

PAMBUSCO EMPLOYEES' UNION, INC., PETITIONER, VS. THE COURT OF INDUSTRIAL RELATIONS, COMPOSED OF HONORABLES FRANCISCO ZULUETA, LEOPOLDO ROVIRA, AND JOSE GENEROSO, AND PAMPANGA BU...*G.R. No. 46727. September 29, 1939*

Ponente: LAUREL, J.

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This is a petition for a writ of certiorari to review the decision of the Court of Industrial Relations promulgated on January 14, 1939, denying the demands of the Pambusco Employees' Union, Inc.

The following are the pertinent facts which have given occasion to this industrial dispute: On March 26, 1938, the Pambusco Employees' Union, Inc., addressed a thirteen-point petition to the management of the Pampanga Bus Co. Upon the failure of the company officials to act upon the petition, a strike was declared by the workers on April 14, 1938. However, through the timely mediation of the Department of Labor, a provisional agreement was reached, by virtue of which the strike was called off, eight demands were granted, and the remaining five were submitted to the Court of Industrial Relations for settlement. One of these demands, in the language of the petitioner, is that the respondent Pampanga Bus Co. "pay to all Company drivers affiliated with the Pambusco Employees' Union, Inc., all the back overtime pay due them under the law." After trial on the disputed demands, the Court of Industrial Relations decided *inter alia* that the claim for back overtime pay could not be allowed.

The pertinent portion of the decision of the respondent Court of Industrial Relations is as follows:

"The evidence is clear that even before the final approval of Act No. 4242 amending Act No. 4123, the Eight Hour Labor Law, by extending the provisions of the latter to other class of laborers including drivers of public service vehicles, a petition was addressed by 44 drivers of the company to the Governor-General asking him to veto the bill amending the law extending it to drivers for the reasons stated in their petition (Exhibits 5 and 5-a). About the 6th day of September, 1935, a petition was again addressed by 97 drivers of the company to the Commissioner of Labor requesting adjustment of working hours to permit them to retain their present status with the company as nearly as possible under the law (Exhibits 4, 4-a, 4-b, 4-c, 4-d and 4-e). This petition was prepared after a meeting of the employees was held and was drawn with the help of the manager of the respondent about the last days of August, 1935. In September, 1937, about 347 employees of the different departments of the company again addressed a petition to the Director of Labor expressing their satisfaction with the hours they work and the pay they receive for their labor including the special bonuses and overtime pay they receive for extra work, and asking, in view thereof, that the law be not applied to them (Exhibits 6, 6-a to 6-g).

"After the enactment of Act No. 4242 several transportation companies operating motor buses filed with the Commissioner of Labor petitions for a readjustment of the hours of labor specified in section 1 of the Act on the basis of maintaining the status quo as to the hours the drivers were required to be actually on duty in order to enable them to make the prescribed hours daily that the exigencies of the service required. The petitions

were based on the impracticability of applying the provisions of the law to drivers of public service vehicles without disrupting the public service and causing pecuniary loss to both employers and employees alike, and the resulting difficulties on the part of the drivers. The testimony of Atty. Carlos Alvear on this point is uncontradicted. He testified that in 1935, he was president of the Philippine Motor Association composed of bus operators operating in the Philippines, of which the respondent is a member. Major Olson, who was at the time the executive secretary of the association, and himself took up the matter with the Secretary of the Interior and the Secretary of Labor after the passage of the Act extending the operation of the Eight Hour Labor Law to drivers. In their conference with the Commissioner of Labor, they were told to take advantage of the provisions of the law in which they may apply for the readjustment of the working hours, and in conformity with that suggestion, the executive secretary of the association filed a formal petition, Exhibit 10, on September 5, 1935. When this was filed the Department of Labor further suggested that the drivers of each company file and address a petition of similar nature designating their representatives who will represent them in a conference that the Commissioner of Labor may call for the purpose. With the filing of the petition, the conferees were assured by the Under-Secretary of Labor that the enforcement of the Eight Hour Labor Law in so far as the drivers were concerned, will be held in abeyance until such time as the meeting or investigations are held. It is not clear as to whether investigations and hearings were finally made but the evidence indicates that the petition was never decided and the companies continued its schedule of hours.

"Sections 3 and 4 of Act No. 4123 read as follows:

" 'Sec. 3. The Commissioner of Labor, with the advice of two representatives of the employers concerned, designated by the latter, and of two representatives of the laborers concerned, designated by these, shall, at the request of an interested party, decide in each case whether or not it is proper to increase or decrease the number of hours of labor fixed in section one of this Act, either because the organization or nature of the work require it, or because of lack or insufficiency of competent laborers for certain work in a locality, or because the relieving of laborers must be done under certain conditions, or by reason of any other exceptional circumstances or conditions of the work or industry concerned; but the number of hours of labor shall in no case exceed twelve daily or seventy-two weekly,

" 'Sec. 4. Employees or laborers desiring an increase or decrease of the number of hours of labor shall address an application to this effect to the Commissioner of Labor, stating their reasons. Upon receipt of an application of this kind, the Commissioner of Labor shall call a meeting of the employers and laborers of the establishment or industry concerned, for the designation of advisers as provided in the preceding section hereof. The Commissioner of Labor or his authorized representative, together with the advisers, shall make an investigation of the facts, giving special attention, in the first place, to the human aspect, and in the second place, to the economic aspect of the matter, and he may for this purpose administer oaths, take affidavits, examine witnesses and documents and issue subpoenas and subpoenas duces tecum. The decision of the Commissioner of Labor may be reconsidered by him at any time.'

"It seems clear that the petitions of both employers and employees for the nonenforcement of the Eight Hour Labor Law were made in accordance with these provisions of the law. Exhibit 9 of the respondent which is a communication addressed by the Under-Secretary of Labor on September 6, 1935, to the A. L. Ammen Transportation Company, Inc., defines the attitude taken by the Department of Labor in connection with those petitions. It advises the company to submit an application under sections 3 and 4 of Act No. 4123 above-quoted for an increase of working hours of such laborers as may fall under the amendment and that pending final solution of said application, the Department of Labor will not make any attempt to enforce said amendment. As has already been stated it is not clear whether final action or decision has been made on the applications with respect to the drivers of the respondent; that it is undeniable fact that up "to the outbreak of the dispute, the law was not observed nor enforced in the company; and that upon mutual agreement arrived at by the parties on April 14, 1938, the company worked out a schedule beginning May 1, 1938, placing all its employees under an eight-hour

schedule.

"In view of the foregoing facts, the court is of the opinion that the drivers are not entitled to the overtime pay demanded for the whole period the law was not observed or enforced in the company. They are entitled to payment of wages for hours worked in excess of the legal hours only beginning May 1, 1938."

On January 30, 1939, the petitioner filed a motion for reconsideration which was denied by the Court of Industrial Relations, sitting in banc, with the following observations:

"We have reviewed carefully the evidence on record with regard to the claim for back overtime pay and we find that it amply supports the findings and conclusions set forth in the decision. The arguments presented in this regard in support of the motion for reconsideration are virtually a repetition of the reasons advanced in the memorandum of the petitioner filed before the case was decided and were already discussed and considered in the decision. The evidence permits no other conclusion than that the employees were not coerced nor intimidated by the respondent on the repeated occasions they signed and presented to the Department of Labor their petitions for nonenforcement of the Eight Hour Labor Law. The employees were indubitably aware of certain hardships the enforcement of the law at that time would bring to them and these prompted their attitude of preferring the continuation of the schedule of hours observed prior to the enactment of the legislation extending the benefits of the Eight Hour Labor Law to drivers of motor vehicles in public utility enterprises. Whatever pecuniary advantage they would have gained by the strict observance of the law by the company should they be made to work more than eight hours a day was apparently waived or given up by them in exchange of their personal convenience and of the additional monthly pay the respondent gave to those employees who were assigned to routes where the daily working hours exceeded the maximum fixed by law. The evidence that the company paid additional salaries not only to drivers but also to its conductors who were assigned to such routes stands uncontradicted and no attempt even was made by the petitioner to deny it. Without need of passing on the question as to whether the provisions of the law are mandatory or not, in the light of the above facts and applying the rules of equity invoked by the union, we are constrained to hold that the petitioners are not rightly entitled to the payment sought."

In *Kapisanan ng mga Mangagawa sa Pantranco vs. Pangasinan Transportation Co.* (39 Off. Gaz., 1217), we have held that, to be entitled to the benefits of section 5 of Act No. 4123, fulfillment of the mandate of the law is necessary, this being a matter of public interest. Where both parties, as in this case, have violated the law, this court must decline to extend the strong arm of equity, as neither party is entitled to its aid. This is especially true in view of the findings of fact made by the Court of Industrial Relations which we should not disturb.

We are not, to be sure, insensible to the argument that industrial disputes should be decided with an eye on the welfare of the working class, who, in the interlay of economic forces, is said to find itself in the "end of the stick." In the case at bar, however, we find no reason for disturbing the action taken by the respondent Court of Industrial Relations, which is a special court enjoined to "act according to justice and equity and substantial merits of the case, without regard to technicalities or legal forms and shall not be bound by any technical rules of legal evidence but may inform its mind in such manner as it may deem just and equitable" (sec. 20, Commonwealth Act No. 103).

The petition is dismissed, without pronouncement regarding Costs. So ordered.

Avanceña, C. J., Villa-Real, Imperial, Diaz, Concepcion, and Moran, JJ., concur.

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