

**TEOFILO CABRERA, FAUSTO BACLIG AND ALFREDO AGULAN,
PETITIONERS, VS. THIRD DIVISION, NATIONAL LABOR RELATIONS
COMMISSION, NATIONAL SERVICE CORPORATION AND/OR BRIG.
GEN. MIGUEL VI...**

G.R. No. 83387. June 27, 1991

Ponente: CRUZ, J.

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CRUZ, J.:

At the time the National Labor Relations Commission dismissed the petitioners' complaint for illegal dismissal by the National Service Corporation, the ruling case was *National Housing Authority v. Juco*.^[1] The challenged decision of the public respondent must now be reversed on the basis of the doctrine announced in *NASECO v. NLRC*.^[2]

Dismissed by the National Service Corporation, the petitioners complained to the Ministry of Labor and Employment on September 17, 1980. After considering the position papers of the parties, the Labor Arbiter ordered the petitioners' reinstatement without loss of seniority rights and the payment to them of two years back wages and other benefits.^[3] The decision was appealed to and affirmed by the First Division of the NLRC on December 9, 1985, and in due time, the petitioners moved for the issuance of a writ of execution. This was opposed by NASECO on the ground that it had not been furnished with a copy of the decision, but the opposition was rejected and the petition was granted. Reconsideration of the order having been denied, the NASECO appealed to the NLRC, which, through its Third Division this time, declared itself without jurisdiction and dismissed the case on August 18, 1987.^[4] Citing the *NHA* case, the public respondent held that the NASECO was not covered by the Labor Code but by Civil Service rules and regulations, being a government-owned or controlled corporation.

The petitioners are now before us asking for affirmance of the original decision rendered by the Labor Arbiter.

In *National Housing Corporation v. Juco*, this Court, applying the 1973 Constitution, declared that the petitioner corporation was part of the Civil Service and, accordingly, its employees were covered not by the Labor Code but by Civil Service rules and regulations. The basis of the ruling was Article XII-B, Section 1(1) providing that "the Civil Service embraces every branch, agency, subdivision and instrumentality of the Government, including every government-owned or controlled corporation."

In *National Service Corporation v. NLRC*, however, that decision was overturned on November 24, 1988, after the Court found that the NASECO did not have an original charter from the legislature. The rule applied was Article IX-B, Section 2(1) of the 1987 Constitution providing that "the Civil Service embraces all branches, subdivisions, instrumentalities and agencies of the Government, including government-owned or controlled corporations with original charters."^[5]

On the applicability of the new doctrine, the Court said:

On the premise that it is the 1987 Constitution that governs the instant case because it is the Constitution in place at the time of decision thereof, the NLRC has jurisdiction to accord relief to the parties. As an admitted subsidiary of the NIDC, in turn a subsidiary of the PNB, the NASECO is a government-owned or controlled corporation without original charter.

Additionally, the NASECO is estopped from challenging the jurisdiction of the NLRC, having accepted it all the while this case was in progress and until 1987, when it appealed the order of the Labor Arbiter for the issuance of the writ of execution. A long line of decisions operates against the NASECO.[6]

It is especially noted that when petitioner Fausto Baclig filed a complaint with the Merit System Board of the Civil Service for his reinstatement, the NASECO general manager alleged in his answer dated February 9, 1981, that the case was cognizable not by the Board but by the labor authorities. His reason was that the NASECO was a private corporation organized under the Corporation Law.[7]

The Solicitor General correctly observes that the petitioners do not allege grave abuse of discretion on the part of the respondents as required in a petition for certiorari under Rule 65 of the Rules of Court. We shall disregard that procedural flaw, however, in view of the jurisdictional issue here raised, and in the interest of substantial justice.

Our finding is that the respondent NLRC erred in dismissing the petitioners' complaint for lack of jurisdiction because the rule now is that only government-owned or controlled corporations with original charters come under the Civil Service. The NASECO having been organized under the Corporation Law and not by virtue of a special legislative charter, its relations with its personnel are governed by the Labor Code and come under the jurisdiction of the National Labor Relations Commission.

WHEREFORE, the order of the NLRC dated August 18, 1987, is REVERSED and SET ASIDE. The decision of the Labor Arbiter dated September 30, 1983, as affirmed by the NLRC on December 9, 1985, and his order dated April 4, 1986, are REINSTATED. No costs.

SO ORDERED.

Narvasa, (Chairman), Griño-Aquino, and Medialdea, JJ., concur.
Gancayco, J., on leave.

[1] 134 SCRA 172.

[2] 168 SCRA 122.

[3] On September 30, 1983. Rollo, pp. 13-20.

[4] Ibid., pp. 29-30.

[5] See also Bliss Development Corporation v. NLRC, G.R. No. 83100, February 5, 1990.

[6] Tijam v. Sibonghanoy, 23 SCRA 29; Crisostomo v. Court of Appeals, 132 SCRA 54; PNB v. Intermediate Appellate Court, 143 SCRA 299; Tan Boon Bee & Company v. Judge Jarencio, 163 SCRA 205; Marquez v. Secretary of Labor and Employment, 171 SCRA 337.

[7] Rollo, pp. 32-34.

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