

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
EN BANC**

**INTERNATIONAL OIL FACTORY
WORKERS UNION (FFW),
*Petitioner,***

-versus-

**G.R. No. L-15560
December 31, 1960**

**HON. ARSENIO MARTINEZ, ET AL.,
*Respondents.***

X-----X

DECISION

BAUTISTA ANGELO, J.:

This is an incidental case which stems from two final awards made by the Court of Industrial Relations on May 11, 1951 and April 12, 1957, respectively, the first prescribing a minimum wage of P5.50 a day for all regular male employees of the International Oil Factory, and the second approving the collective bargaining agreement entered into between said factory and the International Oil Factory Workers Union (FFW), petitioner herein, dated April 6, 1957, the pertinent portion of which reads as follows:

“The Company agrees that all extra or temporary laborers who have rendered efficient, faithful and satisfactory service shall be

converted to regular workers or laborers after one year from the signing of this Agreement.”

Pursuant to the aforementioned awards, the president of petitioning union in behalf of eighteen laborers of the company wrote a letter to its superintendent on April 14, 1958 asking the latter to raise their salaries from P4.00 to P5.50 a day. Cheng Guat, superintendent of the company, replied on April 16, 1958 stating, among others, that “the decision dated May 11, 1951 rendered in the main case which fixes the minimum of P5.50 for the male laborers could not be applied in the case of those newly converted regular laborers from temporary laborers, inasmuch as those temporary laborers were not yet employed in the factory at that time” and that the company has “not considered whether their past services have been efficient, faithful and satisfactory.” (Italics supplied)

Subsequently, petitioner filed before the industrial court a “Motion for Compliance and for Contempt of Court” alleging that since the 18 laborers who were classified as temporary on April 6, 1957 were already converted by the company into regular workers on April 7, 1958 in view of the lapse of the one year probationary period and the minimum wage of P5.50 a day awarded by the court has not been paid to them, the company should be ordered to pay their differential wages and the person or persons who have violated its order should be declared in contempt of court.

After respondent company had filed its reply, hearing was held by the trial judge, Hon. Jose S. Bautista, who from the evidence found the following facts: “that Cheng Guat, superintendent of the respondent recognized the conversion of the status of the above-named laborers in his letter to the petitioner’s president on April 16, 1958; (Exh. D); that the payrolls of the above-named laborers before April 7, 1958 contained the word ‘temporary’ while the pertinent payrolls after April 7, 1958 did not contain the word “temporary”; (Exhs. G, G-1 to G-14); that the aforementioned laborers were also included in the list of the regular workers in the payroll period after April 7, 1958; that the time book indicates that the same laborers were classed together with the rest of the regular workers; that when representation was made to the respondent towards the use of time cards of the same laborers, the respondent superintendent promised that time cards would be

distributed the following day; (only regular workers use time cards) (Exhs. E, E-1 to E-17); that the same group of laborers were given sick leave with pay after April 7, 1958, which concession is granted only to the regular employees; (Exhs. F, F-1 to F-37) that respondent explained that the grant of sick leave with pay was due to the representation made in behalf of the same laborers and not due to change of status from temporary to regular; that the superintendent of respondent testified that the same group of laborers violated certain rules and regulations of the respondent implying that the condition of efficient, faithful and satisfactory service was not fulfilled; that the respondent despite those alleged violations did not prosecute the same laborers leading one to believe that such alleged infractions were not serious enough as to warrant the conclusion of inefficiency, unfaithfulness and unsatisfactory service and therefore, if ever true, were condoned; that it is only now that the respondent is emphasizing those alleged violations, which is very understandable; and that the same laborers executed individual contracts of services with the respondent for certain periods of time.”

Hence, on January 17, 1959, the trial judge issued an order directing the company to pay the salary differentials of the laborers in question but absolving the officials involved from the prayer that they be declared in contempt of court.

Dissatisfied with this order, respondent company elevated the case to the court en banc, where the latter, by a vote of 3 to 1, Judge Bautista dissenting, issued a resolution on April 3, 1959 reversing the order of the trial judge, among others, on the following grounds: that inasmuch as 12 of the 18 laborers were not yet members of the union in 1956 and only became so after the probationary period of one year, they are not entitled to the awards of the court, and hence, their claim can be dismissed on this ground alone; that the imputation of inefficiency, unfaithfulness and unsatisfactory service hurled against said laborers by the superintendent of the company has not been sufficiently rebutted; that the fact that said laborers were not dismissed does not necessarily warrant the conclusion that they were efficient and faithful because they may have been merely admonished not to commit the same faults in the future; that the extension of the privileges of sick leave, vacation leave, time cards, etc., to said laborers which were enjoyed by the regular employees cannot amount

to their conversion into regular employees because said privileges were merely extended because of the earnest request of the president of the union; and that the determination of whether the laborers are efficient, faithful or competent rests upon the discretion of the company alone.

On July 9, 1959, petitioner came to this Court by way of certiorari seeking to set aside the resolution of the industrial court en banc and the affirmance of the trial judge's order dated January 17, 1959.

The only question to be determined is whether the industrial court acted correctly in issuing its resolution of April 3, 1959 declaring that the 18 laborers are not entitled to the wage differentials provided for in the collective bargaining agreement on the ground that the condition precedent relative to their efficient, faithful and satisfactory service has not been complied with.

Respondents maintain the affirmative, and giving emphasis to the testimony of Cheng Guat, superintendent of the company, contend that if there was ever a conversion in the status of employment of the 18 laborers it was only partial in the sense that the privileges accorded to them were merely extended because of the earnest request of the president of the union and not because of the company's desire to give them a regular status. We find this pretense untenable, not only because it was never set up as a defense by the company in its answer and came out for the first time at the hearing when the superintendent of the company testified on the matter over the vigorous objection of petitioner's counsel,^[1] but also because, if such were true, the company should have already explained that fact in its answer to the letter of the union demanding that the minimum wage of P5.50 a day be extended to the 18 laborers. No such thing was done, which shows that the alleged defense is a last minute concoction made solely in an attempt to free the company from liability.

Nor are we convinced that the condition precedent for the conversion of the status of the laborers in question has not been complied with. Note that practically all the privileges ordinarily given to the regular workers of the company (minus the minimum wage of P5.50 a day) have also been accorded to the laborers herein involved, only that the

company now claims that they cannot be given that increase because they were found to be inefficient, unfaithful and incompetent, invoking in support of the charge the fact that they were found guilty of certain violations of some of the company's rules and regulations. But it should be noted that the alleged violations, if any, were committed after the one year probationary period and no evidence whatsoever was introduced to prove their inefficiency during the probationary period. Since the agreement entered into between the company and the union refers to services to be performed during the period from April 6, 1957 to April 6, 1958 and the evidence introduced refers to acts performed after April 6, 1968, the charge is immaterial because, if during the probationary period they proved to be efficient, they are entitled to be classified as regular laborers regardless of the infractions they may commit thereafter. And even granting arguendo that they committed some violations of the rules of the company, however, the fact that they were condoned or disregarded by the company shows that they were minor in nature which cannot substantially impair their efficiency as employees of the company.

While it may be true that if one is not dismissed it does not follow that he is efficient because he can be merely admonished, it is surprising that, in spite of the company's claim of inefficiency on the part of the 18 laborers, still it continued them in its employ up to the present. If it were true, as claimed, that said laborers were inefficient, why did it not dismiss them knowing that it is its right to do so to protect its interest as already ruled by this Court?^[2] If we were to uphold the theory entertained by the industrial court that the determination of the efficiency of the 18 laborers rests upon the discretion alone of the company, they may never acquire the status of regular employees, for then their fate would be placed entirely at the whim and mercy of the employer. Such theory is indeed detrimental to the interest of labor.

Anent the claim of respondent court that because the 12 laborers were not members of petitioning union their case may be dismissed on this ground implying that only union members are entitled to the benefits of the collective bargaining contract, suffice it to state that such cannot be entertained because to accord its benefits only to members of the union without any valid reason would constitute undue discrimination against non-members.^[3]

There is insinuation that this appeal raises merely questions of fact and so should be dismissed. This is not quite correct. The fact that this case was given due course shows that the question raised is one of law, the facts being undisputed. Indeed, the only issue to be resolved is whether or not the industrial court acted correctly in issuing the resolution appealed from,^[4] and this we find to be not warranted by the evidence. This error we rectified in this decision.

WHEREFORE, the Resolution appealed from is set aside. The Order of the trial judge dated January 17, 1959 is hereby revived, without pronouncement as to costs.

Paras, C.J., Bengzon, Padilla, Labrador, Concepcion, Reyes, Barrera, Gutierrez David, Paredes and Dizon, JJ., concur.

[1] While it is true that Com. Act 103 provides that the CIR shall not be bound by technical rule of legal evidence, what is violated here is a cardinal rule of procedure to prevent surprises especially in this case where the defendant changed its theory or defense after plaintiff had closed its evidence.

[2] Manila Trading & Supply Co. vs. The Honorable Francisco Zulueta, et al., 40 Off. Gaz., No. 10, p. 183; Indias vs. Philippine Iron Mines, 101 Phil., 297; 54 Off. Gaz., (6) 1817.

[3] Leyte Land Transportation Company, Inc. vs. Leyte Farmers' & Laborers' Union, 80 Phil., 842; Land Settlement & Development Corporation vs. Caledonia Pile Workers' Union, 90 Phil., 817; Price Stabilization Corporation vs. PRISCO Workers' Union, et al. L-9288, December 29, 1958.

[4] Manila Railroad Co. vs. Court of Industrial Relations, et al., L-4329, August 21, 1952.