

SANDOVAL SHIPYARDS, INC., PETITIONER, VS. VICENTE LEOGARDO, JR., AS DEPUTY MINISTER OF LABOR AND EMPLOYMENT; ISIDRO IBALE, JOSE IBALE, NARCISO IBALE, SIXTO IBALE, FELIX TUMULAK,...

G.R. Nos. 68393-94. July 23, 1985

Ponente: AQUINO, J.

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AQUINO, J.:

These two cases, involving alleged project employees of Sandoval Shipyards, Inc., are similar to the recently decided cases of Sandoval Shipyards, Inc. vs. National Labor Relations Commission, G.R. No. 65689, and Sandoval Shipyards, Inc. vs. Leogardo, Jr., G.R. No. 66119, May 31, 1985.

We held in those two cases that the employees of the petitioner, which has been engaged in the building and repair of vessels, were project employees whose work was coterminous with the project for which they were hired. Under Policy Instructions No. 20 of the Secretary of Labor, they are not entitled to separation pay. No clearance is required for the termination of their employment.

The eight workers herein, who claim separation pay, alleged that they were regular employees of the petitioner. They worked as cutters, carpenters and mechanics. On the other hand, the petitioner countered that the eight respondents usually worked on a "project-to-project" basis which was how the petitioner conducted its business. It was not engaged in building vessels for sale.

The respondents alleged that their services were terminated on May 30, 1981. They were not given separation pay. They had worked for more than two years. Some had worked for fourteen years.

The Labor Arbiter granted the respondents separation pay aggregating P30,410.75. Deputy Minister Leogardo affirmed that decision in his order of December 16, 1982. Petitioner's motion for reconsideration was denied in the order of June 4, 1984.

We hold that the Labor Arbiter and the Deputy Minister committed a reversible error. The eight respondents were project employees. They are not entitled to separation pay. In our recent decision, we cited the following ruling dated February 26, 1979 of Deputy Minister Inciong in TFU Case No. 1530, *In Re Sandoval Shipyards, Inc. Application for Clearance to Terminate Employees*:

"We feel that there is merit in the contention of the applicant corporation. To our mind, the employment of the employees concerned were fixed for a specific project or undertaking. For the nature of the business the corporation is engaged into is one which will not allow it to employ workers for an indefinite period.

"It is significant to note that the corporation does not construct vessels for sale or otherwise which will demand continuous production of ships and will need permanent or regular workers. It merely accepts contracts for shipbuilding or for repair of vessels from third parties and, only, on occasion when it has work contract of this nature that it hires workers to do the job which, needless to say, lasts only for less than a year or longer.

"The completion of their work or project automatically terminates their employment, in which case, the employer is, under the law, only obliged to render a report on the termination of the employment." (Annex F of Petition)

In *Gaspar vs. Sandoval Shipyards, Inc.*, NCR--STF-3-1840-81, Deputy Minister Leogardo, Jr. himself ruled that the two workers of the petitioner involved in that case "are project workers whose employments are coterminous with the completion of the project, regardless of the number of projects in which they have worked, as provided under Policy Instructions No. 20 of the Ministry of Labor and Employment" and "as their employment is one for a definite period, they are not entitled to separation pay" (187, Rollo of G.R. No. 65689).

WHEREFORE, the order of Deputy Minister Leogardo, Jr., dated December 16, 1982, is reversed and set aside. The complaints for separation pay are dismissed. No costs.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Escolin, and Cuevas, JJ., concur.

Abad Santos, J., no part.

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