

**MANILA PORT SERVICE AND MANILA RAILROAD COMPANY,
PETITIONERS, VS. COURT OF INDUSTRIAL RELATIONS AND
ASSOCIATED WATERFRONT SUPERVISORS UNION (PTWO),
RESPONDENTS.**

G.R. No. 16994. June 30, 1961

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

On 10 December 1958, the Associated Waterfront Supervisors Union (PTWO) filed with the Court of Industrial Relations a petition against the Manila Port Service and the Manila Railroad Company for the recovery of overtime compensation for work rendered by its members during Saturdays from 22 June 1957 to 30 September 1957, pursuant to the provisions of Republic Act No. 1880 in conjunction with Commonwealth Act No. 444. The petition stated among other things that the continued refusal of petitioners (respondents therein) to satisfy said union's claim has resulted in a labor dispute, which was likely to cause a strike.

Petitioners' answer denied the material averments of the petition and set up special affirmative defenses.

On 31 March 1960, the Industrial Court, after due hearing, promulgated its order holding as follows:

"Wherefore, respondents [herein petitioners] shall comply with the provisions of Commonwealth Act No. 444 and Republic Act No. 1880 and pay petitioners, listed in Annex "A", pp. 4 and 5 of the Expediente, the overtime compensation of work rendered by them from July 1 to September 30, 1957."

Against the foregoing order and the resolution en banc, denying petitioners, motion for reconsideration, this petition for review by writ of certiorari was filed.

Here, as in the court below, petitioners urge that the Court of Industrial Relations lacks jurisdiction to entertain the case, and that no overtime compensation is due, considering that Republic Act No. 1880 does not provide for any, and because, under the collective bargaining contract of 19 July 1957, the parties agreed that the regular working hours shall be from 8:00 a.m. to 12:00 noon and from 1:00 p.m. to 4:00 p.m. from Mondays to Fridays, and from 8:00 a.m. to 1:00 p.m. on Saturdays, which, it is claimed, is not violative of said Republic Act No. 1880.

We find no merit in appellant's contentions as to the issue of jurisdiction. It is now settled that whenever a claim for overtime compensation is made, and there exists an employer and employee relationship between the claimant and the respondent (as in this case), or although such relation no longer exists, yet the petition includes a prayer for reinstatement, the case comes within the exclusive jurisdiction of the Court of Industrial Relations.[1] This Court has also maintained the rule that the existence of a labor dispute which is likely to cause a strike places the labor question within the proper cognizance of the Industrial Court.[2]

As to the merits of the controversy, the basic statute is section 562 of the Administrative Code, as amended by Republic Act 1880, which was made applicable "to all laborers employed in government-owned and controlled

corporations." (R. A. 1880. sec. 3). The material part of said provision is as follows:

"SEC. 562. Legal hours of labor—minimum requirement.—The Chiefs of Bureau and Office in every branch of the Government service shall require of all employees of whatever grade or class not less than the legal number of hours of labor.

"Such hours, except for schools, courts, hospitals and health clinics, or where the exigencies of service so require, shall be as prescribed in the Civil Service Rules, and as otherwise from time to time disposed in temporary executive orders in the discretion of the President of the Philippines, but shall be eight (8) hours a day, for five (5) days a week, or a total of forty (40) hours a week, exclusive of time for lunch. * * *"

The Presidential Executive Order No. 251, Series 1957, implementing Republic Act 1880, provided as follows:

"The office hours of all bureaus and offices of the government including government owned and controlled corporations, but except schools, courts, hospitals, and health clinics, shall be from eight o'clock in the morning to twelve o'clock noon, and from one o'clock to five o'clock in the afternoon, Monday to Friday: Provided, That when the interests of the public service so require, the head of any department, bureau or office may extend the daily hours of labor for any or all of them to do overtime work not only on work days but also on holidays."

Subsequently to the said law and executive order, a collective bargaining contract was, on July 17, 1957, entered into between appellants and the appellee Union (PTWO) whereby the hours of labor were fixed as—

"from 8:00 a.m. to 12:00 noon and 1:00 p.m. to 4:00 p.m. from Monday to Friday; and from 8:00 a.m. to 1:00 p.m. on Saturdays."

The contract also provided that for work beyond these hours, workers would be paid overtime equivalent to 150 per cent of regular wages.

On October 30, 1957, the Board of Directors of the Manila Railroad Company adopted a resolution—

"That effective October 1, 1957, members of the Associated Waterfront Supervisors' Union with fixed allowances who may be required to work on Saturday shall be given additional overtime pay for work done on that particular day."

The appellee Union contends that the benefits of this Resolution should be made to retroact to July 1, 1957, when Republic Act 1880 was adopted, on the ground that by said Act, and Executive Order No. 251 heretofore quoted, Saturdays were made non-working days.

We see no merit in this contention. Under the legal provisions mentioned, office hours are eight (8) hours a day for 5 days from Monday to Friday or a total of 40 hours a week; but neither the law nor the executive order declares Saturday a non-working day. This result is produced only if during the five preceding days (Monday to Friday), the laborers or employees have worked the minimum of 40 hours prescribed. Since under their contract the members of the appellee union were called upon to work only seven (7) hours a day, it is clear that from Monday to Friday, they worked only thirty-five (35) hours, five hours less than the minimum prescribed by law. Logically, therefore, they could be lawfully required to work another five (5) hours on Saturday. Otherwise, they would not be working (40) hours per week.

It is well to note that the law fixes work of eight hours a day for five days, or forty hours per week, as a minimum requirement. The contract, moreover, clearly recognizes the laborer's understanding that they should work said number of hours, evidently because of exigencies of the service.

Appellees argue that in point of fact its members did work eight hours a day from Mondays to Fridays, as shown

by the payroll. What they forget is that the last (eight) hour of each day was already paid for as overtime, and can not be counted toward the forty-hour weekly minimum. To require appellants to pay for the five hours work on Saturdays on overtime basis as well, is to declare that the appellee Union's members are entitled to work only thirty-five hours a week, which plainly can not be legally equivalent to a minimum of 40 hours a week. The Resolution of the Railroad Company dated October 30, 1957 granting overtime pay for work on Saturdays was actually a concession beyond the terms of the law that can not be extended beyond its words and intent, nor given retroactive effect without the Company's consent.

In justice to the Industrial Court, it must be stated that its order, now under appeal, was predicated only on the fact that since July 1, 1957, "while security guards were paid additional compensation for work done on Saturday . . . the members of the petitioner union were not", and the Court viewed the difference as discriminatory. No facts appear, however, showing the number of hours of work actually rendered by these guards from Mondays to Fridays, or that the work or kind of labor performed by them was substantially the same as that of the members of appellee Union; and without such showing of identical circumstances, the alleged discrimination is not substantiated. Besides, discrimination was not a part of the original charge, nor is it material where unfair labor practice is not at issue.

Premises considered, we are of the opinion that the appealed order of March 31, 1960 is legally unjustified.

The same is, therefore, reversed, and the claim for differential overtime pay ordered dismissed. Costs against respondent Associated Waterfront Supervisors Union (PTWO).

Bengzon, C.J., Padilla, Labrador, Concepcion, Barrera, Paredes, Dizon, De Leon, and Natividad, JJ., concur.

[1] National Shipyard vs. Court of Industrial Relations, et al., 107 Phil., 1006; 58 Off. Gaz., [36] 5875; Price Stabilization Corporation vs. Court of Industrial Relations, et al., 108; Phil., 134; Ajax International Corporation vs. Seguritan, et al., 109 Phil., 815; Sampaguita Pictures Inc., et al. vs. Court of Industrial Relations, et al., 109 Phil., 818; 60 Off. Gaz., 8583; New Angat Manila Transportation, et al. vs. Court of Industrial Relations, et al., 110 Phil., 118.

[2] National Shipyard vs. Court of Industrial Relations, et al., supra; see also PRISCO vs. Court of Industrial Relations, et al., supra.

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