

CEFERINO G. LLOBRERA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION & EL GRECO SHIPPING ENTERPRISE AND/OR GENERAL CONTRACTING AND SUPPORTING ENTERPRISES, RESPONDENTS.

G.R. No. 76271. June 28, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition for certiorari seeking to set aside the decision of the respondent National Labor Relations Commission (NLRC) which annulled the decision of the Philippine Overseas Employment Administration (POEA) and denied the petitioner's claim for overtime pay and leave pay and for refund of illegal deductions.

The POEA decision where the facts of this case can be found is hereby reproduced as follows:

"This is a complaint for illegal deductions and non-payment of overtime pay and salary differential, and leave pay filed by Ceferino G. Llobrera, a Master Mariner previously employed by General Contracting and Importing Enterprises (Gencon for brevity) through its local agent El Greco Shipping Enterprises (El Greco for brevity). The records reveal that respondents, despite service of summons and other notices, failed to file its responsive pleadings, or to submit any documents controverting or denying complainant's claim. Accordingly, pursuant to Section 3, Rule III of the Adjudication Rules, respondents are deemed to have waived their right to present evidence, and the case submitted for resolution on the basis of complainant's affidavit and supporting documents.

"As may be gleaned from the case records, complainant served on board M.T. SARA HASHIM as Captain with a monthly salary of US\$1,400.00 from September 3, 1983 up to December 6, 1983 when he tendered his resignation and returned to the Philippines. Prior to his repatriation, complainant alleges that Gencon forced him to sign an erroneous statement of wages under threat that if he refused to sign, he would be put in jail or sent home without being paid at all. Hence complainant was paid only the sum of SR1,576.80, and despite the fact that complainant is entitled to additional overtime pay, as well as pro-rata leave pay, Gencon allegedly refused to pay the same. Moreover, Gencon deducted the amount of US\$84.69 from the Captain's salary, allegedly for cable and telephone bills when in fact, according to complainant, the deduction should only be US\$49.69. Complainant maintains that he is entitled to the difference between what he was actually paid by Gencon and what he was actually entitled to as per his computations.

"In support of his claim, complainant submitted copies of the erroneous statement of wages prepared by management, the actual statement of wages as per his computations, and the Final Settlement sent by El Greco to Gencon after complainant had sought El Greco's assistance for the purpose of reviewing the complainant's claims.

"A perusal of these documents constrains Us to rule in favor of complainant. A comparison of Gencon's statement of wages and that of complainant's tends to reveal the latter's to be more truthful and accurate of the two. For instance, Gencon failed to include complainant's overtime for December 16, 1983 in its statement, and

this becomes dubious when We consider the fact that complainant did, indeed render overtime work for 21 hours. Likewise the payroll reports submitted by complainant clearly reflect that he performed overtime work, totaling 225 hours. Yet respondent Gencon credited him only 58 hours overtime.

"Likewise, the deductions for telephone and cable charges are erroneous. Complainant admits that US\$49.69 should be deducted, but he denies liability for official calls. Apparently, Gencon debited him for official calls, and therefore, complainant must be refunded the difference.

"Finally, complainant must be paid his leave pay for the entire period worked. Gencon's statement of wages does not include leave pay; the omission of this benefit is patently oppressive as payment thereof is expressly guaranteed by the NSB (now POEA) Standard Format which directs payment of leave pay equivalent to 2 ½ days per month of service, pro rata.

"In giving due course to complainant's claims, We take due note of respondents' failure to controvert, or deny the same. From the time respondent El Greco was furnished with the complaint, up to its submission for resolution, repeated notices were sent for the former to file its Answer or to submit any proof of denial. Its failure must therefore be deemed an admission of the propriety of the claims and respondent's lack of any valid defense.

"Moreover, We take note of the communications sent by El Greco to Gencon regarding the afore-numerated claims. In said letter, El Greco admits to have authorized rendition of overtime in view of the lack of crew. This bolsters Our findings that complainant actually rendered overtime work for 225 hours. Furthermore, the payment of leave pay is recommended, respondent El Greco being fully aware of the aforecited NSB (now POEA) Standard Format Provision.

"While it appears aware that the refusal to pay complainant's legitimate claims is primarily on the part of Gencon, respondent El Greco must necessarily be held accountable in view of the joint and several nature of their obligation. As Gencon's crewing agent in the Philippines, El Greco has bound itself solidarily liable for all obligations arising out of or by virtue of complainant's shipboard contract. This is a policy already well-explained and entrenched in this jurisdiction.

"WHEREFORE, all the foregoing considered, judgment is hereby rendered, ordering respondents El Greco Shipping Enterprises and General Contracting and Importing Enterprises, jointly and severally liable to pay complainant Ceferino C. Llobrera, within ten (10) calendar days from receipt hereof, the peso equivalent at the time of actual payment of ONE THOUSAND SIX HUNDRED TWENTY FOUR AND 46/100 US DOLLARS (US\$1,624.46) representing overtime pay differential, pro rata leave pay and refund of deductions made upon complainant's wages." (Rollo, pp. 9-11)

From the foregoing decision, the private respondents filed a motion for reconsideration and or appeal with the respondent NLRC contending that the evidence presented by the petitioner was self-serving and that the latter signed a quit claim stating that the petitioner received all his salaries, overtime pay and allowance.

The NLRC reversed the decision of the POEA holding that the POEA failed to rule on the quit claim or final settlement which was signed by the petitioner; and that in the absence of prima facie evidence that the said settlement was obtained through fraud, duress, intimidation and deceit, the same must be given full force and effect.

In this petition for certiorari, the petitioner contends that the respondent NLRC committed grave abuse of discretion in accepting and giving weight to the final settlement relied upon by the private respondents. Petitioner argues that he could not have been in a position to avoid signing the final settlement because of the threat of being jailed and in a foreign country at that; however, upon his arrival in this country, he immediately filed a protest with the manning agent, private respondent El Greco, assailing the final settlement as having been forced upon

him. Accordingly, what the respondent NLRC could at least have done was to check the validity of the final settlement visa-vis the petitioner's claim that he was not paid right.

We agree with the petitioner.

The only reason why the NLRC reversed the findings of the POEA was because of the final settlement which according to the NLRC should have the force and effect of law between the petitioner and private respondents in the absence of a prima facie showing of fraud, duress or intimidation. However, the NLRC completely disregarded the fact that the petitioner tried to prove that the final agreement was only forced upon him not only by alleging threats of being jailed in a foreign country which were employed by the private respondents against him but also by presenting evidence to show that he was entitled to much more than what was credited to him in the final settlement and that he could not have possibly willingly agreed to receive less than what he could prove by the evidence in his possession had there been no threat or intimidation on the part of the private respondents. Hence, there could be no other explanation for his signing the final settlement other than that he was forced to do so. As correctly pointed out by the Solicitor General in his comment:

"In the instant case, petitioner was well-within reason in demanding that repairs on the vessel he manned be made seaworthy; payment of wages (if his crew members and the improvement of his foreign employer's postal or mailing services (NLRC Rec, pp. 4-5), which demands were indeed reasonable as they pertain to their wellbeing. His immediate repatriation by GENCON'S representatives in response to his demands is unjustified, and the threats made that he would be committed to prison in Dammam, Saudi Arabia if the 'Final Settlement,' or private respondent's quitclaim was not signed, are indubitably compelling reasons which coerced petitioner to give his consent thereto. Being in a foreign country, with neither relatives nor friends to lean on for assistance, and with no assurance on his daily subsistence, petitioner was subjected to what was clearly economic intimidation, coupled with what appeared to him as an imminent threat to his liberty. The situation was unfair. There was no parity of resources. Understandably, petitioner had to capitulate. But the document he signed does not become incontestable. The circumstances surrounding its execution vitiate free will and consent. It has to be disregarded." (Rollo, p. 69)

Furthermore, the private respondents not only failed to deny the allegations of the petitioner concerning the final settlement but they altogether failed to attend the POEA hearings and present controverting evidence. Thus, such failure should have been construed as an admission of the petitioner's allegations by the private respondents. In the case of *Ondap v. Abugaa*, (88 SCRA 610, 612-613), we said:

"It was a judgment on the pleadings, as defendants, who did not even bother to file a written answer, merely denied at the trial paragraphs 2 to 8 of the complaint filed with the Justice of the Peace of Court, Clearly then, they failed to deny specifically the material allegations, a failure which in law amounted to an admission, x x x"

We, therefore, hold that the respondent NLRC committed grave abuse of discretion in reversing the decision of the POEA and in denying the petitioner's claims. Although we generally give weight to the findings of facts by the NLRC, this is only true if such findings are supported by substantial evidence. As we have ruled in *San Miguel Corporation v. NLRC*, (128 SCRA 180, 186-187):

"We find no compelling reasons to disturb the arbiter's findings of facts and his conclusions. The conclusions of the respondent NLRC based on practically the same facts established in the hearings before the arbiter impress upon us to be speculative and conjectural.

"The doctrine that the findings of facts, of the NLRC are binding on this Court if supported by substantial evidence is well established. xxx However, in the same way that the findings off action supported by

substantial and credible evidence do not bind this Court (Insular Life Assurance Co., Ltd., 76 SCRA 50), neither will we uphold erroneous conclusions of the NLRC when we find that the latter committed grave abuse of discretion in reversing the decision of the labor arbiter (See *Visperas v. Inciong*, 119 SCRA 477; *Kapisanan ng Manggagawa sa Camara Shoes v. Camara Shoes*, 111 SCRA 477)."

WHEREFORE, the petition is hereby GRANTED. The decision of the respondent National Labor Relations Commission dated March 10, 1986 and its resolution dated August 7, 1986 are SET ASIDE. The decision of the Philippine overseas Employment Administration is REINSTATED.

SO ORDERED.

Fernan (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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