**SUPREME COURT**
**FIRST DIVISION**

**LUZON STEVEDORING CORPORATION and B.H. TENEFRANCIA,**

***Petitioners*,**

***-versus-***

**G.R. No. L-34300**
**November 22, 1974**

**COURT OF INDUSTRIAL RELATIONS and GERARDO MIÑOZA,**

***Respondents*.**

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# D E C I S I O N

**MAKASIAR, *J.*:**

Petitioners Luzon Stevedoring Corporation and its manager Benjamin H. Tenefrancia seek a review of the decision of respondent Court of Industrial Relations dated December 2, 1970, directing them to immediately reinstate private respondent Gerardo Miñoza as stevedoring supervisor with no loss of seniority and other privileges and with full back wages from the date of his dismissal on June 1, 1962 up to April 17, 1968.

As found from the evidence of record by respondent Court of Industrial Relations, private respondent Gerardo P. Miñoza was

employed by petitioner firm in 1931 first as mere checker, was after six months promoted to head checker until the general foremen after liberation until 1952 when he was last promoted to stevedoring supervisor, with place of work at Davao City, under John Hay as branch manager and herein petitioner Benjamin H. Tenefrancia office manager and chief accountant of said branch. The herein petitioner corporation loads and unloads cargoes on and from vessels docking at the port of Davao City. Respondent Miñoza, as such stevedoring supervisor, supervised the stevedores of petitioner firm in discharging or unloading cargoes as well as the storing of the same in the hatches and was in complete charge of the Stevedoring Department of the corporation when he could not leave or entrust the loading and unloading of the cargoes to his seven foreman or capataces. When there were no vessels in port, he was always around in the office waiting for orders from the branch manager who sometimes ordered him to "gear" in the gear house the equipment for loading and unloading before actual work was commenced. While he was supervisor and in charge of the Stevedoring Department, he was receiving a salary of P500.00 a month from 1952 until June 1, 1962. On May 24, 1962, he received a letter from office manager Benjamin H. Tenefrancia in behalf of the corporation, informing him that "in the course of our reorganization, the management has found it necessary to dispense with your services effective June 1, 1962. However, as a permanent employee since January 1, 1952, you are entitled to separation pay pending advice from the head office." (Annex or Exhibit A, p. 30, rec).

In behalf, his counsel, Atty. Sisenando Villaluz, wrote the firm a letter dated June 5, 1962, stating that the termination of his services was without just cause and that under existing jurisprudence, he is entitled to reinstatement with back wages, expressing, however, the hope that an "amicable settlement employee-employee relations which was wrongfully severed by his dismissal," an requesting a reply within five days from receipt thereof (Annex or Exhibit B, p. 31, rec.).

Atty. Ibarreta, in behalf of the corporation replied to said letter of Miñoza's counsel (Exh. C). Miñoza rejected the amount of P5,208.00 corresponding to his pay as offered in said letter of Atty. Ibarreta.

Before May 14, 1962, respondent Miñoza was never charged with nor investigated for any irregularity. After June 1, 1962, he was replaced as stevedoring supervisor by Rodolfo Liboon whose salary was fixed at P7200.00 a month with allowances. Rodolfo Liboon came from the Stevedoring Department of the corporation branch at Bacolod City earlier in May, 1962, "to acquaint himself with his new job . . . to replace Mr. Miñoza," who continued as stevedoring supervisor until the end of May, 1962.

In May, 1962, John Hay was replaced as general manager of the Davao City branch by David Leyson, who came from the corporation's branch at Bacolod City. After Leyson took over the managership of the Davao City branch, there was a reorganization in the Davao City branch starting with John Hay.

When petitioner firm refused to reinstate him with back wages, respondent Miñoza filed on July 2, 1962 a verified complaint which was amended on August 15, 1962, praying for reinstatement without loss of seniority and other privileges, with back wages and for overtime pay, with interest at the legal rate from the filing of the original complaint (Annex A, pp. 26-29, rec.).

In their answer to the said complaint dated March 4, 1966, herein petitioners interposed the following defenses:

1. That the Court of Industrial Relations has no jurisdiction over the subject matter of the case;

2. That the separation of Miñoza was for a just and valid cause; and, even if not for a valid cause, his remedy is to proceed against the employer pursuant to the provisions of Republic Act 1052, as amended (Termination Pay Law), for reinstatement is not available in the absence of an unfair labor practice charge against the employer;

3. That Miñoza did not render work either as a stevedoring supervisor or in any other capacity because a stevedoring supervisor belongs to and is a member of the executive staff which is not required to strictly observe office hours as he was vested with discretion in the management of the

Stevedoring Department, aside from the fact that he did not actually render overtime work in any other capacity;

4. That the employer did not violate the Eight-Hour Labor Law; and

5. That the money claims of Miñoza had already prescribed (Annex D, pp. 32-34, rec.).

I

We have ruled in a number of cases that the findings of fact of the Court of Industrial Relations are conclusive on this Court in the absence of grave abuse of discretion.

As correctly determined by the respondent Court, respondent Miñoza was a regular and permanent Stevedoring Supervisor of petitioner corporation since January 1, 1962 (Exhibit A, p. 30, rec.) and that his separation from the service effective June 1, 1962 in the guise of the reorganization of the office, was not a valid cause for dismissal. We ruled in several cases that as long as the complaint for reinstatement also alleges a violation of the Eight-Hour Labor Law, as in the case at bar, the Court of Industrial Relations has jurisdiction over the case. The allegations of the complaint determine the jurisdiction of the Court. (Filipro, Inc. versus CIR, L-30827, August 18, 1972, 46 SCRA 621, 627; Colgate-Palmolive, etc. versus De la Cruz, et al., L-23015, May 30, 1972, 45 SCRA 190, 195-196, 201-203; Section 7, Rep. Act 875; Philippine Engineers', Syndicate, Inc. versus Hon. Jose Bautista, et al., L-16440, Feb. 29, 1964, 10 SCRA 379, 381-382; NARIC versus Naric Workers' Union, 105 Phil., 891; Shell Company versus National Labor Union, 81 Phil., 315; Monaris versus CNS Enterprises, et al., 105 Phil., 1333; NASSCO versus Armin, et al., 104 Phil., 835; Isaac Peral Bowling Alley versus United Employees, etc., et al., 102 Phil. 219; and Detective, etc. versus Guevara, et al., 101 Phil. 1234).

The Termination Pay Law (Republic Act 1052, as amended) applies only to employment without a definite term. Considering the environmental facts in the case at bar, where Miñoza has faithfully served his employer (petitioners) for over a generation since 1931 to the time he was unjustly dismissed in 1962, his employment certainly

could not be deemed to be one without a definite term as to permit his arbitrary ouster under said law.

The dismissal of the claim for overtime pay does not divest the Court of Industrial Relations of its jurisdiction (Filipro, Inc. versus CIR, supra; and Associated Labor Union versus Borromeo, 26 SCRA 88, 100-101).

II

The respondent Court of Industrial Relations likewise properly found that respondent Miñoza performed overtime work and therefore is entitled to overtime pay. Thus, in its decision, respondent Court stated that:

> "As to whether complainant Miñoza rendered overtime work in excess of eight hours a day and on Sundays and holidays, the evidence shows that, as stevedoring supervisor of respondent corporation, he supervised the stevedores first in the discharge or unloading of cargoes as soon as the vessels serviced by said corporation arrived at Davao Port and then the loading and storing of cargoes in the hatches; that while in that process, he could not leave the place of work nor could he entrust to his seven foremen or capatazes the work of stevedoring as it was his responsibility; that the stevedoring work in the port of Davao had no schedule of work hours but they would start their work as soon as the vessel arrived to be unloaded until the work of loading was terminated or the vessel departed from port; as stevedoring supervisor, complainant Miñoza assigned the foremen or capatazes to take charge of those who unloaded and loaded cargoes and gave instructions to them; during that time and while they were working, complainant Miñoza was always around the place of work; that he has a record of the time of arrival and of departure of all vessels, foreign and domestic, serviced by respondent Luzon Stevedoring Corporation as shown in the excerpts of the cargo manifest on official stationery of said respondent corporation, Davao Branch, from the Philippine Steam Navigation Company for the period from January, 1960 to December, 1961 (Exhibits "A", "E", "E-1", "F", "G", "H", "H-1", inclusive); in the head checker daily reports of

respondent Luzon Stevedoring Corporation for 1960 (Exhibits "I", "I-1", to "I-4", "J", "J-1" to "J-9", "K", "K-1", "L", "L-1" to "L-3", "M", "M-1" to "M-3", "N", "N-1" to "N-2". "O", "O-1", "P", "P-1", "Q", "Q-1" to "Q-2", "R", "R-1" to "R-3", "S", "S-1 to "S-2", "T", "T-1" to "T-2", "U", "U-1" to "U-4", "V", "V-1", "W", "W-1" to "W-7", "X", "X-1" to "X-5", "Y", "Y-1" to "Y-3", "Z", "Z-1" to "Z-2", "AA" "BB", "BB-1", "CC", "CC-1" to "CC-4", "DD", "DD-1" to "DD-4", "EE", "FF", "FF-1" to "FF-4", "GG", "GG-1" to "GG-5", "HH", "HH-1" to "HH-2", "II", "II-1" to "II-4', "JJ", "JJ-1", "KK", "KK-1", "LL", "LL-1" to "LL-2", "MM", "MM-1" to "MM-5", "NN", "NN-1" to "NN-2", "OO", "OO-1" to "OO-5", "PP", "PP-1" to "PP-2", "QQ", "QQ-1" to "QQ-3", "RR", "RR-1" to "RR-3", "SS", "SS-1" to "SS-3", "TT", "TT-1" to "TT-3", "UU", "UU-1" to "UU-4", "VV", "VV-1", "WW", "WW-1", "XX", "XX-1" to "XX-2", "YY", "YY-1" to "YY-2", "ZZ", to "ZZ-4", "AAA", "AAA-1" to "AAA-6", "BBB", "BBB-1" to "BBB-2", "CCC", "CCC-1" to "CC-3", "DDD", "DDD-1", "EEE", "EEE-1" to "EEE-", "FFF", "GGG", "GGG-1" to "GGG-2", "HHH", "HHH-1" to "HHH-2", "III", "III-1" to "III-2", "JJJ", "JJJ-1" to "JJJ-2", "KKK", "LLL", "LLL-1" to "LLL-4", "MMM", "NNN", "NNN-1" to "NNN-4", "OOO", "OOO-1" to "OOO-5", "PPP", "QQQ", "QQQ-1", "RRR", "SSS", "SSS-1" to "SSS-2", "TTT", "TTT-1" to "TTT-2", "UUU", "UUU-1", "VVV", "VVV-1" to "VVV-4", "WWW", "WWW-1" to "WWW-2, "XXX", "YYY", "ZZZ-1" to "ZZZ-2", "AAAA", "AAAA-1" to "AAAA-3", "BBBB", "CCCC", "CCCC-1", "DDDD", "DDDD-1", "EEEE", "EEEE-1", "FFFF", "FFF-1" to "FFF-4", "GGGG", "GGGG-1", "HHHH", "HHHH-1" to "HHHH-2", "IIII", "IIII-1" to "IIII-3", "JJJJ", "JJJJ-1" to "JJJJ-2", "KKKK", "KKKK-1", "LLLL", "MMMM", "MMMM-1", "NNNN", "NNNN-1" to "NNNN-3", "OOOO", "OOOO-1" to "OOOO-2", "PPPP", "QQQQ", "QQQQ-1" to "QQQQ-5", "RRRR", "RRRR-1", "SSSS", "SSSS-1", "TTTT", "TTTT-1", "UUUU", "UUUU-1", inclusive); in the discharging reports and the supplementary discharging reports of the Philippine Steam Navigation Company from January, 1959 to December, 1962 (Exhibits "VVVV", "VVVV-1" to "VVVV-132", "WWWW", "WWWW-1" to "WWWW-139", "XXXX", "XXXX-1" to "XXXX-213", "YYYY", "YYYY-1" to "YYYY-51", "ZZZZ", "ZZZZ-1" to "ZZZZ-51", "AAAAA", "AAAAA-1" to "AAAAA-53", "BBBBB", "BBBBB-1" to "BBBBB-51", "CCCCC", "CCCCC-1" to "CCCCC-92", "DDDDD", "DDDDD-1"

to “DDDDD-191”, inclusive); in the foreman’s daily reports of respondents Luzon Stevedoring Corporation for May 22, 1962 (Exhibits “EEEEE”, “EEEEE-1” to “EEEEE-13”, inclusive); and in the stevedoring reports of respondent Luzon Stevedoring Corporation from January to April, 1962 (Exhibits “FFFFF”, “FFFFF-1” to “FFFFF-20”, inclusive).

“It likewise appears that in the computation of pay of the workers in the stevedoring department of respondent corporation, the procedure followed was that the workers were classified as Modernos and Antigo 3, Antigo 2, Antigo 1 which were the checkers, head checkers and foreman or capatazes; for the work done at night, the first eight hours were computed double, that is if a worker is receiving P4.00 a day for eight hours work, he would receive P8.00 for night work for the first eight hours, and in excess of eight hours, he received an hourly rate plus fifty per centum; and that day workers received double pay for work during Sundays and holidays.

“From the foregoing factual evidence, it is clear that complainant Gerardo Miñoza rendered and/or performed work or services in excess of the regular eight hours a day, at night and during Sundays and holidays. Hence, he should be paid of the overtime compensation due him based on the above computation of pay of the workers in the stevedoring department.” (pp. 49-52, rec.).

The contention of petitioners that respondent Miñoza did not render overtime service nor on Sundays and holidays on the ground that as Stevedoring Supervisor, he is a member of the executive staff and hence he does not follow a rigid schedule of office hours nor is he required to follow a schedule of work; that the corporation has two departments, namely, Stevedoring and Marine; that Miñoza was the head of the Stevedoring Department and had 7 foremen and more than 300 stevedores under him who work only when there is available work to be done, has been satisfactorily disposed of by the respondent Court, thus:

“Based on the above evidence, we find respondents’ pretense without merit. The claim that there are two departments in

respondent corporation stevedoring headed by complainant and marine which is in-charge of all tugboats and barges — and that with branch manager John Hay, office manager Benjamin H. Tenefrancia, complainant Miñoza, as head of the stevedoring department, was a member of management belie that complainant was a member of the executive staff, considering that as head of the stevedoring department, complainant's primary duty was merely to supervise the stevedoring work and not the management of said department. Besides, if it is true that there were two departments — stevedoring and marine — in respondent corporation, then office manager Tenefrancia should have included the head of the marine department which is incharge of all tugboats and barges a member of the management or executive staff together with the head of the stevedoring department. This he did not. And he should not have singled out the head of the stevedoring department as a member of said staff to the exclusion of the head of the marine department. Moreover, as office manager, respondent Tenefrancia occupied in respondent corporation a position higher in rank and/or category than the heads of the stevedoring and the marine departments. This is verily shown in the letter signed by said respondent B.H. Tenefrancia to complainant Miñoza dated May 14, 1962 terminating the services of the latter with respondent corporation effective June 1st, 1962 (See Exhibits "A" and "I") when he signed it as the representative of respondent corporation and not by branch manager Leyson. On the further claim that as head of the stevedoring department, complainant Miñoza had the power to hire and fire people under his department, suffice it to state that his said power was subject to the prior approval of the branch manager. This shows that as a stevedoring supervisor his power to hire and fire his subordinate employees who were not regular and permanent because they only worked when there was available work was merely routinary in the exercise of his duty to supervise the stevedoring work and does not involve the exercise of his independent judgment necessary to make him a managerial employee or a member of the executive staff. And, that complainant Miñoza had no schedule of work, filled no time card nor punched the bundy clock to indicate his time in and time out and his salary was paid to him directly by the

branch manager and not by the paymaster who paid the daily wage workers did not, to our mind, make him a member of the management and/or of the executive staff of respondent corporation." (pp. 48-49, rec.).

However, the respondent Court limited the claim for overtime pay to three years counted backward from July 1, 1962 by reason of the three-year prescriptive period provided for in Section 7-A of Commonwealth Act No. 444, as amended by Republic Act 1993, otherwise known as the Eight-Hour Labor Law. This is a true and correct determination of the respondent Court; because until this date, respondent Miñoza has not been paid his overtime pay as well as his back wages.

In view of the policy to decree back wages not exceeding three years without requiring the parties to submit proof of compensation received from other sources from the time of the illegal dismissal until actual reinstatement, in order that judgment in favor of an employee or laborer can be executed without delay, the judgment appealed from should be accordingly modified. The overtime compensation due to respondent Miñoza should be determined according to the directive in the appealed decision (p. 52, rec.).

**WHEREFORE, THE PETITION IS HEREBY DISMISSED AND THE PETITIONERS ARE HEREBY DIRECTED (1) TO IMMEDIATELY REINSTATE RESPONDENT GERARDO MIÑOZA TO HIS FORMER POSITION AS STEVEDORING SUPERVISOR WITHOUT LOSS OF SENIORITY AND OTHER PRIVILEGES AND WITH FULL BACK WAGES FROM THE DATE OF HIS DISMISSAL ON JUNE 1, 1962, CORRESPONDING TO A PERIOD OF THREE YEARS; AND (2) TO PAY HIM OVERTIME PAY CORRESPONDING TO THREE YEARS COUNTED BACKWARD FROM JULY 1, 1962 AS DIRECTED IN THE APPEALED DECISION.**

**Castro, *J., (Chairman)*, Teehankee, Esguerra and Muñoz Palma, *JJ.*, concur.**