

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**CENTRAL NEGROS ELECTRIC  
COOPERATIVE, INC. (CENECO),  
*Petitioner,***

***-versus-***

**G.R. No. 106246  
September 1, 1994**

**NATIONAL LABOR RELATIONS  
COMMISSION, FOURTH DIVISION,  
CEBU CITY, JOSE HICETA, REGINA  
ILON, GILDERBRANDO GISON,  
EPIFANIO MUYCO, EMILIANO  
OQUINA, ET AL.,**

***Respondents.***

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**DECISION**

**PUNO, J.:**

Private respondents are employees of petitioner, an electric cooperative company. They have worked for petitioner from a high of four and one half (4 1/2) years to a low of ten (10) months. Their work forms as integral part of the business of petitioner. Despite the length of their service, they were extended permanent appointments only on July 13, 1988, retroactive to June 16, 1988.

Petition has a collective bargaining agreement with its employees' union for a duration of three (3) years from April 1, 1987 up to March 31, 1990. Article VII of the agreement provides for the following wage increase:

“Section 1. — The Electric Cooperative hereby agrees to grant all employees covered by this agreement across the board increase on the basic monthly salary of P350.00 for the first year, effective April 1, 1987, in the following manner:

1. Partial payment of P200.00 monthly to start July 1, 1987 to March 31, 1988.
2. Differentials of:
  - a. P350.00, for the period covering April 1, 1987 to June 30, 1987 plus and/or the additional of.
  - b. P150.00 for the period covering July 1, 1987 to March 31, 1988 shall be paid in three successive monthly installments starting April 1988.”

The collective bargaining agreement covers the following employees:

#### “ARTICLE I. COVERAGE

All the permanent employees and workers of the Central Negros Electric Cooperative, Inc. (CENECO), hereinafter referred to as the Electric Cooperative, as covered, except the following:

1. Those performing managerial functions, confidential employees regardless of status and those whom the Electric Cooperative and the Union may individually agree upon to be excluded.
2. Temporary and probationary employees or those whose period of employment is fixed and/or who are employed on a trial basis for a definite period; and those who are under special contract.”

Though they were made permanent in 1988, private respondents demanded payment of the three hundred fifty pesos (P350.00) wage increase for the year 1987 as provided by the above collective bargaining agreement. Petitioner denied their demand.

As called for by the parties' collective bargaining agreement, the demand was treated as a grievance. The grievance remained unsettled until their collective bargaining agreement expired on April 1, 1990. Private respondents then filed their complaint with the Labor Arbiter on May 18, 1990. Labor Arbiter Cesar D. Sideno of the Regional Arbitration Branch No. VI, Bacolod City dismissed the complaint for lack of merit on March 12, 1991. His Decision was, however, reversed by the NLRC, 4<sup>th</sup> Division, Cebu City, on September 18, 1991.<sup>[1]</sup> It held that: (1) private respondents became regular employees six (6) months after hiring, and hence, entitled to the across-the-board wage increase for the first year of the collective bargaining agreement starting from April 1, 1987 to March 1988; and (2) private respondents' complaint has not prescribed.

In this petition for *certiorari*, petitioner raises the following issues:

- “1. WHETHER OR NOT THE PRIVATE RESPONDENTS WERE COVERED BY THE WAGE INCREASES OF P350.00 A MONTH DURING THE FIRST YEAR OF THE COLLECTIVE BARGAINING AGREEMENT;
2. WHETHER OR NOT ARTICLES 280 AND 281 OF THE LABOR CODE WILL APPLY;
3. WHETHER OR NOT THE CAUSE OF ACTION OF THE PRIVATE RESPONDENTS HAS ALREADY PRESCRIBED;
4. WHETHER OR NOT THE PRIVATE RESPONDENTS FAILED TO EXHAUST THE REQUIRED REMEDIES AVAILABLE TO THEM PURSUANT TO THE GRIEVANCE PROCEDURE AS STIPULATED IN THE COLLECTIVE BARGAINING AGREEMENT.”

Petitioner contends that its collective bargaining agreement clearly excludes “temporary or probationary employees . . .”. It stresses that

private respondents were extended appointments as permanent workers only on July 13, 1988 retroactive to June 16, 1988. The contention overlooks Article 280 and 281 of the Labor Code, viz.:

“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 a regular employee with respect to the activity in which he is employed and his employment shall continue while such actually exists.” (Emphasis supplied)

“ARTICLE 281. Probationary employment — Probationary employment shall not exceed six (6) months from the date the employee started working, unless it is covered by an apprenticeship agreement stipulating a longer period. The services of an employee who has been engaged on a probationary basis may be terminated for a just cause or when he fails to qualify as a regular employee in accordance with reasonable standards made known by the employer to the employee at the time of his engagement. An employee who is allowed to work after a probationary period shall be considered a regular employee.”

It cannot be denied that private respondents attained the status of regular employees even before 1988. Firstly, they perform activities which are necessary or desirable in the usual business of the

petitioner as an electric cooperative. They are meter inspectors, PABX operators, utility men, disconnectors, linemen, messengers, secretaries, clerks, typists, plumbers, mechanics, draftsmen, HRD personnel, collectors and electricians. Indeed, their appointments would not have been regularized if their jobs were not indispensable in the daily operation of the petitioner's business. Secondly, they had worked for petitioner for more than six (6) months before they were given regular appointments. They had been hired on various dates starting from 1984.

Petitioner's insistence that private respondents became regular employees only when they were extended appointments on July 13, 1988 is deplorable. Articles 280 and 281 of our Labor Code, *supra*, 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*. Thus, Article 281, *supra*, placed a ceiling on probationary employment, *i.e.*, not to exceed six (6) months from the date the employee started working. On the other hand, Article 280, *supra*, defined when an employment shall be regular notwithstanding any written agreement to the contrary. In other words, the graduation of an employee from casual or probationary to regular does not depend on the arbitrary will of his employer. Rightly so, for if there is any group of employees that needs robust protection from the exploitation of employers, it is the casuals and probationaries. Usually the lowliest of the lowly, they are most vulnerable to abuses of management for they would rather suffer in silence than risk losing their jobs. The Labor Code has come to their succor by stopping schemes to eternalize their temporary status.

Petitioner's too niggard a regard to the rights of its employees becomes more evident with its contention that even if private respondents were to be considered regular employees under Article 280 of the Labor Code, still, they can only claim security of tenure but not the benefits of the said collective bargaining agreement. Petitioner's contention does not convince for it will result in an anomalous situation where we have to categorize regular employees into two (2) kinds — one entitled to security of tenure plus the benefits of the parties' collective bargaining agreement, and the other, entitled to security of tenure alone. Such a classification finds no sanction under the Labor Code for it distinguishes where there is no

difference. Not even the collective bargaining agreement of the parties justifies the submission. For reasonably read and interpreted, the parties collective bargaining agreement excludes only three classes, viz.:

- “1. Those performing managerial functions, confidential employees regardless of status and those whom the ELECTRIC COOPERATIVE and the UNION may individually agree upon to be excluded.
- “2. Temporary or probationary employees or those whose period of employment is fixed and/or who are employed on a trial basis for a definite period; and those who are under special contract.
- “3. Casuals and Extra Laborers.”

Private respondents do not belong to the excluded categories. Their employments had been regularized. There is no reason to deny them the benefits granted by their collective bargaining agreement when they contributed to the profits of management through their labors.

Petitioner also clings to the contention that the claim of private respondents has already prescribed. It is alleged that the cause of action of private respondents accrued on April 1, 1987, the date of the effectivity of the collective bargaining agreement while their complaint was filed only on May 18, 1990. Our attention is called to Article 291 of the Labor Code which provides that all money claims arising from employer-employee relationship shall be filed within three (3) years from the time the cause of action accrued.

We hold that the claim has not prescribed. Within the three-year prescriptive period, private respondents submitted their claim to the grievance committee as provided for in their collective bargaining agreement and as called for by our laws. Thus Articles 260 and 261 of the Labor Code provide, to wit:

“ARTICLE 260. Grievance Machinery and Voluntary Arbitration. — The parties to a Collective Bargaining Agreement shall include therein provisions that will ensure the mutual

observance of its terms and conditions. They shall establish a machinery for the adjustment and resolution of grievances arising from the interpretation or implementation of their Collective Bargaining Agreement and those arising from the interpretation or enforcement of company personnel policies.

“All grievances submitted to the grievance machinery which are not settled within seven (7) calendar days from the date of its submission shall automatically be referred to voluntary arbitration prescribed in the Collective Bargaining Agreement.

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“ARTICLE 261. Jurisdiction of Voluntary Arbitrators or panel of Voluntary Arbitrators. — The Voluntary Arbitrator or panel of Voluntary Arbitrators shall have original and exclusive jurisdiction to hear and decide all unresolved grievances arising from the interpretation or implementation of the Collective Bargaining Agreement and those arising from the interpretation or enforcement of company personnel policies referred to in the immediately preceding article. Accordingly, violations of Collective Bargaining Agreement, except those which are gross in character, shall no longer be treated as unfair labor practice and shall be resolved as grievances under the Collective Bargaining Agreement. For purposes of this article, gross violations of Collective Bargaining Agreement shall mean flagrant and/or malicious refusal to comply with the economic provisions of such agreement.

“The Commission, its Regional Offices and the Regional Directors of the Department of Labor and Employment shall not entertain disputes, grievances or matters under the exclusive and original jurisdiction of the Voluntary Arbitrator or panel of Voluntary Arbitrators and shall immediately dispose and refer the same to the Grievance Machinery or Voluntary Arbitration provided in the Collective Bargaining Agreement.”

Likewise, Rules XI, Omnibus Rules Implementing the Labor Code, provides:

“SECTION 1. Jurisdiction of voluntary arbitrator or panel of voluntary arbitrators. — The voluntary arbitrator or panel of voluntary arbitrators named in the collective bargaining agreement shall have exclusive and original jurisdiction to hear and decide all grievances arising from the implementation or interpretation of the collective bargaining agreement and those arising from the interpretation or enforcement of company personnel policies which remain unresolved after exhaustion of the grievance procedure.

“The voluntary arbitrator or panel of voluntary arbitrators, upon agreement of the parties, shall also hear and decide all other labor disputes including unfair labor practice and bargaining deadlocks.”

“SECTION 2. Referral of cases to voluntary arbitration. — All grievances unsettled or unresolved within seven (7) calendar days from the date of its submission for resolution to the last step of the grievance machinery shall automatically be referred to voluntary arbitration prescribed in the collective bargaining agreement.

“The Commission, its regional branches and the Regional Directors, of the Department of Labor and Employment shall not entertain disputes, grievances or matters under the exclusive and original jurisdiction of the voluntary arbitrator or panel of voluntary arbitrators and shall immediately dispose and refer the same to the appropriate grievance machinery or voluntary arbitration provided in the collective bargaining agreement.

“In case issues arising from the interpretation or implementing of the collective bargaining agreement or those arising from the interpretation or enforcement of company personnel policies are raised in notices of strikes or lockouts or requests for preventive mediation, the regional branch of the Board shall advise the parties to submit the issue/s to voluntary arbitration.”

As noted by public respondent, the grievance of private respondents remained unsettled until the parties' collective bargaining agreement expired on April 1, 1990. With the expiration of their collective bargaining agreement, its provision requiring the parties to resort to voluntary arbitration ceased to have any effect at all. Consequently, private respondents lost no time in filing their complaint with the labor arbiter on May 18, 1990. It is obvious that private respondents did not sleep on their right for more than three years as alleged by the petitioner and, hence, prescription will not lie against them.

**IN VIEW WHEREOF**, the Petition is dismissed there being no grave abuse of discretion on the part of public respondent in its Decision of September 18, 1991. Costs against petitioner.

**SO ORDERED.**

**Narvasa, C.J., Padilla, Regalado and Mendoza, JJ., concur.**

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[1] Penned by Commissioner Irinea E. Ceniza with Presiding Commissioner Ernesto G. Ladrido III and Commissioner Bernabe S. Batuhan, concurring.