

NATIONAL SHIPYARDS AND STEEL CORPORATION, PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS AND DOMINGO DE JESUS, RESPONDENTS.

G.R. No. 21675. May 23, 1967

Ponente: ZALDIVAR, J.

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ZALDIVAR, J.:

This is a petition for certiorari, filed by the National Shipyards and Steel Corporation (hereinafter referred to as NASSCO) to review: (1) the order of Judge Arsenio I. Martinez of the Court of Industrial Relations (hereinafter referred to as CIR) dated July 30, 1962 denying the motion to dismiss the complaint of respondent Domingo de Jesus; (2) the decision of Judge Martinez dated March 12, 1963; and (3) the resolution of the CIR en banc dated May 24, 1963 denying petitioner's motion for reconsideration of the decision of Judge Martinez. The orders and decision, herein mentioned, are incidents in CIR Case No. 1674-V.

On March 21, 1962, respondent Domingo de Jesus filed a complaint with the CIR alleging, among other things, that he was employed as welder by the NASSCO since its initial operation, with a daily wage of P9.02; that he had rendered overtime services for which he was not paid; and that on October 14, 1960, he was suspended from his employment for three months but when he reported for work after the suspension the NASSCO refused to reinstate him, hence he prayed that he be reinstated to his former employment with back wages and that he be paid his overtime compensation.

On April 6, 1962, the NASSCO filed its answer denying the material allegations of the complaint and setting up special defenses, to wit: (1) that the Court of Industrial Relations has no jurisdiction over the case; (2) that the complaint states no cause of action; (3) that the action is already barred by laches or prescription; and (4) that the dismissal of De Jesus was legal and done through due process. Later, on June 20, 1962, the NASSCO moved for the dismissal of the complaint upon the first three grounds aforesaid, which motion was denied by Associate Judge Arsenio I. Martinez in his order dated July 30, 1962.

At the trial, De Jesus testified that he had been employed by the NASSCO as a welder since 1937; that on October 14, 1960, he received a memorandum requiring him to explain within 72 hours why no administrative action should be taken against him for having taken or kept welding rods in his locker; that after making his explanation his case was set for hearing; that at the hearing which lasted for only five minutes the investigator, Atty. Abundio Macalingcag, only reprimanded him and he was not given a chance to explain his side; that later he came to know through his union president that said investigator recommended his one-month suspension; that after one month he reported for work but the president of his union told him to wait for the decision of the General Manager of the NASSCO; that thereafter he learned from the manager that he was suspended for 90 days; that after the lapse of the 90-day period he again reported for work but the management did not accept him; that Atty. Macalingcag advised him to wait for the decision of the Board of Directors; that he returned to the NASSCO after six months from the date of his suspension and he was informed that he was already dismissed from the service. De Jesus

further testified that from June to September, 1960, he was required to work overtime because there were plenty of work; and that he had actually worked 20 hours overtime a month for which he was only paid 12 hours, leaving a monthly balance of 8 hours unpaid, or 32 hours for four months from June to September, 1960.

Petitioner NASSCO, on the other hand, presented as its sole witness Atty. Abundio Macalingcag who testified that it was he who investigated the administrative case against De Jesus; that on the date of the hearing, October 27, 1960, he apprised De Jesus of his right to be re-presented by counsel but that De Jesus told him that the service of the president of their union was enough; that this notwithstanding the investigator appointed Atty. Augusto Trinidad to act as counsel de oficio for him; that after the investigation he (Atty. Macalingcag) submitted his report to the Board of Directors finding De Jesus guilty of the charge. This witness, however, did not touch on, nor refute, the testimony of De Jesus on his claim for overtime pay.

On March 12, 1963, Judge Arsenio I. Martinez rendered a decision finding the dismissal of respondent De Jesus illegal or without just cause, and ordered his reinstatement, and the payment to him of the additional amount equivalent to 25% of his daily wage of P9.02 as overtime compensation for 32 hours covering the period from June to September, 1960. NASSCO's motion for reconsideration of the decision of Judge Martinez having been denied by the CIR en banc, it interposed the present petition for review, raising issues which may be consolidated as follows: (1) whether the CIR has jurisdiction to take cognizance of the case; (2) whether the action of respondent De Jesus for reinstatement had already prescribed, or had been barred by laches; and (3) whether the CIR erred in awarding overtime compensation to said respondent.

Petitioner questions the jurisdiction of the CIR over this case upon the ground that although respondent had asked for reinstatement the case does not relate to violation of the Minimum Wage Law, or the Eight-Hour Labor Law, or unfair labor practice. We find this contention untenable for it misses the doctrine laid down in the Prisco case,[1] as amplified in the case of Campos, et al. v. Manila Railroad Company, et al., L-17905, May 25, 1962, wherein this Court held:

"We may, therefore, restate, for the benefit of the bench and the bar, that in order that the Court of Industrial Relations may acquire jurisdiction over a controversy in the light of Republic Act No. 875, the following circumstances must be present: (a) there must exist between the parties an employer-employee relationship, or claimant must seek his reinstatement; and (b) the controversy must relate to a case certified by the President to the C.I.R. as one involving national interest, or must have a bearing on an unfair labor practice charge, or must arise either under the Eight-Hour Labor Law, or under the Minimum Wage Law. In default of any of these circumstances, the claim becomes a mere money claim that comes under the jurisdiction of the regular courts.

"In the case at bar, it is undisputed that petitioner merely seeks his reinstatement with back wages. He does not claim any salary differential nor overtime pay that may make his case come either under the Eight-Hour Labor Law or the Minimum Wage Law. Neither does he prefer any unfair labor practice charge against his employer. Consequently, the Court of Industrial Relations has no power to act on his claim for the same is a mere money claim that comes under the jurisdiction of the regular courts."

And elucidating further, this Tribunal, in another case, declared:

"A mere claim for reinstatement, therefore, does not suffice to bring a case within the jurisdiction of the Court of Industrial Relations. It is necessary also that the case be one of the four enumerated cases as amplified in the Campos case. Here, a reading of the allegations of the complaint shows that while plaintiff-appellant seeks her reinstatement in the company, nothing is alleged therein to indicate that plaintiff-appellant's dismissal from the service amounted to an unfair labor practice. Neither is it claimed that this is a case certified by the President to the Court of Industrial Relations as involving national interest x x x or a case arising under the Eight-Hour Labor Law, x x x or the Minimum Wage Law x x x.

"For plaintiff-appellant merely seeks her reinstatement with back wages, the recovery of moral and exemplary damages suffered as a result of allegedly malicious criminal actions filed against her at the instance of defendant-appellee; the recovery of her contributions to a pension and saving plan; and the recovery of the money value of her accrued sick leave.

"The Court of First Instance of Rizal erred therefore in holding that the case is cognizable by the Court of Industrial Relations and in dismissing the case." (Barranta v. International Harvester Company of the Philippines, L-18198, April 22, 1963)

From the foregoing rulings it can be deduced that a mere action for reinstatement or one coupled with a claim for back wages and/or damages is not enough to confer jurisdiction upon the industrial court. Neither should the claim for reinstatement be related to the Eight-Hour Labor Law or the Minimum Wage Law, etc., as insinuated by petitioner, for what is required is that said action for reinstatement must be accompanied by another claim arising out of the Minimum Wage Law or the Eight-hour Labor Law in order that the case would fall under the jurisdiction of the Court of Industrial Relations. The court's jurisdiction over the subject matter of the litigation is determined by the allegations in the complaint, and We find that the allegations in the complaint in the court below are sufficient to confer jurisdiction to the CIR. Since in the instant case the complaint prayed for reinstatement of respondent with payment of back wages and also for the payment of overtime compensation, the latter necessarily involving the Eight-Hour Labor Law, following the rule enunciated in the aforesaid cases, the CIR has jurisdiction to hear and decide the case at bar. In the case of Serrano v. Serrano, et al., L-19562, May 23, 1964, this Court declared:

"x x x It being settled that the Court of Industrial Relations has jurisdiction over claims for overtime compensation when coupled with a prayer for reinstatement, it is clear that the satisfaction of the unpaid wages may likewise be ordered incidentally to said jurisdiction (Gomez vs. North Camarines Lumber Co., Inc., L-11945, August 18, 1958).[2]

Having disposed of the first issue, the next question to be resolved is whether respondent De Jesus has incurred laches in seeking his reinstatement. It is not denied that respondent De Jesus, being a welder of the NASSCO which is a corporation owned or controlled by the government, belongs to the unclassified service and covered by the Civil Service Law.[3] It is also undisputed that he was separated from the service as of October 14, 1960 and he instituted the present action for his reinstatement only on March 21, 1962, or after the lapse of 17 months. Without ruling on whether or not the industrial court could still modify or reverse the decision in the administrative case dismissing respondent, or inquire and/or declare his dismissal with or without just cause, considering that said respondent filed the present action for reinstatement more than one year from his removal from the service, We declare that his action is now barred by laches. In the case of Alipio, et al. v. Rodriguez, et al., L-17336, December 26, 1963, this Court held:

"x x x In the case of Unabia vs. City Mayor of Cebu, et al., x x x we held that 'in view of the policy of the State contained in the law fixing the period of one year within which actions for quo warranto may be instituted, any person claiming right to a position in the civil service should also be required to file his petition for reinstatement within the period of one year, otherwise he is thereby considered as having abandoned his office.' The defense of laches in the present case was therefore correctly sustained by the lower court."

In the more recent case of Morales v. Patriarca, et al., L-21280, April 30, 1965, this Court held:

"Petitioner, however, cannot be reinstated, since the present action for reinstatement is filed more than one year from his removal. As a public official in the service, he shall have begun his court action for reinstatement, be it by quo warranto or mandamus, within one year from his removal or separation, otherwise his action is barred (Sec. 16, Rule 66, Rules of Court; Unabia vs. Mayor, 53 O.G., 132; Velasquez vs. Gil, 53 O.G. 5615; Jose vs. Lacson, L-10477, May 17, 1957; Cuyo vs. City Mayor of Baguio, 101 Phil. 558.; Abella vs. Rodriguez, 54

O.G. 2879; Erauda vs. Cramen, 54 O.G. 6223; Alipio vs. Rodriguez, L-17336, December 26, 1963)."

Anent the third issue raised in this appeal, We agree with the finding of the industrial court that respondent De Jesus should be awarded overtime compensation equivalent to 25% of his daily wage of P9.02 for 32 hours corresponding to the period from June to September, 1960. We quote the pertinent part of the lower court's decision, as follows:

"With respect to the first issue, it is opined that petitioner has rendered overtime services in respondent corporation. From the evidence on record, it has been established that petitioner had rendered a total of 20 hours overtime a month starting from June up to September, 1960. Out of these 20 hours a month, he was only paid 12 hours a month thus leaving a balance of 8 hours unpaid per month. In other words, petitioner had not been paid a total of 32 hours during the 4-month period in question. This fact has been creditably portrayed in the direct and cross-examination of petitioner. No evidence was introduced by respondent to deny or overcome such fact. Atty. Abundio Macalingcag, the only witness presented by respondent, testified on the manner how the investigation of the administrative charge against petitioner was conducted, without touching on petitioner's claim of overtime. In the absence of any proof, testimonial or documentary, to contradict the overtime claim there is no plausible reason why the Court should not grant petitioner's claim on the face of such situation, since the burden of proof lies upon respondent to dispute such claim. In the light of the failure of respondent to adduce evidence and/or deny such assertion, the inescapable conclusion is that petitioner truly rendered overtime services on the aforesated period of time."

The foregoing finding of facts of the court a quo is conclusive upon this Court.[4]

While We have ruled in this decision that the action of respondent De Jesus for reinstatement has been barred, his action for the payment of overtime compensation is not barred. The record shows that said respondent's right of action for payment of overtime pay accrued in October, 1960, and he filed his complaint on March 21, 1962. An action to enforce a right under the Eight-Hour Labor Law can be brought any time within three years after the cause of action accrued.[5]

WHEREFORE, with the modification that respondent De Jesus should not be reinstated and not paid his back wages, the decision and orders appealed from are affirmed in all other respects, without pronouncement as to costs.

SO ORDERED.

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

[1] Price Stabilization Corporation v. Court of Industrial Relations, et al., L-13806, May 23, 1960.

[2] See also Gracella v. El Colegio del Hospicio de San Jose, Inc., L-15152, January 31, 1963; Kim Kee, Chua Yu & Co., Inc. v. Court of Industrial Relations, et al., L-16803, June 29, 1964.

[3] Executive Order No. 356, Section 10, October 23, 1950 (46 O.G., 4677); See also Philippine Land-Air-Sea Labor Union (PLASLU) v. CIR., et al., L-17950, August 31, 1964; Diaz, et al. v. Arca, et al., L-21008, October 29, 1965.

[4] "The finding of the Court of Industrial Relations that the said respondents had worked overtime is a finding of fact" (NASSCO v. CIR, et al., L-20838, July 30, 1965). "As long as there is evidence to support a decision of the Industrial Court, we may not revoke or reverse it just because it is not based on overwhelming or preponderant evidence" (Manila Metal Caps and Tin Cans Manufacturing Company, Inc. v. CIR, et al., L-17578, July 31, 1963; citing Philippine Newspaper Guild v. Evening News, Inc., 86 Phil., 303.)

[5] Section 7-A, Commonwealth Act 444, as amended by Republic Act 1993.

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