petitioner Union maintains that both Plaza and Yap are supervisors who are disqualified to join the proposed bargaining unit for rank-and-file employees. In support of its position paper, the petitioner Union submitted the following:

- Joint affidavit of Ricardo Cañete, et al. which alleges that Michael Yap is a supervisory employee of A. D. Gothong Manufacturing Corporation and can effectively recommend for their suspension/dismissal.

- Affidavit of Pedro Diez which alleges that the affiant is a supervisor in the production department of A. D. Gothong Manufacturing Corporation; that the affiant knows the challenged voters because they are also supervisory employees of the same corporation; that the challenged voters used to attend the quarterly meeting of the staff employees of A. D. Gothong Manufacturing Corporation;

- Photocopy of the memorandum dated January 4, 1991 regarding the compulsory attendance of department heads/supervisors to the regular quarterly meeting of all regular workers of A. D. Gothong Manufacturing Corporation on January 13, 1991. Appearing therein are the names ROMULO PLAZA and MICHAEL YAP;

- A not-so-legible photocopy of a memorandum dated March 1, 1989 wherein the name "ROMY PLAZA" is mentioned as the acting OIC of GT Marketing in Davao; and

- Photocopy of the minutes of the regular quarterly staff meeting on August 13, 1989 at Mandaue City wherein Michael Yap is mentioned as a shipping assistant and a newly hired member of the staff.[1]

The Med-Arbiter declared that the challenged voters Yap and Plaza are rank-and-file employees.

Petitioner Union appealed to the Secretary of Labor insisting that Yap and Plaza are supervisor and manager respectively of the corporation and are prohibited from joining the proposed bargaining unit of rank-and-file employees. In an attempt to controvert the arguments of petitioner, respondent Company stressed that Pacita Gothong is the company's corporate secretary and not Baby L. Siador, who signed the minutes of the meeting submitted in evidence. Respondent also argued that Romulo Plaza could not qualify as a manager of the Davao Branch the opening of which branch never materialized.

Respondent Secretary of Labor affirmed the finding of the Med-Arbiter. Motion for Reconsideration of the above resolution having been denied, petitioner Union appeals to this Court by petition for review on certiorari alleging the following grounds:

> - THAT THE SECRETARY OF LABOR AND EMPLOYMENT CLEARLY COMMITTED MISAPPREHENSION OF FACTS/EVIDENCE AND IF IT WERE NOT FOR SUCH MISAPPREHENSION IT WOULD HAVE ARRIVED AT DIFFERENT CONCLUSION FAVORABLE TO PETITIONER.
>
> - THAT THE SECRETARY OF LABOR AND EMPLOYMENT ACTED WITH GRAVE ABUSE OF DISCRETION AND CONTRARY TO LAW IN AFFIRMING IN TOTO THE DECISION OF HONORABLE ACHILLES V. MANIT, DEPARTMENT OF LABOR AND EMPLOYMENT, REGIONAL OFFICE No. 7, CEBU CITY IN DENYING PETITIONER'S MOTION FOR RECONSIDERATION.[2]

We find no merit in the instant petition.

The Labor Code recognizes two (2) principal groups of employees, namely, the managerial and the rank and file groups. Article 212 (m) of the Code provides:

> "(m) `Managerial employee' is one who is vested with powers or prerogatives to lay down and execute management policies and/or to hire, transfer, suspend, lay-off, recall, discharge, assign or discipline employees. Supervisory employees are those who, in the interest of the employer, effectively recommend such managerial actions if the exercise of such authority is not merely routinary or clerical in nature but requires the use of independent judgment. All employees not falling within any of the above definitions are considered rank-and-file employees for purposes of this Book."

Under Rule I, Section 2 (c), Book III of the Implementing Rules of the Labor Code, to be a member of managerial staff, the following elements must concur or co-exist, to wit: (1) that his primary duty consists of the performance of work directly related to management policies; (2) that he customarily and regularly exercises discretion and

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

independent judgment in the performance of his functions; (3) that he regularly and directly assists in the management of the establishment; and (4) that he does not devote more than twenty percent of his time to work other than those described above.

In the case of Franklin Baker Company of the Philippines vs. Trajano[3], this Court stated:

> "The test of `supervisory' or `managerial status' depends on whether a person possess authority to act in the interest of his employer in the matter specified in Article 212 (k) of the Labor Code and Section 1 (m) of its Implementing Rules and whether such authority is not merely routinary or clerical in nature, but requires the use of independent judgment. Thus, where such recommendatory powers as in the case at bar, are subject to evaluation, review and final action by the department heads and other higher executives of the company, the same, although present, are not exercise of independent judgment as required by law.[4]

It has also been established that in the determination of whether or not certain employees are managerial employees, this Court accords due respect and therefore sustains the findings of fact made by quasi-judicial agencies which are supported by substantial evidence considering their expertise in their respective fields.[5]

The petition has failed to show reversible error in the findings of the Med-Arbiter and the Secretary of the Department of Labor.

In ruling against petitioner Union, the Med-Arbiter ruled that the petitioner Union failed to present concrete and substantial evidence to establish the fact that challenged voters are either managerial or supervising employees; the Med-Arbiter evaluated the evidence as follows:

> "The said joint affidavit of Ricardo Cañete, et al. and that of Pedro Diez merely tagged the challenged voters as supervisors, but nothing is mentioned about their respective duties, powers and prerogatives as employees which would have indicated that they are indeed supervisory employees. There is no statement about an instance where the challenged voters effectively recommended such managerial action which required the use of independent judgment.
>
> The aforementioned documents have not been properly identified which renders them inadmissible in evidence. But, granting that they are the exact replica of a genuine and authentic original copy, there is nothing in them which specifically and precisely tells that the challenged voters can exercise the powers and prerogatives to effectively recommended such managerial actions which require the use of independent judgment.[6]

In upholding the above findings, the respondent Secretary of Labor rationalized:

> "Based on the foregoing, Romulo Plaza and Paul Michael Yap can not qualify as managerial and supervisory employees, respectively, because there is nothing in the documentary evidence offered by herein petitioner-appellant showing that they are actually conferred or actually exercising the said managerial/supervisory attributes.
>
> In the case of Romulo Plaza, we note that indeed there is nothing in the minutes of the staff meeting held on 05 March 1993, particularly on the report of the Sales Department, indicating that said appellee had been exercising managerial prerogatives by hiring workers and issuing a check for the payment of rentals of a warehouse, relative to the company branch in Davao City. The imputation on the exercise of the said prerogative is misleading if not malicious because a plain reading of that portion of the report shows in clear and simple language that one who made the said hiring and payment was no other than Mr. John Chua, the Sales Manager. The only instance when the name of Romy Plaza was mentioned in the said report was in reference to his designation as an OIC of the Davao City Branch while all the aspect of the creation of the said branch is awaiting final approval by the Company president and general manager (p. 197, last paragraph, records). The setting up of said branch however, did not materialize, as evidenced by the certification issued by

> the Revenue District Office and Office of the Mayor in Davao City (pp. 198-199, records).
>
> Likewise, evidence pinpointing that Paul Michael Yap is a supervisory employee is altogether lacking. The fact that he was designated as shipping assistant/expediter is of no moment, because titles or nomenclatures attached to the position is not controlling.
>
> Finally, the job descriptions extant on records vividly exhibit no trace of the performance of managerial or supervisory functions (pp. 124-126, records)".[7]

In this petition, petitioner Union claims that the documentary evidence was "misapprehended" by public respondent. Petitioner Union reiterates that: (1) in minutes of the staff meeting of respondent Company on August 13, 1989, duly signed by the President Albino Gothong and attested by Jose F. Loseo presiding officer/VP and Gertrudo Lao, Assistant General Manager, Paul Michael Yap was listed as one of the staff; (2) in the regular quarterly meeting on January 4, 1991, the names of Yap and Plaza are listed under the heading Department Heads/Supervisors duly signed by President/General Manager Albino Gothong and Asst. General Manager Gertrudo Lao; and (3) in the staff meeting of March 5, 1993, Plaza was assigned as officer-in-charge of the company's branch in Davao.

We find no cogent reason to disturb the finding of the Med-Arbiter and the Secretary of Labor that the copies of the minutes presented in evidence do not prove that Yap and Plaza were managerial or supervisory employees. We have examined the documentary evidence, and nowhere is there a statement therein about any instance where the challenged voters effectively recommended any managerial action which would require the use of independent judgment. The last piece of evidence was not discussed by the Med-Arbiter; however a perusal thereof would show that while one J. Chua of the Sales Department reported that "Romy Plaza was in Davao right now acting as OIC," the same document states that the Davao operations still had to be finalized. On the other hand, the claim of respondent Company that Plaza is the head of the Davao branch is belied by the certification of the City Treasurer of Davao and of the Bureau of Internal Revenue of Mandaue City that the plan to open a branch in Davao City did not materialize.[8]

The reliance of petitioner on the affidavit of Jose Loseo, Personnel Manager, that Plaza and Yap were hired by him as department head and supervisor of the respondent Company cannot be sustained in light of the affidavit of said Loseo dated September 28, 1993, attesting that he was "forced to sign" the earlier memorandum on the job assignment of Yap and Plaza. This affidavit is sought to be discarded by respondent Company for being perjurious and ill-motivated.[9] Petitioner Union however reiterates that Loseo's affidavit is corroborated by the other public documents indicating that Plaza and Yap are not rank-and-file employees.[10]

The issue raised herein is basically one of fact: whether in the light of the evidence submitted by both parties, Plaza and Yap are managerial employees or rank-and-file employees.

This Court is not a trier of facts. As earlier stated, it is not the function of this Court to examine and evaluate the probative value of all evidence presented to the concerned tribunal which formed the basis of its impugned decision or resolution. Following established precedents, it is inappropriate to review that factual findings of the Med-Arbiter regarding the issue whether Romulo Plaza and Paul Michael Yap are or are not rank-and-file employees considering that these are matters within their technical expertise.[11] They are binding on this Court as we are satisfied that they are supported by substantial evidence, and we find no capricious exercise of judgment warranting reversal by certiorari.

WHEREFORE, the petition is denied for lack of merit.

No pronouncement as to costs.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Purisima, JJ., concur.

---

[1] Rollo, p. 35.

[2] Rollo, pp. 8-9.

[3] 157 SCRA 416.

[4] See also Engineering Equipment, Inc. vs. NLRC, 133 SCRA 752; National Warehousing Corp. vs. CIR, 7 SCRA 602 [1963]; National Waterworks and Sewerage Authority vs. NWSA Consolidated Unions, 11 SCRA 766.

[5] Philippine Airline Employees Ass. (PALEA) vs. Ferrer-Calleja, 162 SCRA 426; Lacorte vs. Inciong, G. R. No. 52034, September 27, 1988; Arica vs. NLRC, G. R. No. 78210, February 28, 1989; A. M. Oreta & Co. Inc. vs. NLRC, G. R. No. 74004, August 10, 1989.

[6] Rollo, p. 35.

[7] Rollo, pp. 29-31.

[8] Annexes D & E, Comments to petitioner's Petition for Review on Certiorari.

[9] Rejoinder to petitioner Appellant's Reply; p. 247, Rollo.

[10] Memorandum for petitioner; p. 371, Rollo.

[11] Trade Unions of the Philippines vs. Laguesma, 236 SCRA 586.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.