

PHILIPPINE AIRLINES EMPLOYEES ASSOCIATION (PALEA), CECILIO V. BAUTISTA, PANTALEON ARAYATA, CATALINO BAÑEZ, LUCIO CANTILLO, ROBERTO ESPINELI, JASMIN A. ILANO, ALFONSO JOSE, ROMUL...

G.R. No. 63578. July 11, 1985

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This petition for certiorari with preliminary injunction seeks to annul the resolution dated May 31, 1977 of respondent National Labor Relations Commission, the dispositive portion of which reads as follows:

"WHEREFORE, the Commission has resolved, as it hereby resolves, to recall and declare inoperative the Partial Writ of Execution dated December 6, 1976, and affirm the Order dated March 4, 1977 with modification that only pay differentials beginning February 14, 1953 up to September 8, 1963 be ordered paid.

"SO ORDERED."

It appears that on March 31, 1976 this Court promulgated a decision in L-31341 (Philippine Air Lines Employees Association [PALEA], et al. vs. Philippine Air Lines, Inc.) and L-31343 (Philippine Air Lines Inc. vs. Philippine Air Lines Employees Association, et al.) affirming the resolution of the defunct Court of Industrial Relations sustaining PALEA's method of computing the basic daily and hourly rate of PAL's monthly-salaried employees, to wit:

Monthly Salary x 12

x (Basic daily rate)

_____ =

365 days (No. of Calendar days in a year)

x

Basis hourly rate

=

8

PALEA, on the other hand, prayed that the pay differentials to be paid to the employees involved should bear interest to be fixed by the Court from the date of the filing of the complaint on February 14, 1963.

This Court denied both motions for lack of merit and declared the denial as final in the resolution of August 20, 1976. Entry of judgment was made on August 29, 1976.

On September 27, 1976 PALEA filed with the NLRC a "motion for immediate execution and payments of benefits under the award and motion for immediate verification, examination and computation and payment of back differentials."

After hearing, Labor Arbiter Francisco delos Reyes issued a partial writ of execution dated December 6, 1976 directing the Deputy Sheriff of the NLRC to implement, beginning October 1, 1976, the CIR resolution as affirmed with modification by the Supreme Court.

On March 4, 1977, Labor Arbiter delos Reyes granted the second portion of the motion which was filed on September 27, 1976 "for immediate verification, examination and computation and payment of back differential," and ordered the computation of differential from February 14, 1953 up to September 30, 1976.

On March 28, 1977 PAL filed with the NLRC an appeal with prayer to quash the order of March 4, 1977, and a motion to stay execution of the partial writ of execution and the aforesaid order of March 4, 1977.

On May 31, 1977, the NLRC issued the questioned resolution. The NLRC reasoned out that the application of the adjudged correct method or formula as adopted in the Supreme Court's decision was based on the specific provisions of the collective bargaining agreement still existing from 1952 until its expiry on September 8, 1963; and that beginning September 9, 1963 the aforesaid formula ceased to be effective.

On March 29, 1983 or after a lapse of about six (6) years, the present petition for certiorari was filed before this Court assailing the said resolution.

Petitioners maintain that this Court in its decision of March 31, 1976 had already settled the correct method or formula of computation of the basic daily rate of pay of PAL's monthly salaried employees in determining their overtime pay, night differential pay, holiday premium pay, vacation and sick leave pay effective from February 14, 1953. Thus, when the NLRC declared that the said method or formula ceased to be effective on September 8, 1963, the consequence would be to revert to the use of what had been adjudged by this Court as an erroneous method of computation of the basic daily rate of pay, by dividing the yearly salary by 365 days.

The petition should be dismissed.

Under the terms of the collective bargaining agreements entered into between the parties from 1952 up to September 8, 1963, which were the subject matter of L-31341 and L-31343, off-days were not paid days. Hence, the unions contested the PAL's wage formula of computing the basic daily rate of the latter's monthly-salaried employees by using 365 days as divisor thus including even the off-days. In Our decision of March 31, 1976 in said cases, We categorically ruled that "off-days are not paid days. Such being the case, the divisor in computing an employee's basic daily rate should be the actual working days in a year. The number of off-days are not to be counted precisely because on such off-days, an employee is not required to work."

It should be made clear, however, that such pronouncement was based on the provisions of the collective bargaining agreements existing from 1952 until September 8, 1963. As alleged by the respondents and found out by the respondent Commission and which was not disputed by petitioners, after September 8, 1963, there was a change of collective bargaining agreement. And the parties incorporated in the subsequent collective bargaining agreements provisions considering such "off-days" as already "paid". Hence, the method of computing the basic

and hourly rate of respondent PAL's monthly-salaried employees which We decreed in G.R. No. L-31341 and No. L-31343 is no longer applicable after September 8, 1963.

WE agree with the respondent Commission in limiting the application of Our decision of March 31, 1976 from February 14, 1953 to September 8, 1963. The respondent Commission ruled in this wise:

"To our mind, the change of the CBA provisions interpreted by the Court can lead to no other conclusion than that the Decision is co-terminous with the last CBA containing the interpreted provision. This must be so. For, the set of facts which justified the assumption that holidays and off days were not paid, no longer obtains. The facts which form the basis of the CIR en banc's disposition is clear in pages 9 and 10 of the Resolution itself.

xx xx xx

"What is more, the Supreme Court final decision in this proceeding, affirming the Resolution of the CIR sitting en banc, in adopting the correct formula for determining the basic daily and hourly rate of monthly rate of monthly salaried PAL employees pursuant to specific provisions of the successive CBA's from 1952 up to that which expired on September 8, 1963, specifically anchored on the assumption that 'off days' are not yet paid, could not possibly have intended to unreasonably extend the effects of the same Decision to subsequent periods of time covered by subsequent CBA's wherein the parties, obviously to prevent repetition of the same troubles arising from their different interpretations leading to the present dispute, precisely incorporated provisions clearly considering such 'off days' as already paid.

"In other words, by any stretch of valid argumentation, logic communes with reason to support the conclusion that the coverage of the CIR en banc resolution as affirmed by the Supreme Court is limited to the period from February 14, 1953 to September 8, 1963. Clearly then, beginning September 9, 1963, the adjudged formula in computing the daily and hourly rate of monthly salaried PAL employees ceased to be effective. A fortiori, there exist no valid rationale for the questioned Partial Writ of Execution" (underscoring supplied; pp. 123--127, rec.).

Finally, petitioners' cause of action question-ing respondent Commission's resolution of May 31, 1977 is almost six (6) years late as the present petition for certiorari was filed only on March 29, 1983. The questioned resolution having long become final and executory, this Court has no jurisdiction to entertain the present petition.

WHEREFORE, THE PETITION FOR certiorari IS HEREBY DISMISSED FOR LACK OF MERIT. NO COSTS.

SO ORDERED.

Aquino, Concepcion, Jr., Escolin, and Cuevas, JJ., concur.

Abad Santos, J., no part.

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