SUPREME COURT
SECOND DIVISION

BETA ELECTRIC CORPORATION,
***Petitioner*,**

-versus-

G.R. No. 86408
February 15, 1990

NATIONAL LABOR RELATIONS COMMISSION, LABOR ARBITER CRESENCIO INIEGO, BETA ELECTRIC EMPLOYEES ASSOCIATION, and LUZVIMINDA PETILLA,
***Respondents*.**
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D E C I S I O N

SARMIENTO, *J.*:

The petitioner questions the Decision of the National Labor Relations Commission affirming the judgment of the labor arbiter reinstating the private respondent with backwages.

The petitioner hired the private respondent as clerk typist III[1] effective December 15, 1986 until January 16, 1987.[2]

On January 16, 1987, the petitioner gave her an extension up to February 15, 1987.[3]

On February 15, 1987, it gave her another extension up to March 15, 1987.[4]

On March 15, 1987, it gave her a further extension until April 30, 1987.[5]

On May 1, 1987, she was given until May 31, 1987.[6]

On June 1, 1987, she was given up to June 30, 1987.[7]

Her appointments were covered by corresponding written contracts.[8]

On June 22, 1987, her services were terminated without notice or investigation. On the same day, she went to the labor arbiter on a complaint for illegal dismissal. As the court has indicated, both the labor arbiter and the respondent National Labor Relations Commission ruled for her.

The Court likewise rules in her favor.

The petitioner argues mainly that the private respondent's appointment was temporary and hence she may be terminated at will.

That she had been hired merely on a "temporary basis" "for purposes of meeting the seasonal or peak demands of the business,"[9] and as such, her services may lawfully be terminated "after the accomplishment of [her] task"[10] is untenable. The private respondent was to all intents and purposes, and at the very least, a probationary employee, who became regular upon the expiration of six months. Under Article 281 of the Labor Code, a probationary employee is "considered a regular employee" if he has been "allowed to work after [the] probationary period."[11] The fact that her employment has been a contract-to-contract basis can not alter the character of employment, because contracts can not override the mandate of law. Hence, by operation of law, she has become a regular employee.

In the case at bar, the private employee was employed from December 15, 1986 until June 22, 1987 when she was ordered laid-off. Her tenure having exceeded six months, she attained regular employment.

The petitioner can not rightfully say that since the private respondent's employment hinged from contract to contract, it was ergo, "temporary", depending on the term of each agreement. Under the Labor Code, an employment may only be said to be "temporary" "where [it] has been fixed for a specific undertaking the completion of 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."[12] Quite to the contrary, the private respondent's work, that of "typist-clerk" is far from being "specific" or "seasonal", but rather, one, according to the Code, "where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business."[13] And under the Code, where one performs such activities, he is a regular employee, "[t]he provisions of written agreement to the contrary notwithstanding.[14]

It is true that in Biboso vs. Victorias Milling Company, Inc.,[15] we recognized the validity of contractual stipulations as to the duration of employment, we can not apply it here because clearly, the contract-to-contract arrangement given to the private respondent was but an artifice to prevent her from acquiring security of tenure and to frustrate constitutional decrees.

The petitioner can not insist that the private respondent had been hired "for a specific undertaking i.e. to handle the backlogs brought about by the seasonal increase in the volume of her work."[16] The fact that she had been employed purportedly for the simple purpose of unclogging the petitioner's files does not make such an undertaking "specific" from the standpoint of law because in the first place, it is "usually necessary or desirable in the usual business or trade of the employer,"[17] a development which disqualifies it outrightly as a "specific undertaking", and in the second place, because a "specific undertaking" is meant, in its ordinary acceptation, a special type of venture or project whose duration is coterminous with the completion

of the project,[18] e.g., project work. It is not the case in the proceeding at bar.

WHEREFORE, the Petition is B. The private respondent is ordered **REINSTATED** with backwages equivalent to three years with no qualification or deductions.

SO ORDERED.

Melencio-Herrera, *J.*, *(Chairman)*, Paras, Padilla and Regalado, *JJ.*, concur.

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[1] Rollo, 17.
[2] Id., 35.
[3] Id., 36.
[4] Id., 37.
[5] Id., 38.
[6] Id., 39.
[7] Id., 40.
[8] Id., 35-40.
[9] Id., 3.
[10] Id., 4.
[11] Pres Decree No. 442, sec. 281.
[12] Supra, art. 280.
[13] Supra.
[14] Supra.
[15] No. L-44310, March 31, 1977, 76 SCRA 250.
[16] Rollo, id., 10.
[17] Pres. Decree No. 442, art. 280, supra.
[18] See e.g., Sandoval Shipyards, Inc. vs. NLRC, Nos. L-65689, 66119, May 31, 1985, 136 SCRA 674; PNOC-Exploration Corporation vs. NLRC, No. L-71711, August 18, 1988, 164 SCRA 501.