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SUPREME COURT
FIRST DIVISION

CAPITOL INDUSTRIAL CONSTRUCTION GROUPS,
***Petitioner*,**

-versus-

G.R. No. 105359
April 22, 1993

NATIONAL LABOR RELATIONS COMMISSION, THIRD DIVISION, PERCIVAL GRANADO (in his capacity as Sheriff of the NLRC), NATIONAL FEDERATIONS OF LABOR UNIONS (NAFLU), HENRY D. MONTE, ARNEL V. LAPORE, JOSE PAINANDOS, JOEL BALLEBAS, ANTONIO DE GUZMAN, ROBERTO D. VILLA and FLORO CAGOMOC,
***Respondents*.**

x---x

D E C I S I O N

GRIÑO-AQUINO, *J.*:

This is a case where the findings of the National Labor Relations Commission (NLRC) and the Labor Arbiter differed from each other. The Labor Arbiter held that the private respondents were not regular,

but project, employees who were validly dismissed upon the termination of their project. The NLRC found otherwise and held the employer liable for their illegal dismissal.

The private respondents were hired by the petitioner on different dates to work in its various projects. Before entering upon their duties, each of them executed an employment contract captioned "Appointment as Project Contract Worker," which contained the following stipulations:

> "1. Your status is that of a contract worker for JO #1172 CS project and such other projects as the Company may designate and limited to the approximate period of project requirements. The Company shall exercise its prerogative, among others transferring or assigning you in such place of working such shift as may be necessary.
>
> "x x x
>
> "5. As a contract worker for a specific project, your employment is temporary and terminates upon completion of the project without any need for verbal or written notice and you are not entitled to separation or termination pay.
>
> "x x x
>
> "9. The completion of this contract or any extension or renewal thereof does not entitle you to become regular employee of the Company. Likewise, the Company is not under any obligation to appoint you as a regular employee not withstanding (sic) the total duration of this contract and/or any extension or renewal thereof." (p. 1, Rollo.)

Instead of being assigned at the job sites, the private respondents were made to work as welder, inventory clerk, truck helper, machinist, batteryman or warehouseman either at the Company's Central Shop, Central Warehouse, or Central Office, in Cainta, Rizal.

On November 1, 1990, the petitioner terminated the services of the private respondents on the ground of completion of their projects.

The private respondents thereupon filed a complaint for illegal dismissal against the company and/or its personnel coordinator, Gregorio M. Noriega.

On May 30, 1991, the Labor Arbiter rendered judgment finding that the private respondents were contract workers, hence, their employment as coterminous with the completion of the particular projects to which they had been assigned to work. Nevertheless, the Labor Arbiter held that since the private respondents had spent the best years of their lives in the service of the petitioner, they should receive separation benefits at the rate of one-half (1/2) month pay for every year of service, a fraction of six (6) months to be considered as one (1) whole year. The Labor Arbiter also granted their claims for service leave pay subject to the three-year prescriptive period.

Both parties appealed to the NLRC.

On August 30, 1991, the LRC set aside the Labor Arbiter's Decision and issued a Resolution:

1. declaring the complainants to be regular employees;

2. declaring their dismissal illegal;

3. ordering their reinstatement to their former positions without loss of seniority rights; and

4. ordering the Capitol Industrial Construction Groups (now petitioner) to pay the complainants their backwages from the date of their dismissal until actual reinstatement.

Both parties filed Motions for Reconsideration.

On October 15, 1991, the NLRC rendered a resolution denying petitioner's motion for reconsideration, but modified its decision by ordering the payment of service incentive leave pay to the employees.

The company filed this petition for *certiorari* alleging that the NLRC committed grave abuse of discretion amounting to lack or excess of

jurisdiction in finding that the private respondents are regular employees of the petitioner and ordering their reinstatement with full backwages and other benefits.

Petitioner's defense is mainly anchored on the employment contract quoted above which s captioned "Appointment as Project Contract Worker." Petitioner contends that since private respondents are bound by said contract which provides that they are contract workers, their tenure of employment is coterminous with the completion of their assigned projects or tasks. Further, it claimed that since it maintains only one central shop and warehouse that caters to the company's various projects, workers hired for a particular project may also be assigned in the central shop and warehouse without violating the contract.

The above argument of the petitioner is devoid of merit. The NLRC did not err in holding that private respondents are regular employees entitled to security of tenure. The evidence shows that the private respondents are not project employees.

Article 280 of the Labor Code defines regular and casual employees:

> "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."

Since the private respondents worked for the petitioner not only for a specific period of time, but long after their supposed projects had been finished, the Office of the Solicitor General correctly pointed out that:

> "Thus, in the cases of Roberto Villa, Joel Ballebas and Arnel Tapore, they were all terminated in November 1990 when the projects (JO #1165 and JO #1172) for which they were allegedly employed were completed in 1986 and June 1989, respectively (see p. 8, Annex 'A', Petition). This circumstance belies petitioner's claim that private respondents were hired for particular projects." (p. 146, Rollo.)

The private respondents did not always work in the project sites. They were sometimes assigned at the Central Office which took care of administration, engineering, auditing, and financing, or at the Central Shop which was responsible principally for the maintenance and repair of company trucks, tools, and equipment, and the transfer of materials to the project sites. They also worked in the Central Warehouse where company materials were stored and issued. Clearly, they performed tasks vital and indispensable to the efficient administration and completion of the company's various projects, hence, they were regular employees, i.e., employees who perform work "usually necessary and desirable in the employer's usual business or trade" (Art. 280, Labor Code). In the case of Magante vs. National Labor Relations Commission, 185 SCRA 21, 27-28, we ruled that:

> "Although petitioner had only rendered almost two years of service, nevertheless this should not detract from his status of being a regular employee because as correctly stated by the labor arbiter, the determining factor of the status of complainant-petitioner or any worker is the nature of the work performed by the latter and the place where he performed his assignment.
>
> "x x x
>
> "Moreover, if petitioner were employed as a `project employee' private respondent should have submitted a report of termination to the nearest public employment office every time his employment is terminated due to completion of each construction project, as required by Policy Instruction No. 20."

The NLRC correctly observed that:

“We view as untenable the respondents’ position that the work of the complainants assigned to the Central Shop were confined only to the repair and maintenance of vehicles and equipment for a specific project, while those at the Central Warehouse limited their duties to the inventory distribution and transportation of materials needed for a particular project. What We perceive to be more in tune with the realities of the construction industry is that the Central Shop and Central Warehouse of the respondent are the offices or departments tasked with the repair and maintenance of vehicles and equipment used for various projects, whether undertaken simultaneously or not and for the inventory and distribution of materials needed for the projects. By this, We mean that the concerns of the employees in these two offices are not limited only to a specific project, but to all of the projects entered into by their employer.

“This in fact is the assertion of complainants in their position paper ‘they perform tasks vital and indispensable to the efficient administration and completion of the company’s several projects (emphasis supplied) which the Labor Arbiter gave a wrong interpretation (pages 8-9 of Decision, Rollo pp. 166-167).

“What We find disturbing is the averment of the respondents in their Reply to Complainants’ Position Paper (Records, p. 136) to the effect that the contract of the complainants, as project employees, are effective until they have attended to the equipment backloaded to the Motor Pool in its principal address at Cainta, after which, if they are not assigned to other projects, then their services are terminated.

“We find as being against the nature of a project employment the requirement of the respondents for the complainants to attend to the equipment used in the projects, long after the completion thereof, it being Our view that the inspection, repair and maintenance of the same is the area of responsibility of those workers assigned to the Motor Pool.

> "To our mind, the services of a project employee ends with the completion of the project or a phase thereof to which he may have been assigned, and there is no necessity to defer the termination of the contract until after he shall have attended to the equipment that he may have used, or for that matter, for any other task that may be required of him by his employer.
>
> "A rundown of the type of work and place of assignment of the complainants, viz.: Floro Cagomoc — welder assigned to the Central Shop; Roberto Villa — inventory clerk, Central Warehouse; Arnel Lapore — truck helper, Central Shop; Joel Ballebas — truck helper, Central Shop; Henry Monte — machinist, Central Shop; and Antonio M. de Guzman — batteryman, Central Shop would disclose that the aforenamed persons were not assigned to a specific project, their appointment papers notwithstanding.
>
> "Hence, We hold that the complainants, by the very nature of their work are regular non-project employees entitled to security of tenure." (pp. 31-33, Rollo.)

These factual findings of the NLRC should be "accorded not only respect but also finality since they are supported by substantial evidence" (Reyes & Lim Company. Inc. vs. National Labor Relations Commission, 201 SCRA 772).

WHEREFORE, the Petition for *Certiorari* is **DISMISSED** for lack of merit.

SO ORDERED.

Cruz, Bellosillo and Quiason, *JJ.*, concur.

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