

**LETICIA MAMANSAG, MAXIMINIA DOREZA, MARILOU B. DAVID,
SONIA G. TAN, URBINA G. TORREFRANCA, MYRA M. FRANEHE,
NANCY S. CAPELLAN, GUILLERMA C. MENDOZA, CONCHITA C.
SEVILLA, EDELINA...**

G.R. No. 97520. February 09, 1993

Ponente: NOCON, J.

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NOCON, J.:

This is a petition for certiorari under Rule 65 of the Revised Rules of Court to annul and set aside the Resolution of public respondent National Labor Relations Commission (NLRC) of Manila,[1] dated December 28, 1990, reversing the January 8, 1989 decision of Labor Arbiter Cresencio R. Iniego reinstating petitioners with backwages and instead dismissing the complaint for illegal dismissal and the Resolution dated February 13, 1991 denying petitioners' Motion for Reconsideration of said decision.

Private respondent Consumer Pulse Inc. is engaged in the business of conducting market researches and public surveys on consumer products and services for its clients. Due to the very nature of its business, private respondent hired the services of petitioners as field interviewers whose job was to gather data on consumer products to be submitted to the office of private respondent for evaluation or analysis.

In the course of petitioners' employment with private respondent company, petitioners were required by the latter to sign contracts specifying the name of the project and the duration of their employment.

Sometime in February 1987, petitioners were called to a meeting by private respondent company's Human Resources Department Director, Thelma Baricawa, where they were told that they would be transferred to a sub-contractor who would be paying them directly. However, petitioners objected to this proposal as they are regular employees of private respondent. They likewise rejected the offer of Consumer Pulse, Inc. to become members of the Rosie Chew Foundation whose founder is private respondent Rosario Chew, a major stockholder of private respondent Consumer Pulse, Inc.

When petitioners went to the private respondent's office sometime in June and July 1987 to inquire about a project they could work on, the office secretary of private respondent informed them that they cannot be given work anymore.

In view of this development, petitioners filed a complaint on July 7, 1987 against private respondents Consumer Pulse Inc. and Rosario Chew for illegal dismissal with the Arbitration Branch of the NLRC.

Private respondents, however, deny having dismissed petitioners. Since their contract with petitioners was on a per project basis, their completion of the project resulted in the completion of their contract and automatic cessation of their employment.

On the other hand, private respondent's Human Resources Department Director Thelma Baricawa denied having

told petitioners that they would be transferred to a sub-contractor. What she told them was to up-grade the quality of their work and form themselves into a group of duly licensed job contractors or sub-contractors since private respondent company would henceforth engage only the services of duly licensed contractors or sub-contractors to handle its job projects.

On January 8, 1989, Labor Arbiter Cresencio R. Iniego rendered a decision, the pertinent portion of which reads as follows:

"WHEREFORE, respondents Consumer Pulse Inc. and Rosario Chew, president and general manager are hereby ordered to reinstate all the individual complainants listed in the original as well as amended complaint to their former positions with three (3) years backwages without loss of seniority rights, without further qualifications."[2]

On December 28, 1990, said decision was reversed by public respondent NLRC, the dispositive portion of which reads:

"WHEREFORE, premises considered, the assailed decision is hereby vacated and SET ASIDE, a new one entered DISMISSING this case."[3]

On February 13, 1991, petitioners' Motion for Reconsideration was denied for lack of merit.

Hence, this petition.

We find no merit in the petition.

Article 280 of the Labor Code provides:

"Art. 280. Regular and Casual Employment. -- The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employee or where the work or services to be performed is seasonal in nature and the employment is for the duration of the season.

An employment shall be deemed to be casual if it is not covered by the preceding paragraph: Provided, that, any employee who has rendered at least one year of service, whether such service is continuous or broken, shall be considered a regular employee with respect to the activity in which he is employed and his employment shall continue while such actually exists."

Private respondent company is a market research group that conducts public surveys about commercial consumer goods, products, merchandises and/or services of its clients. Said market researches and surveys are dependent upon the contracts it can secure from its clients consisting of corporations, organizations, government and individuals. Because of the very nature of its business, private respondent company had to resort to engaging the services of contractual workers, such as petitioners, to conduct interviews on specific project basis for a definite short period of time. Generally, said contractual employment is not continuous but intermittent, sporadic with long intervals of idle periods in between projects due to lack of work or job contracts. To require a market research and survey firm to indefinitely maintain in its payroll petitioners, despite the absence of contracted projects, would be counterproductive and lead to the bankruptcy of said firm.

Private respondent company, in entering into specific and limited contracts with petitioners, was only exercising its management prerogative to conduct its business in the most efficient manner thereby avoiding unnecessary expenses and maximizing profitability without, however, defeating or circumventing the rights of its employees.

An examination of the petitioners' contract of employment showed that they were hired by private respondent company for a specific project and the completion or termination of said project was determined at the start of their employment. Petitioners cannot be hired for an indefinite period of time and carried on the company's payroll even without projects to work, with without respondent company incurring financial losses.

As field interviewers of private respondent company, the latter depends for its business on the contract it is able to obtain from its clients. Necessarily, the duration of the employment of its employees is not permanent but co-terminus with the projects to which they are assigned and from whose payrolls they are paid. The fact that petitioners worked for several projects of private respondent company is no basis to consider them as regular employees. By the very nature of their employer's business, they will always remain project employees regardless of the number of projects in which they have worked.

Moreover, the fact that petitioner Leticia Mamansag whose period of employment with private respondent company was from 1979 to 1987 had only actually rendered contractual services equivalent to 31.80 months or 2.6 years, while the rest of the petitioners had actually rendered services less than one year which ranges from 3.23 months to 11.96 months[4] clearly indicates their hiring on a contractual basis, and to award petitioners backwages for three (3) years or even for a year as recommended in the dissenting opinion of respondent NLRC Presiding Commissioner Edna Bonto-Perez, as well as the Solicitor General, would result in a misapplication of the law and cause great injustice to the employer. As held by this Court:

"While the Constitution is committed to the policy of social justice and the protection of the working class, it should not be supposed that every dispute will be automatically decided in favor of labor. Management also has rights, which, as such, are entitled to respect and enforcement in the interest of simple fair play. Although the Supreme Court has inclined more often than not toward the worker and has upheld his cause in his conflicts with the employer, such favoritism has not blinded the Court to the rule that justice is in every case for the deserving, to be dispensed in the light of the established facts and the applicable law and doctrine." [5]

We, therefore, find that public respondent NLRC did not abuse its discretion in considering petitioners as project employees.

WHEREFORE, this petition is hereby DISMISSED for lack of merit. Costs against petitioners.
SO ORDERED.

Narvasa, C.J., (Chairman), Feliciano, Regalado, and Campos, Jr., JJ., concur.

[1] Rollo, pp. 14-32, pp. 47-50. Penned by Commissioner Domingo H. Zapanta with the concurrence of Commissioner Rustico L. Diokno but with the dissenting opinion of the Presiding Commissioner Edna Bonto-Perez.

[2] Id., at p. 45.

[3] Id., at p. 32.

[4] Original Records, pp. 42-47.

[5] Cruz vs. Medina, 177 SCRA 565 [1989].

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