

## **GREGORIO E. FAJARDO, PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS, JOSE C. ESPINAS AND SISENANDO VILLALUZ RESPONDENTS.**

*G.R. No. 19453-54. May 30, 1967*

Ponente: DIZON, J.

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### **DIZON, J.:**

Petition for certiorari and mandamus filed by Attorney Gregorio E. Fajardo to reverse the order and resolution en banc of the Court of Industrial Relations dated October 30 and December 6, 1961 respectively, in CIR Case Nos. 17-IPA. and 18-IPA denying his claim for attorney's fees.

In the two cases abovementioned the Court of Industrial Relations on October 1958, granted a temporary monthly salary increase of P15.00, effective July 1, 1957, to all employees of the Manila Railroad Company—hereinafter referred to as the Company—affiliated with the Union de Maquinistas, Fogoneros y Motormen and the Union de Empleados de Trenes. On November 19, 1958, Kapisanan Ng Mga Manggagawa sa MRRCo., an intervenor, thru Attorney Sisenando Villaluz, filed a motion praying that the Company be ordered to extend said salary increase to its (Kapisanan) members. The Company opposed said motion claiming that the increase was intended only for its permanent employees who were on strike on October 6 and 7, 1957. On October 19, 1959, after due hearing, the Court of Industrial Relations ordered the Company to pay to the members of the intervenor the P15.00 salary increase.

On November 9, 1959, 138 employees of the Company who were not members of the Union abovementioned, filed thru herein petitioner, Attorney Gregorio E. Fajardo, a motion for leave to intervene and praying, further, that the monthly P15.00 salary increase be extended to them pursuant to Article I, Collective Bargaining Agreement of November 4, 1957.

An opposition was filed by the Company, thru the Government Corporate Counsel, and at the hearing held before the Presiding Judge of the Court on December 12, 1959, several lawyers appeared, including the petitioner. On January 11, 1960, however, said motion to intervene and for the extension of the increase to 138 non-union employees was denied.

On January 18, 1960, the 138 intervenors, thru Attorney Gregorio E. Fajardo, Carlos E. Santiago and Sisenando Villaluz, moved for the reconsideration of the order of January 11, 1960 and, notwithstanding the opposition of the Company, on January 6, 1961, the Court en banc granted the motion for reconsideration.

On October 18, 1961 Attorneys Fajardo, Villaluz and Santiago filed a joint motion praying for an award of attorney's fees in their favor, to be paid out of whatever accumulated salary increase may be due to the employees of the Company who were not Union-members, and praying further that the Company be enjoined from making direct payment to said employees until the question of attorney's fees is decided. The pertinent portions of the joint motion allege:

"3. That the intervention was, however, denied by the Trial Court, in its order of January 11, 1960 which states in part the following:

'This petition cannot be granted for these reasons:

'WHEREFORE, intervenors' motion dated December 7, 1959, is hereby denied.'

but the Court en banc, in its Order of January 5, 1961 allowed intervention and to litigate the claims of the intervenors on the claim that the non-members should be granted also their respective increases of salary of P15.00 as in the case of the petitioner union and intervenors union and return the records of the case for hearing to the Trial Court in the following Order of the Court en banc:

'IN VIEW HEREOF, the motion for reconsideration of these two cases filed by the several intervenors is hereby granted, allowing them to intervene and litigate their claims in these two cases. It is, likewise, resolved that these two cases should be returned to the Trial Court for further proceedings to determine the claims and interest of the intervenors.'

4. That up to this date, however, the hearing on the return records has not yet been set by the Honorable Trial Court;

5. That, however, the respondent company is now about to pay the increase of P15.00 grant not only to its employees under the order of this Honorable Court who are members of the petitioner the intervenor but also even to non-members of the petitioner and intervenor;

6. That in the decision of this Honorable Court of December 7 1959, this Honorable Court allowed the payment of attorney's fee' from said increases to employees of the respondent company of P15.00 to Atty. Carlos B. Santiago and 5% to Atty. Sisenando Villaluz; to be taken from the grant of salary increases from members of the petitioners union and intervenors union but not from the non- members of the union who will also now be benefited by the decision in the above-entitled cases although the undersigned counsel Atty. Gregorio E. Fajardo, has nothing to do in the main cases of the petitioner union and intervenor union but appeared as counsel for the intervenors, Napoleon Catindig, et al., in their individual capacities as intervenors;

7. That since, Atty. Santiago and Atty. Villaluz have been granted attorney's fees from the grant of increase to members of the petitioner and intervenors, they should also be paid their respective attorney's fee from non-members of said unions who will be benefited by the decision in said cases and including the undersigned, Atty. Fajardo, for his appearance for intervenors Napoleon Catindig, et al., who will also be benefited from said increases, although not members of the existing unions in the respondent company and whose complete list of names appear in the records of these cases;

WHEREFORE, it is respectfully prayed that:

(a) The undersigned counsels Sisenando Villaluz and Carlos E. Santiago, be granted the same attorney's fees as in the Order of December 7, 1959 from the payment to be made by the respondent company of the increase of P15.00 to non-members of the petitioner union and intervenor union to Atty. Gregorio E. Fajardo, his percentage of attorney's fee to depend upon the discretion of this Honorable Court."

On October 30, 1961, the Court issued an order recognizing the attorney's lien of Attorneys Villaluz, Santiago and Espinas, but denying the claim of petitioner herein, on the ground that his intervention in the cases was limited to the filing of the petition to intervene in behalf of the 138 non-Union employees of the Company, which motion was filed after the temporary increase had already been granted.

On November 20, 1961 petitioner moved for the reconsideration of the abovementioned order, claiming that the same was contrary to the facts and the law, as the lawyers who represented the three Unions are granted attorney's lien on the salary increases of non-members of said Unions while he was denied the right to collect attorney's fees

from his own clients. The Court, however, in a resolution en banc, denied said motion. Hence, the instant petition for review.

The only question to be determined in this appeal is whether the petitioner is entitled to collect reasonable attorney's fees.

There seems to be no doubt that petitioner rendered legal services to the 138 intervenors in Case Nos. 17-IPA and 18-IPA. The record discloses not only that he filed in their behalf a motion for leave to intervene which, besides, prayed that the temporary increase granted to the permanent employees be extended to them, but he also appeared in court for his clients on November 9, on December 12, 1959, and during the hearing en banc held on March 10, 1960 and October 25, 1961—'contrary to the lower court's finding that he appeared only once. We therefore hold that he is entitled to a reasonable compensation.

Considering that his services resulted only in extending to his clients the benefits of the temporary increase already granted to the permanent employees of the Company, it is our opinion that his fees shall be computed on the basis of 2-1/2% per cent of the total amount to be awarded to the former by reason of said temporary increase.

Thus modified, the main order appealed from is affirmed. The resolution denying petitioner's motion for reconsideration likewise appealed from is set aside. Without costs.

Concepcion, C.J., Reyes, J.B.L., Regala Makalintal, Bengzon, J.P. Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.

Order affirmed with modification and resolution set aside.

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