

JOSE RIZAL COLLEGE, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND NATIONAL ALLIANCE OF TEACHERS/OFFICE WORKERS, RESPONDENTS.

G.R. No. 65482, December 01, 1987

Ponente: PARAS, J.

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PARAS, J.:

THIS IS A PETITION FOR CERTIORARI WITH PRAYER FOR THE ISSUANCE OF A WRIT OF PRELIMINARY INJUNCTION, SEEKING THE ANNULMENT OF THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION* IN NLRC CASE No. RB-IV-23037-78 (CASE No. R4-1-1081-71) ENTITLED "NATIONAL ALLIANCE OF TEACHERS AND OFFICE WORKERS AND JUAN E. ESTACIO, JAIME MEDINA, ET AL. VS. JOSE RIZAL COLLEGE" MODIFYING THE DECISION OF THE LABOR ARBITER AS FOLLOWS:

"WHEREFORE, IN VIEW OF THE FOREGOING CONSIDERATIONS, THE DECISION APPEALED FROM IS MODIFIED, IN THE SENSE THAT TEACHING PERSONNEL PAID BY THE HOUR ARE HEREBY DECLARED TO BE ENTITLED TO HOLIDAY PAY.

"SO ORDERED."

THE FACTUAL BACKGROUND OF THIS CASE WHICH IS UNDISPUTED IS AS FOLLOWS:

PETITIONER IS A NON-STOCK, NON-PROFIT EDUCATIONAL INSTITUTION DULY ORGANIZED AND EXISTING UNDER THE LAWS OF THE PHILIPPINES. IT HAS THREE GROUPS OF EMPLOYEES CATEGORIZED AS FOLLOWS: (A) PERSONNEL ON MONTHLY BASIS, WHO RECEIVE THEIR MONTHLY SALARY UNIFORMLY THROUGHOUT THE YEAR, IRRESPECTIVE OF THE ACTUAL NUMBER OF WORKING DAYS IN A MONTH WITHOUT DEDUCTION FOR HOLIDAYS; (B) PERSONNEL ON DAILY BASIS WHO ARE PAID ON ACTUAL DAYS WORKED AND THEY RECEIVE UNWORKED HOLIDAY PAY AND (C) COLLEGIATE FACULTY WHO ARE PAID ON THE BASIS OF STUDENT CONTACT HOUR. BEFORE THE START OF THE SEMESTER THEY SIGN CONTRACTS WITH THE COLLEGE UNDERTAKING TO MEET THEIR CLASSES AS PER SCHEDULE.

UNABLE TO RECEIVE THEIR CORRESPONDING HOLIDAY PAY, AS CLAIMED, FROM 1975 TO 1977, PRIVATE RESPONDENT NATIONAL ALLIANCE OF TEACHERS AND OFFICE WORKERS (NATOW) IN BEHALF OF THE FACULTY AND PERSONNEL OF JOSE RIZAL COLLEGE FILED WITH THE MINISTRY OF LABOR A COMPLAINT AGAINST THE COLLEGE FOR SAID ALLEGED NON-PAYMENT OF HOLIDAY PAY, DOCKETED AS CASE NO. R04-10-81-72. DUE TO THE FAILURE OF THE PARTIES TO SETTLE THEIR DIFFERENCES ON CONCILIATION, THE CASE WAS CERTIFIED FOR COMPULSORY ARBITRATION WHERE IT WAS DOCKETED AS RB-IV-23037-78 (ROLLO, PP. 155-156).

AFTER THE PARTIES HAD SUBMITTED THEIR RESPECTIVE POSITION PAPERS, THE LABOR ARBITER* RENDERED A DECISION ON FEBRUARY 5, 1979, THE DISPOSITIVE PORTION OF WHICH READS:

"WHEREFORE, JUDGMENT IS HEREBY RENDERED AS FOLLOWS:

1. THE FACULTY AND PERSONNEL OF THE RESPONDENT JOSE RIZAL COLLEGE WHO ARE PAID THEIR SALARY BY THE MONTH UNIFORMLY IN A SCHOOL YEAR, IRRESPECTIVE OF THE NUMBER OF WORKING DAYS IN A MONTH, WITHOUT DEDUCTION FOR HOLIDAYS, ARE PRESUMED TO BE ALREADY PAID THE 10 PAID LEGAL HOLIDAYS AND ARE NO LONGER ENTITLED TO SEPARATE PAYMENT FOR THE SAID REGULAR HOLIDAYS;
2. THE PERSONNEL OF THE RESPONDENT JOSE RIZAL COLLEGE WHO ARE PAID THEIR WAGES DAILY ARE ENTITLED TO BE PAID THE 10 UNWORKED REGULAR HOLIDAYS ACCORDING TO THE PERTINENT PROVISIONS OF THE RULES AND REGULATIONS IMPLEMENTING THE LABOR CODE;
3. COLLEGIATE FACULTY OF THE RESPONDENT JOSE RIZAL COLLEGE WHO BY CONTRACT ARE PAID COMPENSATION PER STUDENT CONTACT HOUR ARE NOT ENTITLED TO UNWORKED REGULAR HOLIDAY PAY CONSIDERING THAT THESE REGULAR HOLIDAYS HAVE BEEN EXCLUDED IN THE PROGRAMMING OF THE STUDENT CONTACT HOURS." (ROLLO, PP. 26-27)

ON APPEAL, RESPONDENT NATIONAL LABOR RELATIONS COMMISSION IN A DECISION PROMULGATED ON JUNE 2, 1982, MODIFIED THE DECISION APPEALED FROM, IN THE SENSE THAT TEACHING PERSONNEL PAID BY THE HOUR ARE DECLARED TO BE ENTITLED TO HOLIDAY PAY (ROLLO, P. 33).

HENCE, THIS PETITION.

THE SOLE ISSUE IN THIS CASE IS WHETHER OR NOT THE SCHOOL FACULTY WHO ACCORDING TO THEIR CONTRACTS ARE PAID PER LECTURE HOUR ARE ENTITLED TO UNWORKED HOLIDAY PAY.

LABOR ARBITER JULIO ANDRES, JR. FOUND THAT FACULTY AND PERSONNEL EMPLOYED BY PETITIONER WHO ARE PAID THEIR SALARIES MONTHLY, ARE UNIFORMLY PAID THROUGHOUT THE SCHOOL YEAR REGARDLESS OF WORKING DAYS, HENCE THEIR HOLIDAY PAY ARE INCLUDED THEREIN WHILE THE DAILY PAID EMPLOYEES ARE RENUMERATED FOR WORK PERFORMED DURING HOLIDAYS PER AFFIDAVIT OF PETITIONER'S TREASURER (ROLLO, PP. 72-73).

THERE APPEARS TO BE NO PROBLEM THEREFORE AS TO THE FIRST TWO CLASSES OR CATEGORIES OF PETITIONER'S WORKERS.

THE PROBLEM, HOWEVER, LIES WITH ITS FACULTY MEMBERS, WHO ARE PAID ON AN HOURLY BASIS, FOR WHILE THE LABOR ARBITER SUSTAINS THE VIEW THAT SAID INSTRUCTORS AND PROFESSORS ARE NOT ENTITLED TO HOLIDAY PAY, HIS DECISION WAS MODIFIED BY THE NATIONAL LABOR RELATIONS COMMISSION HOLDING THE CONTRARY. OTHERWISE STATED, ON APPEAL THE NLRC RULED THAT TEACHING PERSONNEL PAID BY THE HOUR ARE DECLARED TO BE ENTITLED TO HOLIDAY PAY.

PETITIONER MAINTAINS THE POSITION AMONG OTHERS, THAT IT IS NOT COVERED BY BOOK V

OF THE LABOR CODE ON LABOR RELATIONS CONSIDERING THAT IT IS A NON-PROFIT INSTITUTION AND THAT ITS HOURLY PAID FACULTY MEMBERS ARE PAID ON A "CONTRACT" BASIS BECAUSE THEY ARE REQUIRED TO HOLD CLASSES FOR A PARTICULAR NUMBER OF HOURS. IN THE PROGRAMMING OF THESE STUDENT CONTACT HOURS, LEGAL HOLIDAYS ARE EXCLUDED AND LABELLED IN THE SCHEDULE AS "NO CLASS DAY." ON THE OTHER HAND, IF A REGULAR WEEK DAY IS DECLARED A HOLIDAY, THE SCHOOL CALENDAR IS EXTENDED TO COMPENSATE FOR THAT DAY. THUS PETITIONER ARGUES THAT THE ADVENT OF ANY OF THE LEGAL HOLIDAYS WITHIN THE SEMESTER WILL NOT AFFECT THE FACULTY'S SALARY BECAUSE THIS DAY IS NOT INCLUDED IN THEIR SCHEDULE WHILE THE CALENDAR IS EXTENDED TO COMPENSATE FOR SPECIAL HOLIDAYS. THUS THE PROGRAMMED NUMBER OF LECTURE HOURS IS NOT DIMINISHED (ROLLO, PP. 157-158).

THE SOLICITOR GENERAL ON THE OTHER HAND, ARGUES THAT UNDER ARTICLE 94 OF THE LABOR CODE (P.D. No. 442 AS AMENDED), HOLIDAY PAY APPLIES TO ALL EMPLOYEES EXCEPT THOSE IN RETAIL AND SERVICE ESTABLISHMENTS. TO DEPRIVE THEREFORE EMPLOYEES PAID AT AN HOURLY RATE OF UNWORKED HOLIDAY PAY IS CONTRARY TO THE POLICY CONSIDERATIONS UNDERLYING SUCH PRESIDENTIAL ENACTMENT, AND ITS PRECURSOR, THE BLUE SUNDAY LAW (REPUBLIC ACT NO. 946) APART FROM THE CONSTITUTIONAL MANDATE TO GRANT GREATER RIGHTS TO LABOR (CONSTITUTION, ARTICLE II, SECTION 9). (ROLLO, PP. 76-77).

IN ADDITION, RESPONDENT NATIONAL LABOR RELATIONS COMMISSION IN ITS DECISION PROMULGATED ON JUNE 2, 1982, RULED THAT THE PURPOSE OF A HOLIDAY PAY IS OBVIOUS; THAT IS TO PREVENT DIMINUTION OF THE MONTHLY INCOME OF THE WORKERS ON ACCOUNT OF WORK INTERRUPTIONS. IN OTHER WORDS, ALTHOUGH THE WORKER IS FORCED TO TAKE A REST, HE EARNS WHAT HE SHOULD EARN. THAT IS HIS HOLIDAY PAY. IT IS NO EXCUSE THEREFORE THAT THE SCHOOL CALENDAR IS EXTENDED WHENEVER HOLIDAYS OCCUR, BECAUSE SUCH HAPPENS ONLY IN CASES OF SPECIAL HOLIDAYS (ROLLO, P. 32).

SUBJECT HOLIDAY PAY IS PROVIDED FOR IN THE LABOR CODE (PRESIDENTIAL DECREE NO. 442, AS AMENDED), WHICH READS:

"ART. 94. RIGHT TO HOLIDAY PAY - (A) EVERY WORKER SHALL BE PAID HIS REGULAR DAILY WAGE DURING REGULAR HOLIDAYS, EXCEPT IN RETAIL AND SERVICE ESTABLISHMENTS REGULARLY EMPLOYING LESS THAN TEN (10) WORKERS;

(B) THE EMPLOYER MAY REQUIRE AN EMPLOYEE TO WORK ON ANY HOLIDAY BUT SUCH EMPLOYEE SHALL BE PAID A COMPENSATION EQUIVALENT TO TWICE HIS REGULAR RATE; X X X"

AND IN THE IMPLEMENTING RULES AND REGULATIONS, RULE IV, BOOK III, WHICH READS:

"SEC. 8. HOLIDAY PAY OF CERTAIN EMPLOYEES. - (A) PRIVATE SCHOOL TEACHERS, INCLUDING FACULTY MEMBERS OF COLLEGES AND UNIVERSITIES, MAY NOT BE PAID FOR THE REGULAR HOLIDAYS DURING SEMESTRAL VACATIONS, THEY SHALL, HOWEVER, BE PAID FOR THE REGULAR HOLIDAYS DURING CHRISTMAS VACATIONS. X X X"

UNDER THE FOREGOING PROVISIONS, APPARENTLY, THE PETITIONER, ALTHOUGH A NON-PROFIT INSTITUTION IS UNDER OBLIGATION TO GIVE PAY EVEN ON UNWORKED REGULAR HOLIDAYS TO HOURLY PAID FACULTY MEMBERS SUBJECT TO THE TERMS AND

CONDITIONS PROVIDED FOR THEREIN.

WE BELIEVE THAT THE AFOREMENTIONED IMPLEMENTING RULE IS NOT JUSTIFIED BY THE PROVISIONS OF THE LAW WHICH AFTER ALL IS SILENT WITH RESPECT TO FACULTY MEMBERS PAID BY THE HOUR WHO BECAUSE OF THEIR TEACHING CONTRACTS ARE OBLIGED TO WORK AND CONSENT TO BE PAID ONLY FOR WORK ACTUALLY DONE (EXCEPT WHEN AN EMERGENCY OR A FORTUITOUS EVENT OR A NATIONAL NEED CALLS FOR THE DECLARATION OF SPECIAL HOLIDAYS). REGULAR HOLIDAYS SPECIFIED AS SUCH BY LAW ARE KNOWN TO BOTH SCHOOL AND FACULTY MEMBERS AS "NO CLASS DAYS"; CERTAINLY THE LATTER DO NOT EXPECT PAYMENT FOR SAID UNWORKED DAYS, AND THIS WAS CLEARLY IN THEIR MINDS WHEN THEY ENTERED INTO THE TEACHING CONTRACTS.

ON THE OTHER HAND, BOTH THE LAW AND THE IMPLEMENTING RULES GOVERNING HOLIDAY PAY ARE SILENT AS TO PAYMENT ON SPECIAL PUBLIC HOLIDAYS.

IT IS READILY APPARENT THAT THE DECLARED PURPOSE OF THE HOLIDAY PAY WHICH IS THE PREVENTION OF DIMINUTION OF THE MONTHLY INCOME OF THE EMPLOYEES ON ACCOUNT OF WORK INTERRUPTIONS IS DEFEATED WHEN A REGULAR CLASS DAY IS CANCELLED ON ACCOUNT OF A SPECIAL PUBLIC HOLIDAY AND CLASS HOURS ARE HELD ON ANOTHER WORKING DAY TO MAKE UP FOR TIME LOST IN THE SCHOOL CALENDAR. OTHERWISE STATED, THE FACULTY MEMBER, ALTHOUGH FORCED TO TAKE A REST, DOES NOT EARN WHAT HE SHOULD EARN ON THAT DAY. BE IT NOTED THAT WHEN A SPECIAL PUBLIC HOLIDAY IS DECLARED, THE FACULTY MEMBER PAID BY THE HOUR IS DEPRIVED OF EXPECTED INCOME, AND IT DOES NOT MATTER THAT THE SCHOOL CALENDAR IS EXTENDED IN VIEW OF THE DAYS OR HOURS LOST, FOR THEIR INCOME THAT COULD BE EARNED FROM OTHER SOURCES IS LOST DURING THE EXTENDED DAYS SIMILARLY, WHEN CLASSES ARE CALLED OFF OR SHORTENED ON ACCOUNT OF TYPHOONS, FLOODS, RALLIES, AND THE LIKE, THESE FACULTY MEMBERS MUST LIKEWISE BE PAID, WHETHER OR NOT EXTENSIONS ARE ORDERED.

PETITIONER ALLEGES THAT IT WAS DEPRIVED OF DUE PROCESS AS IT WAS NOT NOTIFIED OF THE APPEAL MADE TO THE NLRC AGAINST THE DECISION OF THE LABOR ARBITER.

THE COURT HAS ALREADY SET FORTH WHAT IS NOW KNOWN AS THE "CARDINAL PRIMARY" REQUIREMENTS OF DUE PROCESS IN ADMINISTRATIVE PROCEEDINGS, TO WIT: "(1) THE RIGHT TO A HEARING WHICH INCLUDES THE RIGHT TO PRESENT ONE'S CASE AND SUBMIT EVIDENCE IN SUPPORT THEREOF; (2) THE TRIBUNAL MUST CONSIDER THE EVIDENCE PRESENTED; (3) THE DECISION MUST HAVE SOMETHING TO SUPPORT ITSELF; (4) THE EVIDENCE MUST BE SUBSTANTIAL, AND SUBSTANTIAL EVIDENCE MEANS SUCH EVIDENCE AS A REASONABLE MIND MIGHT ACCEPT AS ADEQUATE TO SUPPORT A CONCLUSION; (5) THE DECISION MUST BE BASED ON THE EVIDENCE PRESENTED AT THE HEARING, OR AT LEAST CONTAINED IN THE RECORD AND DISCLOSED TO THE PARTIES AFFECTED; (6) THE TRIBUNAL OR BODY OF ANY OF ITS JUDGES MUST ACT ON ITS OR HIS OWN INDEPENDENT CONSIDERATION OF THE LAW AND FACTS OF THE CONTROVERSY, AND NOT SIMPLY ACCEPT THE VIEWS OF A SUBORDINATE; (7) THE BOARD OR BODY SHOULD IN ALL CONTROVERSIAL QUESTIONS, RENDER ITS DECISIONS IN SUCH MANNER THAT THE PARTIES TO THE PROCEEDING CAN KNOW THE VARIOUS ISSUES INVOLVED, AND THE REASON FOR THE DECISION RENDERED." (DORUELO VS. COMMISSION ON ELECTIONS, 133 SCRA 382 [1984]).

THE RECORDS SHOW PETITIONER JRC WAS AMPLY HEARD AND REPRESENTED IN THE INSTANT PROCEEDINGS. IT SUBMITTED ITS POSITION PAPER BEFORE THE LABOR ARBITER AND THE NLRC AND EVEN FILED A MOTION FOR RECONSIDERATION OF THE DECISION OF THE LATTER, AS WELL AS AN "URGENT MOTION FOR HEARING EN BANC" (ROLLO, P. 175). THUS, PETITIONER'S CLAIM OF LACK OF DUE PROCESS IS UNFOUNDED.

PREMISES CONSIDERED, THE DECISION OF RESPONDENT NATIONAL LABOR RELATIONS COMMISSION IS HEREBY SET ASIDE, AND A NEW ONE IS HEREBY RENDERED:

(A) EXEMPTING PETITIONER FROM PAYING HOURLY PAID FACULTY MEMBERS THEIR PAY FOR REGULAR HOLIDAYS, WHETHER THE SAME BE DURING THE REGULAR SEMESTERS OF THE SCHOOL YEAR OR DURING SEMESTRAL, CHRISTMAS, OR HOLY WEEK VACATIONS;

(B) BUT ORDERING PETITIONER TO PAY SAID FACULTY MEMBERS THEIR REGULAR HOURLY RATE ON DAYS DECLARED AS SPECIAL HOLIDAYS OR FOR SOME REASON CLASSES ARE CALLED OFF OR SHORTENED FOR THE HOURS THEY ARE SUPPOSED TO HAVE TAUGHT, WHETHER EXTENSIONS OF CLASS DAYS BE ORDERED OR NOT; IN CASE OF EXTENSIONS SAID FACULTY MEMBERS SHALL LIKEWISE BE PAID THEIR HOURLY RATES SHOULD THEY TEACH DURING SAID EXTENSIONS.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Gancayco, JJ., concur.

* RENDERED BY PRESIDING COMMISSIONER GUILLERMO C. MEDINA, COMMISSIONER GABRIEL M. GATCHALIAN AND COMMISSIONER MIGUEL B. VARELA.

*** LABOR ARBITER JULIO F. ANDRES, JR.**

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