

**JOSEFINA BENARES, PETITIONER, VS. JAIME PANCHO, RODOLFO PANCHO, JR., JOSELITO MEDALLA, PAQUITO MAGALLANES, ALICIA MAGALLANES, EVELYN MAGALLANES, VIOLETA VILLACAMPA, MARITESS PAN...**

*G.R. NO. 151827. April 29, 2005*

Ponente: TINGA, J.

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**TINGA, J.:**

Assailed in this Petition for Review on Certiorari[1] is the Decision[2] of the Court of Appeals which affirmed the National Labor Relations Commission's (NLRC) decision[3] holding that respondents were illegally dismissed and ordering petitioner to pay respondents separation pay, backwages, 13th month pay, Cost of Living Allowance (COLA), emergency relief allowance (ERA), salary differentials and attorney's fees. The NLRC reversed the Labor Arbiter's finding that respondents failed to lay down the facts and circumstances surrounding their dismissal and to prove their entitlement to monetary awards.[4]

The antecedents, as narrated by the NLRC, follow.

Complainants alleged to have started working as sugar farm workers on various dates, to wit:

1. Jaime Pancho November 15, 1964
2. Rodolfo Pancho, Jr. February 1, 1975
3. Joselito Medalla November 15, 1964
4. Paquito Magallanes March 10, 1973
5. Felomino Magallanes November 15, 1964
6. Alicia Magallanes January 15, 1964
7. Evelyn Magallanes January 1, 1974
8. Violeta Villacampa December 1, 1979
9. Maritess Pancho December 15, 1985
10. Rogelio Pancho December 1, 1979
11. Arnolfo Pancho February 1, 1975

Respondent Hda. Maasin II is a sugar cane plantation located in Murcia, Negros Occidental with an area of 12-24 has. planted, owned and managed by Josefina Benares, individual co-respondent.

On July 24, 1991, complainants thru counsel wrote the Regional Director of the Department of Labor and Employment, Bacolod City for intercession particularly in the matter of wages and other benefits mandated by

law.

On September 24, 1991, a routine inspection was conducted by personnel of the Bacolod District Office of the Department of Labor and Employment. Accordingly, a report and recommendation was made, hence, the endorsement by the Regional Director of the instant case to the Regional Arbitration Branch, NLRC, Bacolod City for proper hearing and disposition.

On October 15, 1991, complainants alleged to have been terminated without being paid termination benefits by respondent in retaliation to what they have done in reporting to the Department of Labor and Employment their working conditions viz-a-viz (sic) wages and other mandatory benefits.

On July 14, 1992, notification and summons were served to the parties wherein complainants were directed to file a formal complaint.

On July 28, 1992, a formal complaint was filed for illegal dismissal with money claims.

From the records, summons and notices of hearing were served to the parties and apparently no amicable settlement was arrived, hence, the parties were directed to file their respective position papers.

On January 22, 1993, complainant submitted their position paper, while respondent filed its position paper on June 21, 1993.

On March 17, 1994, complainants filed their reply position paper and affidavit. Correspondingly, a rejoinder was filed by respondent on May 16, 1994.

On August 17, 1994, from the Minutes of the scheduled hearing, respondent failed to appear, and that the Office will evaluate the records of the case whether to conduct a formal trial on the merits or not, and that the corresponding order will be issued.

On January 16, 1996, the Labor Arbiter issued an order to the effect that the case is now deemed submitted for resolution.

On April 30, 1998, the Labor Arbiter a quo issued the assailed decision dismissing the complaint for lack of merit.

On June 26, 1998, complainants not satisfied with the aforecited ruling interposed the instant appeal anchored on the ground that:

THE HONORABLE LABOR ARBITER GRAVELY ABUSED ITS DISCRETION AND SERIOUSLY ERRED IN HOLDING THAT THE COMPLAINANTS FAILED TO DISCUSS THE FACTS AND CIRCUMSTANCES SURROUNDING THEIR DISMISSAL, HENCE, THERE IS NO DISMISSAL TO SPEAK OF AND THAT COMPLAINANTS FAILED TO ALLEGE AND PROVE THAT THEIR CLAIMS ARE VALID, HENCE THE DISMISSAL OF THEIR COMPLAINT WOULD CAUSE GRAVE AND IRREPARABLE DAMAGE TO HEREIN COMPLAINANTS.[5]

The NLRC held that respondents attained the status of regular seasonal workers of Hda. Maasin II having worked therein from 1964-1985. It found that petitioner failed to discharge the burden of proving that the termination of respondents was for a just or authorized cause. Hence, respondents were illegally dismissed and should be awarded their money claims.

Petitioner's motion for reconsideration[6] dated May 12, 1999 was denied in the resolution[7] dated October 29, 1999.

The Court of Appeals affirmed the NLRC's ruling, with the modification that the backwages and other monetary benefits shall be computed from the time compensation was withheld in accordance with Article 279 of the Labor

Code, as amended by Republic Act No. 6715.

In its Resolution[8] dated November 28, 2001, the appellate court denied petitioner's motion for reconsideration for lack of merit.

Petitioner is now before this Court averring that the Court of Appeals erred in affirming the decision of the NLRC. While petitioner concedes that the factual findings of the NLRC are generally binding on the appellate court, petitioner insists that the findings of the NLRC are vague and contradictory, thereby necessitating review.

According to petitioner, the fact that she was able to present sufficient proof to rebut the claim of illegal dismissal should be considered in light of the NLRC's admission that there are gray areas in the case which require clarification. Petitioner avers that the NLRC should have at least remanded the case to the labor arbiter to thresh out these gray areas. She further claims that the NLRC was overly zealous in awarding COLA and ERA despite the fact that respondents did not even pray for these awards in their complaint. She also questions the NLRC's general statement to the effect that the payroll she submitted is not convincing asserting that she submitted 235 sets of payroll, not just one, and that the NLRC did not even bother to explain why it found the payroll unconvincing.

Respondents filed a Comment[9] dated May 10, 2002 alleging that petitioner failed to submit certified true copies of the assailed decisions and resolutions, and that the petition lacks proof of service and raises questions of fact.

In her Reply to Comment[10] dated September 17, 2002, petitioner points out that the Rules of Court do not require that all copies of the petition contain certified true copies of the questioned decisions and resolutions. Further, all copies of the petition filed with the Court contain an affidavit of service. Respondents' copy does not have an affidavit of service because the sworn declaration can not be executed before service of the petition is actually made. Petitioner also maintains that the rule on review of findings of fact by the Supreme Court admits of certain exceptions such as when the conclusions arrived at are grounded entirely on speculation, surmises and conjectures as in this case.

The petition was given due course and the parties were required to submit their respective memoranda in the Resolution[11] dated March 3, 2003. Petitioner filed a Manifestation and Compliance[12] dated April 22, 2003 adopting the allegations in her Petition for Review on Certiorari and Reply to Comment as her memorandum. For their part, respondents filed a Memoranda For Private Respondents[13] dated May 7, 2003 alleging that the Court of Appeals correctly relied upon the factual findings of the NLRC after having found the same to be supported by substantial evidence. They insist that they are regular seasonal employees of the sugar plantation. As such, petitioner has the burden of proving that their dismissal was for a just or authorized cause.

As regards the contention that the NLRC erroneously awarded COLA and ERA, respondents cite *Osias Academy v. DOLE*,[14] which provides that the NLRC can extend monetary awards even if these are not prayed for if the monetary benefits are statutory grants intended to alleviate the laborer's plight like the COLA and ERA.

The main question raised by the present petition is whether respondents are regular employees of Hacienda Maasin and thus entitled to their monetary claims. Related to this is the issue of whether respondents were illegally terminated.

This case presents a good opportunity to reiterate the Court's rulings on the subject of seasonal employment. The Labor Code defines regular and casual employment, viz:

Art. 280. REGULAR AND CASUAL EMPLOYMENT.—The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in

the usual business or trade of the employer, except where the employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employee or where the work or service to be performed is seasonal in nature and the employment is for the duration of the season.

An employment shall be deemed to be casual if it is not covered by the preceding paragraph: Provided, That, any employee who has rendered at least one year of service, whether such service is continuous or broken, shall be considered a regular employee with respect to the activity in which he is employed and his employment shall continue while such activity exists.

The law provides for three kinds of employees: (1) regular employees or those who have been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer; (2) project employees or those whose employment has been fixed for a specific project or undertaking, the completion or termination of which has been determined at the time of the engagement of the employee or where the work or service to be performed is seasonal in nature and the employment is for the duration of the season; and (3) casual employees or those who are neither regular nor project employees.[15]

In *Mercado v. NLRC*, [16] the Court ruled that seasonal workers do not become regular employees by the mere fact that they have rendered at least one year of service, whether continuous or broken, because the proviso in the second paragraph of Article 280 demarcates as “casual” employees, all other employees who do not fall under the definition of the preceding paragraph. It deems as regular employees those “casual” employees who have rendered at least one year of service regardless of the fact that such service may be continuous or broken.

The factual circumstances obtaining in the *Mercado* case, however, are peculiar. In that case, the workers were engaged to do a particular phase of agricultural work necessary for rice and/or sugarcane production, after which they would be free to render services to other farm workers who need their services.

In contrast, in the case of *Hacienda Fatima v. National Federation of Sugarcane Workers-Food and General Trade*, [17] respondents performed the same tasks for petitioners every season for several years. Thus, they were considered the latter’s regular employees for their respective tasks. The fact that they do not work continuously for one whole year but only for the duration of the season does not detract from considering them in regular employment since in a litany of cases this Court has already settled that seasonal workers who are called to work from time to time and are temporarily laid off during off-season are not separated from service in that period, but merely considered on leave until re-employed.[18]

Citing jurisprudence, the Court, in *Hacienda Fatima*, condensed the rule that the primary standard for determining regular employment is the reasonable connection between the particular activity performed by the employee vis-à-vis the usual trade or business of the employer. This connection can be determined by considering the nature of the work performed and its relation to the scheme of the particular business or trade in its entirety. If the employee has been performing the job for at least a year, even if the performance is not continuous and merely intermittent, the law deems repeated and continuing need for its performance as sufficient evidence of the necessity if not indispensability of that activity to the business. Hence, the employment is considered regular, but only with respect to such activity and while such activity exists.[19]

In this case, petitioner argues that respondents were not her regular employees as they were merely “pakiao” workers who did not work continuously in the sugar plantation. They performed such tasks as weeding, cutting and loading canes, planting cane points, fertilizing, cleaning the drainage, etc. These functions allegedly do not require respondents’ daily presence in the sugarcane field as it is not everyday that one weeds, cuts canes or applies fertilizer. In support of her allegations, petitioner submitted “cultivo” and milling payrolls.

The probative value of petitioner's evidence, however, has been passed upon by the labor arbiter, the NLRC and the Court of Appeals. Although the labor arbiter dismissed respondents' complaint because their "position paper is completely devoid of any discussion about their alleged dismissal, much less of the probative facts thereof,"[20] the ground for the dismissal of the complaint implies a finding that respondents are regular employees.

The NLRC was more unequivocal when it pronounced that respondents have acquired the status of regular seasonal employees having worked for more than one year, whether continuous or broken in petitioner's hacienda.

According to petitioner, however, the NLRC's conclusion is highly suspect considering its own admission that there are "gray areas which requires (sic) clarification." She alleges that despite these gray areas, the NLRC "chose not to remand the case to the Labor Arbiter....as this would unduly prolong the agony of the complainants in particular." [21]

Petitioner perhaps wittingly omitted mention that the NLRC "opted to appreciate the merits of the instant case based on available documents/pleadings." [22] That the NLRC chose not to remand the case to the labor arbiter for clarificatory proceedings and instead decided the case on the basis of the evidence then available to it is a judgment call this Court shall not interfere with in the absence of any showing that the NLRC abused its discretion in so doing.

The Court of Appeals, in fact, found no such grave abuse of discretion on the part of the NLRC. Accordingly, it dismissed the petition for certiorari and affirmed with modification the findings of the NLRC. It is well to note at this point that in quasi-judicial proceedings, the quantum of evidence required to support the findings of the NLRC is only substantial evidence or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[23]

The issue, therefore, of whether respondents were regular employees of petitioner has been adequately dealt with. The labor arbiter, the NLRC and the Court of Appeals have similarly held that respondents were regular employees of petitioner. Since it is a settled rule that the factual findings of quasi-judicial agencies which have acquired expertise in the matters entrusted to their jurisdiction are accorded by this Court not only respect but even finality,[24] we shall no longer disturb this finding.

Petitioner next underscores the NLRC decision's mention of the "payroll" she presented despite the fact that she allegedly presented 235 sets of payroll, not just one payroll. This circumstance does not in itself evince any grave abuse of discretion on the part of the NLRC as it could well have been just an innocuous typographical error.

Verily, the NLRC's decision, affirmed as it was by the Court of Appeals, appears to have been arrived at after due consideration of the evidence presented by both parties.

We also find no reason to disturb the finding that respondents were illegally terminated. When there is no showing of clear, valid and legal cause for the termination of employment, the law considers the matter a case of illegal dismissal and the burden is on the employer to prove that the termination was for a just or authorized cause.[25] In this case, as found both by the NLRC and the Court of Appeals, petitioner failed to prove any such cause for the dismissal of respondents.

WHEREFORE, the instant petition is DENIED. The assailed Decision and Resolution of the Court of Appeals respectively dated June 29, 2001 and November 28, 2001 are hereby AFFIRMED. Costs against petitioner.

**SO ORDERED.**

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

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[1] Rollo, pp. 5-18. Dated January 14, 2002.

[2] Id. at 23-29. Penned by Associate Justice Conchita Carpio Morales (now Associate Justice of this Court) and concurred in by Associate Justices Candido V. Rivera and Rebecca De Guia-Salvador.

[3] Records, pp. 243-252.

[4] Id. at 203-206.

[5] Id. at 243-246.

[6] Id. at 253-258.

[7] Id. at 272-273.

[8] Supra note 1 at 32-33.

[9] Id. at 84-85.

[10] Id. at 89-92.

[11] Id. at 95

[12] Id. at 96-97.

[13] Id. at 99-111.

**[14] 192 SCRA 612.**

[15] Perpetual Help Credit Cooperative, Inc. v. Faburada, G.R. No. 121948, October 8, 2001, 366 SCRA 693, 699-700.

[16] G.R. No. 79869, September 5, 1991, 201 SCRA 332.

[17] G.R. No. 149440, January 28, 2003, 396 SCRA 518.

[18] Ibid, citing Abasolo v. NLRC, 346 SCRA 293, November 29, 2000.

[19] Ibid.

[20] Supra note 3 at 205.

[21] Supra note 3 at 247.

[22] Ibid.

[23] Sec. 5, Rule 133, Rules of Court.

[24] Falguera v. Linsangan, G.R. No. 118448, December 14, 1995, 251 SCRA 364.

[25] Supra note 17.

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