

**RESURRECCION SUZARA, CESAR DIMAANDAL, ANGELITO  
MENDOZA, ANTONIO TANEDO, AMORSOLO CABRERA, DOMINADOR  
SANTOS, ISIDRO BRACIA, RAMON DE BELEN, ERNESTO SABADO,  
MARTIN MALABANAN, ROME...**

*G.R. Nos. 57999, 58143-53. August 15, 1989*

Ponente: GUTIERREZ, JR., J.

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**GUTIERREZ, JR., J.:**

These petitions ask for re-examination of this Court's precedent - setting decision in *Vir-Jen Shipping and Marine Services Inc. v. National Labor Relations Commission, et al.* (125 SCRA 577 [1983]). On constitutional, statutory, and factual grounds, we find no reason to disturb the doctrine in *Vir-Jen Shipping* and to turn back the clock of progress for sea-based overseas workers. The experience gained in the past few years shows that, following said doctrine, we should neither deny nor diminish the enjoyment by Filipino seamen of the same rights and freedoms taken for granted by other workingmen here and abroad.

The cases at bar involve a group of Filipino seamen who were declared by the defunct National Seamen Board (NSB) guilty of breaching their employment contracts with the private respondent because they demanded, upon the intervention and assistance of a third party, the International Transport Worker's Federation (ITF), the payment of wages over and above their contracted rates without the approval of the NSB. The petitioners were ordered to reimburse the total amount of US \$91,348.44 or its equivalent in Philippine Currency representing the said over-payments and to be suspended from the NSB registry for a period of three years. The National Labor Relations Commission (NLRC) affirmed the decision of the NSB.

In a corollary development, the private respondent, for failure of the petitioners to return the overpayments made to them upon demand by the former, filed estafa charges against some of the petitioners. The criminal cases were eventually consolidated in the sala of then respondent Judge Alfredo Benipayo. Hence, these consolidated petitions, G.R. No. 64781-99 and G.R. Nos. 57999 and 58143-53, which respectively pray for the nullification of the decisions of the NLRC and the NSB, and the dismissal of the criminal cases against the petitioners.

The facts are found in the questioned decision of the NSB in G.R. No. 64781-99.

"From the records of this case it appears that the facts established and/or admitted by the parties are the following: that on different dates in 1977 and 1978 respondents entered into separate contracts of employment (Exhs. "B" to "B-17", inclusive) with complainant (private respondent) to work aboard vessels owned/operated/manned by the latter for a period of 12 calendar months and with different rating/position, salary, overtime pay and allowance, hereinbelow specified: x x x; that aforesaid employment contracts were verified and approved by this Board; that on different dates in April 1978 respondents (petitioners) joined the M/V 'GRACE RIVER'; that on or about October 30, 1978 aforesaid vessel, with the respondents on board, arrived at the port of Vancouver, Canada; that at this port respondent received additional wages under rates prescribed by the International Transport Worker's Federation (ITF) in the total amount of US\$98,261.70; that the respondents received the amounts appearing opposite their names, to wit: xxx; that aforesaid amounts were

over and above the rates of pay of respondents as appearing in their employment contracts approved by this Board; that on November 10, 1978, aforesaid vessel, with respondent on board, left Vancouver, Canada for Yokohama, Japan; that on December 14, 1978, while aforesaid vessel, was at Yura, Japan, they were made to disembark. (pp. 64-66, Rollo)

Furthermore, according to the petitioners, while the vessel was docked at Nagoya, Japan, a certain Atty. Oscar Torres of the NSB Legal Department boarded the vessel and called a meeting of the seamen including the petitioners, telling them that for their own good and safety they should sign an agreement prepared by him on board the vessel and that if they do, the cases filed against them with NSB on November 17, 1978 would be dismissed. Thus, the petitioners signed the "Agreement" dated December 5, 1978. (Annex C of Petition) However, when they were later furnished xerox copies of what they had signed, they noticed that the line "which amount(s) was/were received and held by CREWMEMBERS in trust for SHIPOWNERS" was inserted therein, thereby making it appear that the amounts given to the petitioners representing the increase in their wages based on ITF rates were only received by them in trust for the private respondent.

When the vessel reached Manila, the private respondent demanded from the petitioners the "overpayments" made to them in Canada. As the petitioners refused to give back the said amounts, charges were filed against some of them with the NSB and the Professional Regulations Commission. Estafa charges were also filed before different branches of the then Court of First Instance of Manila which, as earlier stated, were subsequently consolidated in the sala of the respondent Judge Alfredo Benipayo and which eventually led to G.R. Nos. 57999 and 58143-53.

In G.R. Nos. 64781-99, the petitioners claimed before the NSB that contrary to the private respondent's allegations, they did not commit any illegal act nor stage a strike while they were on board the vessel; that the "Special Agreement" entered into in Vancouver to pay their salary differentials is valid, having been executed after peaceful negotiations. Petitioners further argued that the amounts they received were in accordance with the provision of law, citing among others, Section 18, Rule VI, Book I of the Rules and Regulations Implementing the Labor Code which provides that "the basic minimum salary of seamen shall not be less than the prevailing minimum rates established by the International Labor Organization (ILO) or those prevailing in the country whose flag the employing vessel carries, whichever is higher xxx"; and that the "Agreement" executed in Nagoya, Japan had been forced upon them and that intercalations were made to make it appear that they were merely trustees of the amounts they received in Vancouver.

On the other hand, the private respondent alleged that the petitioners breached their employment contracts when they, acting in concert and with the active participations of the ITF while the vessel was in Vancouver, staged an illegal strike and by means of threats, coercion and intimidation compelled the owners of the vessel to pay to them various sums totalling US\$104,244.35; that the respondent entered into the "Special Agreement" to pay the petitioners' wage differentials because it was under duress as the vessel would not be allowed to leave Vancouver unless the said agreement was signed, and to prevent the shipowner from incurring further delay in the shipment of goods; and that in view of petitioners' breach of contract, the latter's names must be removed from the NSB's Registry and that they should be ordered to return the amounts they received over and above their contracted rates.

The respondent NSB ruled that the petitioners were guilty of breach of contract because despite subsisting and valid NSB-approved employment contracts, the petitioners sought the assistance of a third party (ITF) to demand from the private respondent wages in accordance with the ITF rates, which rates are over and above their rates of pay as appearing in their NSB-approved contracts. As bases for this conclusion, the NSB stated:

"1) The fact that respondents sought the aid of a third party (ITF) and demanded for wages and overtime pay based on ITF rates is shown in the entries of their respective Pay-Off Clearance Slips which were marked as

their Exhs. "1" to "18", and we quote 'DEMANDED ITF WAGES, OVERTIME, DIFFERENTIALS APRIL TO OCTOBER 1978'. Respondent Suzara admitted that the entries in his Pay-Off Clearance Slip (Exh. "1" are correct (TSN., p. 16, Dec. 6, 1979). Moreover, it is the policy (reiterated very often) by the ITF that it does not interfere in the affairs of the crewmembers and masters and/or owners of a vessel unless its assistance is sought by the crewmembers themselves. Under this pronounced policy of the ITF, it is reasonable to assume that the representatives of the ITF in Vancouver, Canada assisted and intervened by reason of the assistance sought by the latter.

"2) The fact that the ITF assisted and intervened for and in behalf of the respondents in the latter's demand for higher wages could be gleaned from the answer of the respondents when they admitted that the ITF acted in their behalf in the negotiations for increase of wages. Moreover, respondent Cesar Dimaandal admitted that the ITF differential pay was computed by the ITF representative (TSN. p. 7, dec. 12, 1979)

"3) The fact that complainant and the owner/operator of the vessel were compelled to sign the Special Agreement (Exh. "20") and to pay ITF differentials to respondents in order not to delay the departure of the vessel and to prevent further losses is shown in the 'Agreement' (Exhs. "R-21") xxx>") pp. 69-70, Rollo)

The NSB further said:

"While the Board recognizes the rights of the respondents to demand for higher wages, provided the means are peaceful and legal, it could not, however, sanction the same if the means employed are violent and illegal. In the case at bar, the means employed are violent and illegal for in demanding higher wages the respondents sought the aid of a third party and in turn the latter intervened in their behalf and prohibited the vessel from sailing unless the owner and/or operator of the vessel acceded to respondents' demand for higher wages. To avoid suffering further incalculable losses, the owner and/or operator of the vessel had no alternative but to pay respondents' wages in accordance with the ITF scale. The Board condemns the act of a party who enters into a contract and with the use of force/or intimidation causes the other party to modify said contract. If the respondents believe that they have a valid ground to demand from the complainant a revision of the terms of their contracts, the same should have been done in accordance with law and not thru illegal means. (at p. 72, Rollo).

Although the respondent NSB found that the petitioners were entitled to the payment of earned wages and overtime pay/allowance from November 1, 1978 to December 14, 1978, it nevertheless ruled that the computation should be based on the rates of pay as appearing in the petitioners' NSB-approved contracts. It ordered that the amounts to which the petitioners are entitled under the said computation should be deducted from the amounts that the petitioners must return to the private respondent.

On appeal, the NLRC affirmed the NSB's findings. Hence, the petition in G.R. Nos. 64781-99.

Meanwhile, the petitioners in G.R. Nos. 57999 and 58143-53 moved to quash the criminal cases of estafa filed against them on the ground that the alleged crimes were committed, if at all, in Vancouver, Canada and, therefore, Philippine courts have no jurisdiction. The respondent judge denied the motion. Hence, the second petition.

The principal issue in these consolidated petitions is whether or not the petitioners are entitled to the amounts they received from the private respondent representing additional wages as determined in the special agreement. If they are, then the decision of the NLRC and NSB must be reversed. Similarly, the criminal cases of estafa must be dismissed because it follows as a consequence that the amounts received by the petitioners belong to them and not to the private respondent.

In arriving at the questioned decision, the NSB ruled that the petitioners are not entitled to the wage differentials as determined by the ITF because the means employed by them in obtaining the same were violent and illegal and because in demanding higher wages the petitioners sought the aid of a third party, which, in turn, intervened in

their behalf and prohibited the vessel from sailing unless the owner and/or operator of the vessel acceded to respondents' demand for higher wages. And as proof of this conclusion, the NSB cited the following: (a) the entries in the petitioners Pay-Off Clearance Slip which contained the phrase "DEMANDED ITF WAGES xxx"; (b) the alleged policy of the ITF in not interfering with crewmembers of a vessel unless its intervention is sought by the crewmembers themselves; (c) the petitioners' admission that ITF acted in their behalf; and (d) the fact that the private respondent was compelled to sign the special agreement at Vancouver, Canada.

There is nothing in the public and private respondents' pleadings, to support the allegations that the petitioners used force and violence to secure the special agreement signed in Vancouver, British Columbia. There was no need for any form of intimidation coming from the Filipino seamen because the Canadian Brotherhood of Railways and Transport Workers (CBRT), a strong Canadian labor union, backed by an international labor federation was actually doing all the influencing not only on the ship-owners and employers but also against third world seamen themselves who, by receiving lower wages and cheaper accommodations, were threatening the employment and livelihood of seamen from developed nations.

The bases used by the respondent NSB to support its decision do not prove that the petitioners initiated a conspiracy with the ITF or deliberately sought its assistance in order to receive higher wages. They only prove that when ITF acted in petitioners' behalf for an increase in wages, the latter manifested their support. This would be a logical and natural reaction for any worker in whose benefit the ITF or any other labor group had intervened. The petitioners admit that while they expressed their conformity to and their sentiments for higher wages by means of placards, they, nevertheless, continued working and going about their usual chores. In other words, all they did was to exercise their freedom of speech in a most peaceful way. The ITF people, in turn, did not employ any violent means to force the private respondent to accede to their demands. Instead, they simply applied effective pressure when they intimated the possibility of interdiction should the shipowner fail to heed the call for an upward adjustment of the rates of the Filipino seamen. Interdiction is nothing more than a refusal of ITF members to render service for the ship, such as to load or unload its cargo, to provision it or to perform such other chores ordinarily incident to the docking of the ship at a certain port. It was the fear of ITF interdiction, not any action taken by the seamen on board the vessel which led the shipowners to yield.

The NSB's conclusion that it is ITF's policy not to intervene with the plight of crewmembers of a vessel unless its intervention was sought is without basis. This Court is cognizant of the fact that during the period covered by the labor controversies in *Wallen Philippines Shipping, Inc. v. Minister of Labor* (102 SCRA 835 [1981]; *Vir-Jen Shipping and Marine Services, Inc. v. NLRC* (supra) and these consolidated petitions, the ITF was militant worldwide especially in Canada, Australia, Scandinavia, and various European countries, interdicting foreign vessels and demanding wage increases for third world seamen. There was no need for Filipino or other seamen to seek ITF intervention. The ITF was waiting on its own volition in all Canadian ports, not particularly for the petitioners' vessel but for all ships similarly situated. As earlier stated, the ITF was not really acting for the petitioners out of pure altruism. The ITF was merely protecting the interests of its own members. The petitioners happened to be pawns in a higher and broader struggle between the ITF on one hand and shipowners and third world seamen, on the other. To subject our seamen to criminal prosecution and punishment for having been caught in such a struggle is out of the question.

As stated in *Vir-Jen Shipping* (supra):

"The seamen had done no act which under Philippine law or any other civilized law would be termed illegal, oppressive, or malicious. Whatever pressure existed, it was mild compared to accepted and valid modes of labor activity." (at page 591)

Given these factual situations, therefore, we cannot affirm the NSB and NLRC's findings that there was violence,

physical or otherwise employed by the petitioners in demanding for additional wages. The fact that the petitioners placed placards on the gangway of their ship to show support for ITF's demands for wage differentials for their own benefit and the resulting ITF's threatened interdiction do not constitute violence. The petitioners were exercising their freedom of speech and expressing sentiments in their hearts when they placed the placard "We Want ITF Rates." Under the facts and circumstances of these petitions, we see no reason to deprive the seamen of their right to freedom of expression guaranteed by the Philippine Constitution and the fundamental law of Canada where they happened to exercise it.

As we have ruled in *Wallem Phil. Shipping Inc. v. Minister of Labor, et al. supra*:

"Petitioner claims that the dismissal of private respondents was justified because the latter threatened the ship authorities in acceding to their demands, and this constitutes serious misconduct as contemplated by the Labor Code. This contention is now well-taken. The records fail to establish clearly the commission of any threat. But even if there had been such a threat, respondents' behavior should not be censured because it is but natural for them to employ some means of pressing their demands for petitioner, who refused to abide with the terms of the Special Agreement, to honor and respect the same. They were only acting in the exercise of their rights, and to deprive them of their freedom of expression is contrary to law and public policy. xxxx." (at page 843)

We likewise, find the public respondents' conclusions that the acts of the petitioners in demanding and receiving wages over and above the rates appearing in their NSB-approved contracts is in effect an alteration of their valid and subsisting contracts because the same were not obtained through mutual consent and without the prior approval of the NSB to be without basis, not only because the private respondent's consent to pay additional wages was not vitiated by any violence or intimidation on the part of the petitioners but because the said NSB-approved form contracts are not unalterable contracts that can have no room for improvement during their effectivity or which ban any amendments during their term.

For one thing, the employer can always improve the working conditions without violating any law or stipulation.

We stated in the *Vir-Jen* case (*supra*) that:

"The form contracts approved by the National Seamen Board are designed to protect Filipino seamen not foreign shipowners who can take care of themselves. The standard forms embody the basic minimums which must be incorporated as parts of the employment contract. (Section 15, Rules V, Rules and Regulations Implementing the Labor Code). They are not collective bargaining agreements or immutable contracts which the parties cannot improve upon or modify in the course of the agreed period of time. To state, therefore, that the affected seamen cannot petition their employer for higher salaries during the 12 months duration of the contract runs counter to established principles of labor legislation. The National Labor Relations Commission, as the appellate tribunal from the decisions of the National Seamen Board, correctly ruled that the seamen did not violate their contracts to warrant their dismissal." (at page 589)

It is impractical for the NSB to require the petitioners, caught in the middle of a labor struggle between the ITF and owners of ocean going vessels halfway around the world in Vancouver, British Columbia to first secure the approval of the NSB in Manila before signing an agreement which the employer was willing to sign. It is also totally unrealistic to expect the petitioners while in Canada to exhibit the will and strength to oppose the ITF's demand for an increase in their wages, assuming they were so minded.

An examination of Annex C of the petition, the agreement signed in Japan by the crewmembers of the M/V Grace River and a certain M. Tabei, representative of the Japanese shipowner, lends credence to the petitioners' claim that the clause "which amount(s) was received and held by CREWMEMBERS in trust for SHIPOWNER" was an intercalation added after the execution of the agreement. The clause appears too closely typed below the names of the 19 crewmen and their wages with no similar intervening space as that which appears between all the

paragraphs and the triple space which appears between the list of crewmembers and their wages on one hand and the paragraph above which introduces the list, on the other. The verb "were" was also inserted above the verb "was" to make the clause grammatically correct but the insertion of "were" is already on the same line as "Antonio Miranda and 5,221.06" where it clearly does not belong. There is no other space where the word "were" could be intercalated. (See Rollo, page 80).

At any rate, the proposition that the petitioners should have pretended to accept the increased wages while in Vancouver but returned them to the shipowner when they reached its country, Japan, has already been answered earlier by the Court:

"Filipino seamen are admittedly as competent and reliable as seamen from any other country in the world. Otherwise, there would not be so many of them in the vessels sailing in every ocean and sea on this globe. It is competence and reliability, not cheap labor that makes our seamen so greatly in demand. Filipino seamen have never demanded the same high salaries as seamen from the United States, the United Kingdom, Japan and other developed nations. But certainly they are entitled to government protection when they ask for fair and decent treatment by their employer and when they exercise the right to petition for improved terms of employment, especially when they feel that these are sub-standard or are capable of improvement according to internationally accepted rules. In the domestic scene, there are marginal employers who prepare two sets of payrolls for their employees - one in keeping with minimum wages and the other recording the sub-standard wages that the employees really receive. The reliable employers, however, not only meet the minimums required by fair labor standards legislation but even go away above the minimums while earning reasonable profits and prospering. The same is true of international employment. There is no reason why this Court and the Ministry of Labor and Employment or its agencies and commissions should come out with pronouncements based on the standards and practices of unscrupulous or inefficient shipowners, who claim they cannot survive without resorting to tricky and deceptive schemes, instead of Government maintaining labor law and jurisprudence according to the practices of honorable, competent, and law-abiding employers, domestic or foreign." (Vir-Jen Shipping, supra, pp. 587-588)

It is noteworthy to emphasize that while the International Labor Organization (ILO) set the minimum basic wage of able seamen at US\$187.00 as early as October 1976, it was only in 1979 that the respondent NSB issued Memo Circular No. 45, enjoining all shipping companies to adopt the said minimum basic wage. It was correct for the respondent NSB to state in its decision that when the petitioners entered into separate contracts between 1977-1978, the monthly minimum basic wage for able seamen ordered by NSB was still fixed at US\$130.00. However, it is not the fault of the petitioners that the NSB not only violated the Labor Code which created it and the Rules and Regulations Implementing the Labor Code but also seeks to punish the seamen for a shortcoming of NSB itself.

Article 21(c) of the Labor Code, when it created the NSB, mandated the Board to "(O)btain the best possible terms and conditions of employment for seamen."

Section 15, Rule V of Book I of the Rules and Regulations Implementing the Labor Code provides:

"Sec. 15. Model contract of employment. - The NSB shall devise a model contract of employment which shall embody all the requirements of pertinent labor and social legislations and the prevailing standards set by applicable International Labor Organization Conventions. The model contract shall set the minimum standards of the terms and conditions to govern the employment of Filipinos on board vessels engaged in overseas trade. All employers of Filipinos shall adopt the model contract in connection with the hiring and engagement of the services of Filipino seafarers, and in no case shall a shipboard employment contract be allowed where the same provides for benefits less than those enumerated in the model employment contract, or in any way conflicts with any other provisions embodied in the model contract."

Section 18 of Rule VI of the same Rules and Regulations provides:

"Sec. 18. Basic minimum salary of able-seamen. - The basic minimum salary of seamen shall be not less than the prevailing minimum rates established by the International Labor Organization or those prevailing in the country whose flag the employing vessel carries, whichever is higher. However, this provision shall not apply if any shipping company pays its crew members salaries above the minimum herein provided.

Section 8, Rule X, Book I of the Omnibus Rules provides:

"Section 8. Use of standard format of service agreement. - The Board shall adopt a standard format of service agreement in accordance with pertinent labor and social legislation and prevailing standards set by applicable International Labor Organization Conventions. The standard format shall set the minimum standard of the terms and conditions to govern the employment of Filipino seafarers but in no case shall a shipboard employment contract (sic), or in any way conflict with any other provision embodied in the standard format."

It took three years for the NSB to implement requirements which, under the law, they were obliged to follow and execute immediately. During those three years, the incident in Vancouver happened. The terms and conditions agreed upon in Vancouver were well within ILO rates even if they were above NSB standards at the time.

The sanctions applied by NSB and affirmed by NLRC are moreover not in keeping with the basic premise that this Court stressed in the *Vir-Jen Shipping* case (*supra*) that the Ministry now the Department of Labor and Employment and all its agencies exist primarily for the workingman's interest and the nation's as a whole.

Implicit in these petitions and the only reason for the NSB to take the side of foreign shipowners against Filipino seamen is the "killing the goose which lays the golden eggs" argument. We reiterate the ruling of the Court in *Vir-Jen Shipping* (*supra*)

"There are various arguments raised by the petitioners but the common thread running through all of them is the contention, if not the dismal prophecy, that if the respondent seamen are sustained by this Court, we would in effect 'kill the hen that lays the golden egg.' In other words, Filipino seamen, admittedly among the best in the world, should remain satisfied with relatively lower if not the lowest, international rates of compensation, should not agitate for higher wages while their contracts of employment are subsisting, should accept as sacred, iron clad, and immutable the side contracts which require them to falsely pretend to be members of international labor federations, pretend to receive higher salaries at certain foreign ports only to return the increased pay once the ship leaves that port, should stifle not only their right to ask for improved terms of employment but their freedom of speech and expression, and should suffer instant termination of employment at the slightest sign of dissatisfaction with no protection from their Government and their courts. Otherwise, the petitioners contend that Filipinos would no longer be accepted as seamen, those employed would lose their jobs, and the still unemployed would be left hopeless.

"This is not the first time and it will not be the last where the threat of unemployment and loss of jobs would be used to argue against the interests of labor; where efforts by workingmen to better their terms of employment would be characterized as prejudicing the interests of labor as a whole."

xxx xxx xxx

"Unionism, employers' liability acts, minimum wages, workmen's compensation, social security and collective bargaining to name a few were all initially opposed by employers and even well meaning leaders of government and society as 'killing the hen or goose which lays the golden eggs.' The claims of workingmen were described as outrageously injurious not only to the employer but more so to the employees themselves before these claims or demands were established by law and jurisprudence as 'rights' and before these were proved beneficial to management, labor, and the nation as a whole beyond reasonable doubt.

"The case before us does not represent any major advance in the rights of labor and the workingmen. The private respondents merely sought rights already established. No matter how much the petitioner-employer tries to present itself as speaking for the entire industry, there is no evidence that it is typical of employers hiring Filipino seamen or that it can speak for them.

"The contention that manning industries in the Philippines would not survive if the instant case is not decided in favor of the petitioner is not supported by evidence. The Wallen case was decided on February 20, 1981. There have been no severe repercussions, no drying up of employment opportunities for seamen, and none of the dire consequences repeatedly emphasized by the petitioner. Why should Vir-Jen be an exception?

"The wages of seamen engaged in international shipping are shouldered by the foreign principal. The local manning office is an agent whose primary function is recruitment and who usually gets a lump sum from the shipowner to defray the salaries of the crew. The hiring of seamen and the determination of their compensation is subject to the interplay of various market factors and one key factor is how much in terms of profits the local manning office and the foreign shipowner may realize after the costs of the voyage are met. And costs include salaries of officers and crew members." (at pp. 585-586)

The Wallem Shipping case, was decided in 1981. Vir-Jen Shipping was decided in 1983. It is now 1989. There has been no drying up of employment opportunities for Filipino seamen. Not only have their wages improved thus leading ITF to be placid and quiet all these years insofar as Filipinos are concerned but the hiring of Philippine seamen is at its highest level ever.

Reporting its activities for the year 1988, the Philippine Overseas Employment Administration (POEA) stated that there will be an increase in demand for seamen based overseas in 1989 boosting the number to as high as 105,000. This will represent a 9.5 percent increase from the 1988 aggregate. (Business World, News Briefs, January 11, 1989 at page 2) According to the POEA, seabased workers numbering 95,913 in 1988 exceeded by a wide margin of 28.15 percent the year end total in 1987. The report shows that sea-based workers posted bigger monthly increments compared to those of land-based workers. (The Business Star, Indicators, January 11, 1988 at page 2)

Augmenting this optimistic report of POEA Administrator Tomas Achacoso is the statement of Secretary of Labor Franklin M. Drilon that the Philippines has a big jump over other crewing nations because of the Filipinos' abilities compared with any European or western crewing country. Drilon added that cruise shipping is also a growing market for Filipino seafarers because of their flexibility in handling odd jobs and their expertise in handling almost all types of ships, including luxury liners. (Manila Bulletin, More Filipino Seamen Expected Deployment, December 27, 1988 at page 29). Parenthetically, the minimum monthly salary of able bodied seamen set by the ILO and adhered to by the Philippines is now \$276.00 (id.) more than double the \$130.00 sought to be enforced by the public respondents in these petitions.

The experience from 1981 to the present vindicates the finding in Vir-Jen Shipping that a decision in favor of the seamen would not necessarily mean severe repercussions, drying up of employment opportunities for seamen, and other dire consequences predicted by manning agencies and recruiters in the Philippines.

From the foregoing, we find that the NSB and NLRC committed grave abuse of discretion in finding the petitioners guilty of using intimidation and illegal means in breaching their contracts of employment and punishing them for these alleged offenses. Consequently, the criminal prosecutions for estafa in G.R. Nos. 57999 and 58143-53 should be dismissed.

WHEREFORE, the petitions are hereby GRANTED. The decisions of the National Seamen Board and National Labor Relations Commission in G.R. Nos. 64781-99 are REVERSED and SET ASIDE and a new one is entered holding the petitioners not guilty of the offenses for which they were charged. The petitioners' suspension from

the National Seamen Board's Registry for three (3) years is LIFTED. The private respondent is ordered to pay the petitioners their earned but unpaid wages and overtime pay/allowance from November 1, 1978 to December 14, 1978 according to the rates in the Special Agreement that the parties entered into in Vancouver, Canada.

The criminal cases for estafa, subject matter of G.R. Nos. 57999 and 58143-53, are ordered DISMISSED.

**SO ORDERED.**

Narvasa, Melencio-Herrera, Cruz, Paras, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Fernan, C.J., On official leave.

Feliciano, J., no part. I was a director of private respondent corp.

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