SUPREME COURT
THIRD DIVISION

MARITES BERNARDO, ELVIRA GO DIAMANTE, REBECCA E. DAVID, DAVID P. PASCUAL, RAQUEL ESTILLER, ALBERT HALLARE, EDMUND M. CORTEZ, JOSELITO O. AGDON, GEORGE P. LIGUTAN JR., CELSO M. YAZAR, ALEX G. CORPUZ, RONALD M. DELFIN, ROWENA M. TABAQUERO, CORAZON C. DELOS REYES, ROBERT G. NOORA, MILAGROS O. LEQUIGAN, ADRIANA F. TATLONGHARI, IKE CABANDUCOS, COCOY NOBELLO, DORENDA CANTIMBUHAN, ROBERT MARCELO, LILIBETH Q. MARMOLEJO, JOSE E. SALES, ISABEL MAMAUAG, VIOLETA G. MONTES, ALBINO TECSON, MELODY V. GRUELA, BERNADETH D. AGERO, CYNTHIA DE VERA, LANI R. CORTEZ, MA. ISABEL B. CONCEPTION, DINDO VALERIO, ZENAIDA MATA, ARIEL DEL PILAR, MARGARET CECILIA CANOZA, THELMA SEBASTIAN, MA. JEANETTE CERVANTES, JEANNIE RAMIL, ROZAIDA PASCUAL, PINKY BALOLOA, ELIZABETH VENTURA, GRACE S. PARDO & RICO TIMOSA,

Petitioners,

-versus- **G.R. No. 122917**
July 12, 1999

NATIONAL LABOR RELATIONS COMMISSION & FAR EAST BANK AND TRUST COMPANY,
Respondents.
x----------x

D E C I S I O N

PANGANIBAN, *J.*:

The Magna Carta for Disabled Persons mandates that qualified disabled persons be granted the same terms and conditions of employment as qualified able-bodied employees. Once they have attained the status of regular workers, they should be accorded all the benefits granted by law, notwithstanding written or verbal contracts to the contrary. This treatment is rooted not merely on charity or accommodation, but on justice for all.

The Case

Challenged in the Petition for *Certiorari*[1] before us is the June 20, 1995 Decision[2] of the National Labor Relations Commission (NLRC),[3] which affirmed the August, 22 1994 ruling of Labor Arbiter Cornelio L. Linsangan. The labor arbiter's Decision disposed as follows:[4]

> "WHEREFORE, judgment is hereby rendered dismissing the above-mentioned complaint for lack of merit."

Also assailed is the August 4, 1995 Resolution[5] of the NLRC, which denied the Motion for Reconsideration.

The Facts

The facts were summarized by the NLRC in this wise:[6]

> "Complainants numbering 43 (p. 176, Records) are deaf-mutes who were hired on various periods from 1988 to 1993 by respondent Far East Bank and Trust Co. as Money Sorters and Counters through a uniformly worded agreement called 'Employment Contract for Handicapped Workers'. (pp. 68 & 69, Records) The full text of said agreement is quoted below:
>
> '**EMPLOYMENT CONTRACT FOR HANDICAPPED WORKERS**
>
> This Contract, entered into by and between:
>
> FAR EAST BANK AND TRUST COMPANY, a universal banking corporation duly organized and existing under and by virtue of the laws of the Philippines, with business address at FEBTC Building, Muralla, Intramuros, Manila, represented herein by its Assistant Vice President, MR. FLORENDO G. MARANAN, (hereinafter referred to as the 'BANK');
>
> *- and -*
>
> _____, _____ years old, of legal age, _____, and residing at _____ (hereinafter referred to as the ('EMPLOYEE').
>
> WITNESSETH: That
>
> WHEREAS, the BANK, cognizant of its social responsibility, realizes that there is a need to provide disabled and handicapped persons gainful employment and opportunities to realize their potentials, uplift their socio-economic well being and welfare and make them productive, self-reliant and useful citizens to enable them to fully integrate in the mainstream of society;

WHEREAS, there are certain positions in the BANK which may be filled-up by disabled and handicapped persons, particularly deaf-mutes, and the BANK ha[s] been approached by some civic-minded citizens and authorized government agencies [regarding] the possibility of hiring handicapped workers for these positions;

WHEREAS, the EMPLOYEE is one of those handicapped workers who [were] recommended for possible employment with the BANK;

NOW, THEREFORE, for and in consideration of the foregoing premises and in compliance with Article 80 of the Labor Code of the Philippines as amended, the BANK and the EMPLOYEE have entered into this Employment Contract as follows:

1. The BANK agrees to employ and train the EMPLOYEE, and the EMPLOYEE agrees to diligently and faithfully work with the BANK, as Money Sorter and Counter.

2. The EMPLOYEE shall perform among others, the following duties and responsibilities:

    i. Sort out bills according to color;

    ii. Count each denomination per hundred, either manually or with the aid of a counting machine;

    iii. Wrap and label bills per hundred;

    iv. Put the wrapped bills into bundles; and

    v. Submit bundled bills to the bank teller for verification.

3. The EMPLOYEE shall undergo a training period of one (1) month, after which the BANK shall determine whether or not he/she should be allowed to finish the remaining term of this Contract.

4. The EMPLOYEE shall be entitled to an initial compensation of P118.00 per day, subject to adjustment in the sole judgment of the BANK, payable every 15th and end of the month.

5. The regular work schedule of the EMPLOYEE shall be five (5) days per week, from Mondays thru Fridays, at eight (8) hours a day. The EMPLOYEE may be required to perform overtime work as circumstance may warrant, for which overtime work he/she [shall] be paid an additional compensation of 125% of his daily rate if performed during ordinary days and 130% if performed during Saturday or [a] rest day.

6. The EMPLOYEE shall likewise be entitled to the following benefits:

    i. Proportionate 13th month pay based on his basic daily wage.

    ii. Five (5) days incentive leave.

    iii. SSS premium payment.

7. The EMPLOYEE binds himself/herself to abide [by] and comply with all the BANK Rules and Regulations and Policies, and to conduct himself/herself in a manner expected of all employees of the BANK.

8. The EMPLOYEE acknowledges the fact that he/she had been employed under a special employment program of the BANK, for which

reason the standard hiring requirements of the BANK were not applied in his/her case. Consequently, the EMPLOYEE acknowledges and accepts the fact that the terms and conditions of the employment generally observed by the BANK with respect to the BANK's regular employee are not applicable to the EMPLOYEE, and that therefore, the terms and conditions of the EMPLOYEE's employment with the BANK shall be governed solely and exclusively by this Contract and by the applicable rules and regulations that the Department of Labor and Employment may issue in connection with the employment of disabled and handicapped workers. More specifically, the EMPLOYEE hereby acknowledges that the provisions of Book Six of the Labor Code of the Philippines as amended, particularly on regulation of employment and separation pay are not applicable to him/her.

9. The Employment Contract shall be for a period of six (6) months or from _____ to _____ unless earlier terminated by the BANK for any just or reasonable cause. Any continuation or extension of this Contract shall be in writing and therefore this Contract will automatically expire at the end of its terms unless renewed in writing by the BANK.

IN WITNESS WHEREOF, the parties, have hereunto affixed their signature[s] this _____ day of _____, _____ at Intramuros, Manila, Philippines.'

"In 1988, two (2) deaf-mutes were hired under this Agreement; in 1989 another two (2); in 1990, nineteen (19); in 1991 six (6); in 1992, six (6) and in 1993, twenty-one (21). Their employment[s] were renewed every six months such that by the time this case arose, there were fifty-six (56) deaf-mutes who

were employed by respondent under the said employment agreement. The last one was Thelma Malindoy who was employed in 1992 and whose contract expired on July 1993.

x x x

"Disclaiming that complainants were regular employees, respondent Far East Bank and Trust Company maintained that complainants who are a special class of workers — the hearing impaired employees were hired temporarily under [a] special employment arrangement which was a result of overtures made by some civic and political personalities to the respondent Bank; that complainant[s] were hired due to 'pakiusap' which must be considered in the light of the context of the respondent Bank's corporate philosophy as well as its career and working environment which is to maintain and strengthen a corps of professionals trained and qualified officers and regular employees who are baccalaureate degree holders from excellent schools which is an unbending policy in the hiring of regular employees; that in addition to this, training continues so that the regular employee grows in the corporate ladder; that the idea of hiring handicapped workers was acceptable to them only on a special arrangement basis; that it adopted the special program to help tide over a group of handicapped workers such as deaf-mutes like the complainants who could do manual work for the respondent Bank; that the task of counting and sorting of bills which was being performed by tellers could be assigned to deaf-mutes; that the counting and sorting of money are tellering works which were always logically and naturally part and parcel of the tellers' normal functions; that from the beginning there have been no separate items in the respondent Bank plantilla for sorters or counters; that the tellers themselves already did the sorting and counting chore as a regular feature and integral part of their duties (p. 97, Records); that through the 'pakiusap' of Arturo Borjal, the tellers were relieved of this task of counting and sorting bills in favor of deaf-mutes without creating new positions as there is no position either in the respondent or in any other bank in the Philippines which deals with purely counting and sorting of bills in banking operations."

Petitioners specified when each of them was hired and dismissed, viz.:[7]

"NAME OF PETITIONER	WORKPLACE	Date Hired	Date Dismissed
1. MARITES BERNARDO	Intramuros	12 NOV 90	17 NOV 93
2. ELVIRA GO DIAMANTE	Intramuros	24 JAN 90	11 JAN 94
3. REBECCA E. DAVID	Intramuros	16 APR 90	23 OCT 93
4. DAVID P. PASCUAL	Bel-Air	15 OCT 88	21 NOV 94
5. RAQUEL ESTILLER	Intramuros	2 JUL 92	4 JAN 94
6. ALBERT HALLARE	West	4 JAN 91	9 JAN 94
7. EDMUND M. CORTEZ	Bel-Air	15 JAN 91	3 DEC 93
8. JOSELITO O. AGDON	Intramuros	5 NOV 90	17 NOV 93
9. GEORGE P. LIGUTAN, JR.	Intramuros	6 SEPT 89	19 JAN 94
10. CELSO M. YAZAR	Intramuros	8 FEB 93	8 AUG 93
11. ALEX G. CORPUZ	Intramuros	15 FEB 93	15 AUG 93
12. RONALD M. DELFIN	Intramuros	22 FEB 93	22 AUG 93
13. ROWENA M. TABAQUERO	Intramuros	22 FEB 93	22 AUG 93
14. CORAZON C. DELOS REYES	Intramuros	8 FEB 93	8 AUG 93
15. ROBERT G. NOORA	Intramuros	15 FEB 93	15 AUG 93
16. MILAGROS O. LEQUIGAN	Intramuros	1 FEB 93	1 AUG 93
17. ADRIANA F. TATLONGHARI	Intramuros	22 JAN 93	22 JUL 93
18. IKE CABANDUCOS	Intramuros	24 FEB 93	24 AUG 93
19. COCOY NOBELLO	Intramuros	22 FEB 93	22 AUG 93
20. DORENDA CATIMBUHAN	Intramuros	15 FEB 93	15 AUG 93
21. ROBERT MARCELO	West	31 JUL 93 8	1 AUG 93
22. LILIBETH Q. MARMOLEJO	West	15 JUN 90	21 NOV 93
23. JOSE E. SALES	West	6 AUG 92	12 OCT 93
24. ISABEL MAMAUAG	West	8 MAY 92	10 NOV 93
25. VIOLETA G. MONTES	Intramuros	2 FEB 90	15 JAN 94
26. ALBINO TECSON	Intramuros	7 NOV 91	10 NOV 93
27. MELODY V. GRUELA	West	28 OCT 91	3 NOV 93
28. BERNADETH D. AGERO	West	19 DEC 90	27 DEC 93
29. CYNTHIA DE VERA	Bel-Air	26 JUN 90	3 DEC 93
30. LANI R. CORTEZ	Bel-Air	15 OCT 88	10 DEC 93
31. MA. ISABEL B. CONCEPTION	West	6 SEPT 90	6 FEB 94
32. DINDO VALERIO	Intramuros	30 MAY 93	30 NOV 93
33. ZENAIDA MATA	Intramuros	10 FEB 93	10 AUG 93
34. ARIEL DEL PILAR	Intramuros	24 FEB 93	24 AUG 93
35. MARGARET CECILIA CANOZA	Intramuros	27 JUL 90	4 FEB 94
36. THELMA SEBASTIAN	Intramuros	12 NOV 90	17 NOV 93
37. MA. JEANETTE CERVANTES	West	6 JUN 92	7 DEC 93
38. JEANNIE RAMIL	Intramuros	23 APR 90	12 OCT 93
39. ROZAIDA PASCUAL	Bel-Air	20 APR 89	29 OCT 93
40. PINKY BALOLOA	West	3 JUN 91	2 DEC 93

41. ELIZABETH VENTURA	West	12 MAR 90	FEB 94 [sic]
42. GRACE S. PARDO	West	4 APR 90	13 MAR 94
43. RICO TIMOSA	Intramuros	28 APR 93	28 OCT 93"

As earlier noted, the labor arbiter and, on appeal, the NLRC ruled against herein petitioners. Hence, this recourse to this Court.[9]

The Ruling of the NLRC

In affirming the ruling of the labor arbiter that herein petitioners could not be deemed regular employees under Article 280 of the Labor Code, as amended, Respondent Commission ratiocinated as follows:

> "We agree that Art. 280 is not controlling herein. We give due credence to the conclusion that complainants were hired as an accommodation to [the] recommendation of civic oriented personalities whose employment[s] were covered by Employment Contract[s] with special provisions on duration of contract as specified under Art. 80. Hence, as correctly held by the Labor Arbiter a quo, the terms of the contract shall be the law between the parties."[10]

The NLRC also declared that the Magna Carta for Disabled Persons was not applicable, "considering the prevailing circumstances/milieu of the case."

Issues

In their Memorandum, petitioners cite the following grounds in support of their cause:

> "I. The Honorable Commission committed grave abuse of discretion in holding that the petitioners — money sorters and counters working in a bank — were not regular employees.
>
> "II. The Honorable Commission committed grave abuse of discretion in holding that the employment contracts signed and renewed by the petitioners — which provide for a period of six (6) months — were valid.

"III. The Honorable Commission committed grave abuse of discretion in not applying the provisions of the Magna Carta for the Disabled (Republic Act No. 7277), on proscription against discrimination against disabled persons."[11]

In the main, the Court will resolve whether petitioners have become regular employees.

This Court's Ruling

The petition is meritorious. However, only the employees, who worked for more than six months and whose contracts were renewed are deemed regular. Hence, their dismissal from employment was illegal.

Preliminary Matter: Propriety of Certiorari

Respondent Far East Bank and Trust Company argues that a review of the findings of facts of the NLRC is not allowed in a petition for *certiorari*. Specifically, it maintains that the Court cannot pass upon the findings of public respondents that petitioners were not regular employees.

True, the Court, as a rule, does not review the factual findings of public respondents in a *certiorari* proceeding. In resolving whether the petitioners have become regular employees, we shall not change the facts found by the public respondent. Our task is merely to determine whether the NLRC committed grave abuse of discretion in applying the law to the established facts, as above-quoted from the assailed Decision.

Main Issue: Are Petitioners Regular Employees?

Petitioners maintain that they should be considered regular employees, because their task as money sorters and counters was necessary and desirable to the business of respondent bank. They further allege that their contracts served merely to preclude the

application of Article 280 and to bar them from becoming regular employees.

Private respondent, on the other hand, submits that petitioners were hired only as "special workers and should not in any way be considered as part of the regular complement of the Bank."[12] Rather, they were "special" workers under Article 80 of the Labor Code. Private respondent contends that it never solicited the services of petitioners, whose employment was merely an "accommodation" in response to the requests of government officials and civic-minded citizens. They were told from the start, "with the assistance of government representatives," that they could not become regular employees because there were no plantilla positions for "money sorters," whose task used to be performed by tellers. Their contracts were renewed several times, not because of need "but merely for humanitarian reasons." Respondent submits that "as of the present, the 'special position' that was created for the petitioners no longer exist[s] in private respondent [bank], after the latter had decided not to renew anymore their special employment contracts."

At the outset, let it be known that this Court appreciates the nobility of private respondent's effort to provide employment to physically impaired individuals and to make them more productive members of society. However, we cannot allow it to elude the legal consequences of that effort, simply because it now deems their employment irrelevant. The facts, viewed in light of the Labor Code and the Magna Carta for Disabled Persons, indubitably show that the petitioners, except sixteen of them, should be deemed regular employees. As such, they have acquired legal rights that this Court is duty-bound to protect and uphold, not as a matter of compassion but as a consequence of law and justice.

The uniform employment contracts of the petitioners stipulated that they shall be trained for a period of one month, after which the employer shall determine whether or not they should be allowed to finish the 6-month term of the contract. Furthermore, the employer may terminate the contract at any time for a just and reasonable cause. Unless renewed in writing by the employer, the contract shall automatically expire at the end of the term.

According to private respondent, the employment contracts were prepared in accordance with Article 80 of the Labor Code, which provides:

> "ARTICLE 80. Employment agreement. — Any employer who employs handicapped workers shall enter into an employment agreement with them, which agreement shall include:
>
> (a) The names and addresses of the handicapped workers to be employed;
>
> (b) The rate to be paid the handicapped workers which shall be not less than seventy five (75%) per cent of the applicable legal minimum wage;
>
> (c) The duration of employment period; and
>
> (d) The work to be performed by handicapped workers.
>
> The employment agreement shall be subject to inspection by the Secretary of Labor or his duly authorized representatives."

The stipulations in the employment contracts indubitably conform with the aforecited provision. Succeeding events and the enactment of RA No. 7277 (the Magna Carta for Disabled Persons),[13] however, justify the application of Article 280 of the Labor Code.

Respondent bank entered into the aforesaid contract with a total of 56 handicapped workers and renewed the contracts of 37 of them. In fact, two of them worked from 1988 to 1993. Verily, the renewal of the contracts of the handicapped workers and the hiring of others lead to the conclusion that their tasks were beneficial and necessary to the bank. More important, these facts show that they were qualified to perform the responsibilities of their positions. In other words, their disability did not render them unqualified or unfit for the tasks assigned to them.

In this light, the Magna Carta for Disabled Persons mandates that a qualified disabled employee should be given the same terms and

conditions of employment as a qualified able-bodied person. Section 5 of the Magna Carta provides:

> "SECTION 5. Equal Opportunity for Employment. — No disabled person shall be denied access to opportunities for suitable employment. A qualified disabled employee shall be subject to the same terms and conditions of employment and the same compensation, privileges, benefits, fringe benefits, incentives or allowances as a qualified able bodied person."

The fact that the employees were qualified disabled persons necessarily removes the employment contracts from the ambit of Article 80. Since the Magna Carta accords them the rights of qualified able-bodied persons, they are thus covered by Article 280 of the Labor Code, which provides:

> "ARTICLE 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 as regular employee with respect to the activity in which he is employed and his employment shall continue while such activity exists."

The test of whether an employee is regular was laid down in De Leon vs. NLRC,[14] in which this Court held:

> "The primary standard, therefore, of determining regular employment is the reasonable connection between the particular activity performed by the employee in relation to the usual trade or business of the employer. The test is whether the former is usually necessary or desirable in the usual business or trade of the employer. The connection can be determined by considering the nature of the work performed and its relation to the scheme of the particular business or trade in its entirety. Also if the employee has been performing the job for at least one year, even if the performance is not continuous and merely intermittent, the law deems repeated and continuing need for its performance as sufficient evidence of the necessity if not indispensability of that activity to the business. Hence, the employment is considered regular, but only with respect to such activity, and while such activity exists."

Without a doubt, the task of counting and sorting bills is necessary and desirable to the business of respondent bank. With the exception of sixteen of them, petitioners performed these tasks for more than six months. Thus, the following twenty-seven petitioners should be deemed regular employees: Marites Bernardo, Elvira Go Diamante, Rebecca E. David, David P. Pascual, Raquel Estiller, Albert Hallare, Edmund M. Cortez, Joselito O. Agdon, George P. Ligutan Jr., Lilibeth Q. Marmolejo, Jose E. Sales, Isabel Mamauag, Violeta G. Montes, Albino Tecson, Melody V. Gruela, Bernadeth D. Agero, Cynthia de Vera, Lani R. Cortez, Ma. Isabel B. Conception, Margaret Cecilia Canoza, Thelma Sebastian, Ma. Jeanette Cervantes, Jeannie Ramil, Rozaida Pascual, Pinky Baloloa, Elizabeth Ventura and Grace S. Pardo.

As held by the Court, "Articles 280 and 281 of the Labor Code put an end to the pernicious practice of making permanent casuals of our lowly employees by the simple expedient of extending to them probationary appointments, ad infinitum."[15] The contract signed by petitioners is akin to a probationary employment, during which the bank determined the employees' fitness for the job. When the bank renewed the contract after the lapse of the six-month probationary period, the employees thereby became regular employees.[16] No employer is allowed to determine indefinitely the fitness of its employees.

As regular employees, the twenty-seven petitioners are entitled to security of tenure; that is, their services may be terminated only for a just or authorized cause. Because respondent failed to show such cause,[17] these twenty-seven petitioners are deemed illegally dismissed and therefore entitled to back wages and reinstatement without loss of seniority rights and other privileges.[18] Considering the allegation of respondent that the job of money sorting is no longer available because it has been assigned back to the tellers to whom it originally belonged,[19] petitioners are hereby awarded separation pay in lieu of reinstatement.[20]

Because the other sixteen worked only for six months, they are not deemed regular employees and hence not entitled to the same benefits.

Applicability of the Brent Ruling

Respondent bank, citing Brent School vs. Zamora,[21] in which the Court upheld the validity of an employment contract with a fixed term, argues that the parties entered into the contract on equal footing. It adds that the petitioners had in fact an advantage, because they were backed by then DSWD Secretary Mita Pardo de Tavera and Representative Arturo Borjal.

We are not persuaded. The term limit in the contract was premised on the fact that the petitioners were disabled, and that the bank had to determine their fitness for the position. Indeed, its validity is based on Article 80 of the Labor Code. But as noted earlier, petitioners proved themselves to be qualified disabled persons who, under the Magna Carta for Disabled Persons, are entitled to terms and conditions of employment enjoyed by qualified able-bodied individuals; hence, Article 80 does not apply because petitioners are qualified for their positions. The validation of the limit imposed on their contracts, imposed by reason of their disability, was a glaring instance of the very mischief sought to be addressed by the new law.

Moreover, it must be emphasized that a contract of employment is impressed with public interest.[22] Provisions of applicable statutes are deemed written into the contract, and the “parties are not at

liberty to insulate themselves and their relationships from the impact of labor laws and regulations by simply contracting with each other."[23] Clearly, the agreement of the parties regarding the period of employment cannot prevail over the provisions of the Magna Carta for Disabled Persons, which mandate that petitioners must be treated as qualified able-bodied employees.

Respondent's reason for terminating the employment of petitioners is instructive. Because the Bangko Sentral ng Pilipinas (BSP) required that cash in the bank be turned over to the BSP during business hours from 8:00 a.m. to 5:00 p.m., respondent resorted to nighttime sorting and counting of money. Thus, it reasons that this task "could not be done by deaf mutes because of their physical limitations as it is very risky for them to travel at night."[24] We find no basis for this argument. Travelling at night involves risks to handicapped and able-bodied persons alike. This excuse cannot justify the termination of their employment.

Other Grounds Cited by Respondent

Respondent argues that petitioners were merely "accommodated" employees. This fact does not change the nature of their employment. As earlier noted, an employee is regular because of the nature of work and the length of service, not because of the mode or even the reason for hiring them.

Equally unavailing are private respondent's arguments that it did not go out of its way to recruit petitioners, and that its plantilla did not contain their positions. In L. T . Datu vs. NLRC,[25] the Court held that "the determination of whether employment is casual or regular does not depend on the will or word of the employer, and the procedure of hiring but on the nature of the activities performed by the employee, and to some extent, the length of performance and its continued existence."

Private respondent argues that the petitioners were informed from the start that they could not become regular employees. In fact, the bank adds, they agreed with the stipulation in the contract regarding this point. Still, we are not persuaded. The well-settled rule is that the character of employment is determined not by stipulations in the

contract, but by the nature of the work performed.[26] Otherwise, no employee can become regular by the simple expedient of incorporating this condition in the contract of employment.

In this light, we iterate our ruling in Romares vs. NLRC:[27]

> "Article 280 was emplaced in our statute books to prevent the circumvention of the employee's right to be secure in his tenure by indiscriminately and completely ruling out all written and oral agreements inconsistent with the concept of regular employment defined therein. Where an employee has been engaged to perform activities which are usually necessary or desirable in the usual business of the employer, such employee is deemed a regular employee and is entitled to security of tenure notwithstanding the contrary provisions of his contract of employment.
>
> "x x x
>
> "At this juncture, the leading case of Brent School, Inc. vs. Zamora proves instructive. As reaffirmed in subsequent cases, this Court has upheld the legality of fixed-term employment. It ruled that the decisive determinant in 'term employment' should not be the activities that the employee is called upon to perform but the day certain agreed upon the parties for the commencement and termination of their employment relationship. But this Court went on to say that where from the circumstances it is apparent that the periods have been imposed to preclude acquisition of tenurial security by the employee, they should be struck down or disregarded as contrary to public policy and morals."

In rendering this Decision, the Court emphasizes not only the constitutional bias in favor of the working class, but also the concern of the State for the plight of the disabled. The noble objectives of Magna Carta for Disabled Persons are not based merely on charity or accommodation, but on justice and the equal treatment of qualified persons, disabled or not. In the present case, the handicap of petitioners (deaf-mutes) is not a hindrance to their work. The eloquent proof of this statement is the repeated renewal of their

employment contracts. Why then should they be dismissed, simply because they are physically impaired? The Court believes, that, after showing their fitness for the work assigned to them, they should be treated and granted the same rights like any other regular employees.

In this light, we note the Office of the Solicitor General's prayer joining the petitioners' cause.[28]

WHEREFORE, premises considered, the Petition is hereby **GRANTED**. The June 20, 1995 Decision and the August 4, 1995 Resolution of the NLRC are **REVERSED** and **SET ASIDE**. Respondent Far East Bank and Trust Company is hereby **ORDERED** to pay back wages and separation pay to each of the following twenty-seven (27) petitioners, namely, Marites Bernardo, Elvira Go Diamante, Rebecca E. David, David P. Pascual, Raquel Estiller, Albert Hallare, Edmund M. Cortez, Joselito O. Agdon, George P. Ligutan Jr., Lilibeth Q. Marmolejo, Jose E. Sales, Isabel Mamauag, Violeta G. Montes, Albino Tecson, Melody V. Gruela, Bernadeth D. Agero, Cynthia de Vera, Lani R. Cortez, Ma. Isabel B. Conception, Margaret Cecilia Canoza, Thelma Sebastian, Ma. Jeanette Cervantes, Jeannie Ramil, Rozaida Pascual, Pinky Baloloa, Elizabeth Ventura and Grace S. Pardo. The NLRC is hereby directed to compute the exact amount due each of said employees, pursuant to existing laws and regulations, within fifteen days from the finality of this Decision. No costs.

SO ORDERED.

Romero, Vitug, Purisima and Gonzaga-Reyes, *JJ.*, concur.

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[1] Rollo, pp. 3-39.
[2] Rollo, pp. 46-65.
[3] Penned by Presiding Comm. Lourdes C. Javier and concurred in by Comm. Joaquin A. Tanodra. The other member, Comm. Ireneo B. Bernardo, dissented.
[4] Rollo, p. 113.
[5] Rollo, pp. 73-74.
[6] NLRC Decision, pp. 2-10; rollo, pp. 47-55.
[7] Petition, p. 12; rollo, p. 14.

[8] This is a typographical error on the part of the petitioner, for it is unlikely that the Contract of Employment was terminated the day after it was executed. In fact, Annex "C" of petitioners' Position Paper, which was submitted before the labor arbiter, shows that Petitioner Robert Marcelo was hired on July 31, 1992, not 1993 (Rollo, p. 100.).
[9] The case was deemed submitted for resolution on December 1, 1998, when the Memorandum of the private respondent was received by the Court. The case was given due course on December 8, 1997.
[10] NLRC Decision, p. 18; rollo, p. 63.
[11] Petitioners' Memorandum, p. 3; rollo, p. 474.
[12] Respondent's Memorandum, p. 10; rollo, p.523.
[13] Approved on March 24, 1992.
[14] 176 SCRA 615, 621, August 21, 1989, per Fernan, C.J.
[15] CENECO vs. NLRC, 236 SCRA 108, September 1, 1994, per Puno, J.
[16] Ibid.; Article 281, Labor Code.
[17] Articles 282 to 284 of the Code.
[18] Article 279 of the Labor Code as amended.
[19] Respondent's Memorandum, p. 16; rollo, p. 529.
[20] Zarate vs. Olegario, 263 SCRA 1, October 7, 1996.
[21] 181 SCRA 802, February 6, 1990.
[22] Article 1700 of the Civil Code provides: "The relations between capital and labor are not merely contractual. They are so impressed with public interest that labor contracts must yield to the common good."
[23] Pakistan Airlines Corporation vs. Ople, 190 SCRA 90, September 28, 1990, per Feliciano, J. See also Servidad vs. NLRC, GR No. 128682, March 18, 1999; Villa vs. NLRC, 284 SCRA 105, January 14, 1998.
[24] Respondent's Memorandum, p. 15; rollo, p. 528.
[25] 253 SCRA 440, 450, February 9, 1996, per Kapunan, J.
[26] A.M. Oreta & Co. vs. NLRC, 176 SCRA 208, August 10, 1989.
[27] GR No. 122327, August 19, 1998, per Martinez, J.
[28] Manifestation of the Office of the Solicitor General; rollo, pp. 354-375.