

APEX MINING COMPANY, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND SINCLITICA CANDIDO, RESPONDENTS.

G.R. No. 94951. April 22, 1991

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

Is the househelper in the staff houses of an industrial company a domestic helper or a regular employee of the said firm? This is the novel issue raised in this petition.

Private respondent Sinclitica Candido was employed by petitioner Apex Mining Company, Inc. on May 18, 1973 to perform laundry services at its staff house located at Masara, Maco, Davao del Norte. In the beginning, she was paid on a piece rate basis. However, on January 17, 1982, she was paid on a monthly basis at P250.00 a month which was ultimately increased to P575.00 a month.

On December 18, 1987, while she was attending to her assigned task and she was hanging her laundry, she accidentally slipped and hit her back on a stone. She reported the accident to her immediate supervisor Mila de la Rosa and to the personnel officer, Florendo D. Asirit. As a result of the accident she was not able to continue with her work. She was permitted to go on leave for medication. De la Rosa offered her the amount of P2,000.00 which was eventually increased to P5,000.00 to persuade her to quit her job, but she refused the offer and preferred to return to work. Petitioner did not allow her to return to work and dismissed her on February 4, 1988.

On March 11, 1988, private respondent filed a request for assistance with the Department of Labor and Employment. After the parties submitted their position papers as required by the labor arbiter assigned to the case on August 24, 1988 the latter rendered a decision, the dispositive part of which reads as follows:

"WHEREFORE, Conformably With The Foregoing, judgment is hereby rendered ordering the respondent, Apex Mining Company, Inc., Masara, Davao del Norte, to pay the complainant, to wit:

1. Salary Differential — P16,289.20
2. Emergency Living Allowance — 12,430.00
3. 13[th] Month Pay Differential — 1,322.32
4. Separation Pay
(One-month for every year of
service (1973-1988) — 25,119.90

or in the total of FIFTY FIVE THOUSAND ONE HUNDRED SIXTY ONE PESOS AND 42/100 (P55,161.42).

SO ORDERED."[1]

Not satisfied therewith, petitioner appealed to the public respondent National Labor Relations Commission (NLRC), wherein in due course a decision was rendered by the Fifth Division thereof on July 20, 1989 dismissing the appeal for lack of merit and affirming the appealed decision. A motion for reconsideration thereof was denied in a resolution of the NLRC dated June 29, 1990.

Hence, the herein petition for review by certiorari, which appropriately should be a special civil action for certiorari, and which in the interest of justice, is hereby treated as such.[2] The main thrust of the petition is that private respondent should be treated as a mere househelper or domestic servant and not as a regular employee of petitioner.

The petition is devoid of merit.

Under Rule XIII, Section 1(b), Book 3 of the Labor Code, as amended, the terms "househelper" or "domestic servant" are defined as follows:

"The term 'househelper' as used herein is synonymous to the term 'domestic servant' and shall refer to any person, whether male or female, who renders services in and about the employer's home and which services are usually necessary or desirable for the maintenance and enjoyment thereof, and ministers exclusively to the personal comfort and enjoyment of the employer's family." [3]

The foregoing definition clearly contemplates such househelper or domestic servant who is employed in the employer's home to minister exclusively to the personal comfort and enjoyment of the employer's family. Such definition covers family drivers, domestic servants, laundry women, yayas, gardeners, houseboys and other similar househelps.

The definition cannot be interpreted to include househelp or laundrywomen working in staffhouses of a company, like petitioner who attends to the needs of the company's guests and other persons availing of said facilities. By the same token, it cannot be considered to extend to the driver, houseboy, or gardener exclusively working in the company, the staffhouses and its premises. They may not be considered as within the meaning of a "househelper" or "domestic servant" as above-defined by law.

The criteria is the personal comfort and enjoyment of the family of the employer in the home of said employer. While it may be true that the nature of the work of a househelper, domestic servant or laundrywoman in a home or in a company staffhouse may be similar in nature, the difference in their circumstances is that in the former instance they are actually serving the family while in the latter case, whether it is a corporation or a single proprietorship engaged in business or industry or any other agricultural or similar pursuit, service is being rendered in the staffhouses or within the premises of the business of the employer. In such instance, they are employees of the company or employer in the business concerned entitled to the privileges of a regular employee.

Petitioner contends that it is only when the househelper or domestic servant is assigned to certain aspects of the business of the employer that such househelper or domestic servant may be considered as such an employee. The Court finds no merit in making any such distinction. The mere fact that the househelper or domestic servant is working within the premises of the business of the employer and in relation to or in connection with its business, as in its staffhouses for its guests or even for its officers and employees, warrants the conclusion that such househelper or domestic servant is and should be considered as a regular employee of the employer and not as a mere family househelper or domestic servant as contemplated in Rule XIII, Section 1 (b), Book 3 of the Labor Code, as amended.

Petitioner denies having illegally dismissed private respondent and maintains that respondent abandoned her

work. This argument notwithstanding, there is enough evidence to show that because of an accident which took place while private respondent was performing her laundry services, she was not able to work and was ultimately separated from the service. She is, therefore, entitled to appropriate relief as a regular employee of petitioner. Inasmuch as private respondent appears not to be interested in returning to her work for valid reasons, the payment of separation pay to her is in order.

WHEREFORE, the petition is DISMISSED and the appealed decision and resolution of public respondent NLRC are hereby AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Page 57, Rollo.

[2] Dentech Manufacturing Corporation v. NLRC, 172 SCRA 588 (1989).

[3] Page 106, Rollo.

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