378 Phil. 300

FIRST DIVISION

[G.R. No. 118289, December 13, 1999]

TRANS-ASIA PHILS. EMPLOYEES ASSOCIATION (TAPEA) AND ARNEL GALVEZ, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, TRANS-ASIA (PHILS.) AND ERNESTO S. DE CASTRO, RESPONDENTS.

D E C I S I O N

KAPUNAN, J.:

This petition for *certiorari* under Rule 65 of the Rules of Court seeks to reverse and set aside the Resolutions, dated 23 November 1993 and 13 September 1994 of the National Labor Relations Commission ("NLRC") which dismissed petitioners' appeal from the adverse decision of the labor arbiter and denied petitioners' motion for reconsideration, respectively.

The antecedents of this case are as follows:

On 7 July 1988, Trans-Asia Philippines Employees Association (TAPEA), the duly-recognized collective bargaining agent of the monthly-paid rank-and-file employees of Trans-Asia (Phils.), entered into a Collective Bargaining Agreement ("CBA") with their employer. The CBA, which was to be effective from 1 April 1988 up to 31 March 1991, provided for, among others, the payment of holiday pay with a stipulation that if an employee is permitted to work on a legal holiday, the said employee will receive a salary equivalent to 200% of the regular daily wage plus a 60% premium pay.

Despite the conclusion of the CBA, however, an issue was still left unresolved with regard to the claim of TAPEA for payment of holiday pay covering the period from January of 1985 up to December of 1987. Thus, the parties underwent preventive mediation meetings with a representative from the National Mediation and Conciliation Board in order to settle their disagreement on this particular issue. Since the parties were not able to arrive at an amicable settlement despite the conciliation meetings, TAPEA, led by its President, petitioner Arnie Galvez, filed a complaint before the labor arbiter, on 18 August 1988, for the payment of their holiday pay in arrears. On 18 September 1988, petitioners amended their complaint to include the payment of holiday pay for the duration of the recently concluded CBA (from 1988 to 1991), unfair labor practice, damages and attorney's fees.

In their Position Paper, petitioners contended that their claim for holiday pay in arrears is based on the non-inclusion of the same in their monthly pay. In this regard, petitioners cited certain circumstances which, according to them, would support their claim for past due holiday pay. First, petitioners presented Trans-Asia's Employees' Manual which requires, as a pre-condition for the payment of holiday pay, that the employee should have worked or was on authorized leave with

pay on the day immediately preceding the legal holiday. Petitioners argued that "if the intention [of Trans-Asia] was not to pay holiday pay in addition to the employee's monthly pay, then there would be no need to impose or specify the pre-condition for the payment."[1] Second, petitioners proffered as evidence their appointment papers which do not contain any stipulation on the inclusion of holiday pay in their monthly salary. According to petitioners, the absence of such stipulation is an indication that the mandated holiday pay is not incorporated in the monthly salary. Third, petitioners noted the inclusion of a provision in the CBA for the payment of an amount equivalent to 200% of the regular daily wage plus 60% premium pay to employees who are permitted to work on a regular holiday. Petitioners claimed that this very generous provision was the remedy availed of by Trans-Asia to allow its employees to recoup the holiday pay in arrears and, as such, is a tacit admission of the non-payment of the same during the period prior to the current CBA.

Finally, petitioners cited the current CBA provision which obligates Trans-Asia to give holiday pay. Petitioners asserted that this provision is an acknowledgment by Trans-Asia of its failure to pay the same in the past since, if it was already giving holiday pay prior to the CBA, there was no need to stipulate on the said obligation in the current CBA.

With regard to the claim for the payment of holiday pay for the duration of the CBA, the accusation of unfair labor practice and the claim for damages and attorney's fees, petitioners asserted that Trans-Asia is guilty of bad faith in negotiating and executing the current CBA since, after it recognized the right of the employees to receive holiday pay, Trans-Asia allegedly refused to honor the CBA provision on the same.

In response to petitioner's contentions, Trans-Asia refuted the same *in seriatim*. With regard to the pre-condition for the payment of holiday pay stated in the Employee's Manual and the absence of a stipulation on holiday pay in the employees' appointment papers, Trans-Asia asserted that the above circumstances are not indicative of its non-payment of holiday pay since it has always honored the labor law provisions on holiday pay by incorporating the same in the payment of the monthly salaries of its employees. In support of this claim, Trans-Asia pointed out that it has long been the standing practice of the company to use the divisor of "286" days in computing for its employees' overtime pay and daily rate deductions for absences. Trans-Asia explained that this divisor is arrived at through the following formula:

$$\frac{52 \times 44}{8} = 286 \text{ days}$$

Where: 52 = number of weeks in a year
44 = number of work hours per week
8 = number of work hours per day

Trans-Asia further clarified that the "286" days divisor already takes into account the ten (10) regular holidays in a year since it only subtracts from the 365 calendar days the unworked and unpaid 52 Sundays and 26 Saturdays (employees are

required to work half-day during Saturdays). Trans-Asia claimed that if the ten (10) regular holidays were not included in the computation of their employee's monthly salary, the divisor which they would have used would only be 277 days which is arrived at by subtracting 52 Sundays, 26 Saturdays and the 10 Legal holidays from 365 calendar days. Furthermore, Trans-Asia explained that the "286" days divisor is based on Republic Act No. 6640,[2] wherein the divisor of 262 days (composed of the 252 working days and the 10 legal holidays) is used in computing for the monthly rate of workers who do not work and are not considered paid on Saturdays and Sundays or rest days. According to Trans-Asia, if the additional 26 working Saturdays in a year is factored-in to the divisor provided by Republic Act No. 6640, the resulting divisor would be "286" days.

On petitioners' contention with regard to the CBA provision on the allegedly generous holiday pay rate of 260%, Trans-Asia explained that this holiday pay rate was included in the CBA in order to comply with Section 4, Rule IV, Book III of the Omnibus Rules Implementing the Labor Code. The aforesaid provision reads:

> Sec. 4. Compensation for holiday work. - Any employee who is permitted or suffered to work on any regular holiday, not exceeding eight (8) hours, shall be paid at least two hundred percent (200%) of his regular daily wage. If the holiday falls on the scheduled rest day of the employee, he shall be entitled to an additional premium pay of at least 30% of his regular holiday rate of 200% based on his regular wage rate.

On the contention that Trans-Asia's acquiescence to the inclusion of a holiday pay provision in the CBA is an admission of non-payment of the same in the past, Trans-Asia reiterated that it is simply a recognition of the mandate of the Labor Code that employees are entitled to holiday pay. It clarified that the company's firm belief in the payment of holiday pay to employees led it to agree to the inclusion of the holiday pay provision in the CBA.

With regard to the accusation of unfair labor practice because of Trans-Asia's act of allegedly bargaining in bad faith and refusal to give holiday pay in accordance with the CBA, Trans-Asia explained that what petitioners would like the company to do is to give double holiday pay since, as previously stated, the company has already included the same in its employees monthly salary and, yet, petitioners want it to pay a second set of holiday pay.

On 13 February 1989, the labor arbiter rendered a decision dismissing the complaint, to wit:

> After considering closely the arguments of the parties in support of their respective claims and defenses, this Branch upholds a different view from that espoused by the complainants.
>
> Just like in the Chartered Bank Case (L-44717), August 28, 1985, 138 SCRA 273, which is cited by the complainants in their Position Paper, there appears to be no clear agreement between the parties in the instant case, whether verbal or in writing, that the monthly salary of the employees included the mandated holiday pay. In the absence of such agreement, the Supreme Court in said Chartered Bank Case took into consideration existing practices in the bank in resolving the issue, such

> as employment by the bank of a divisor of 251 days which is the result of subtracting all Saturdays, Sundays and the ten (10) legal holidays from the total number of calendar days in a year. Further, the Court took note of the fact that the bank used conflicting or different divisors in computing salary-related benefits as well as the employees' absence from work. In the case at bar, not only did the CBA between the complainants and respondents herein provides (sic) that the ten (10) legal holidays are recognized by the Company as full holiday with pay. What is more, there can be no doubt that since 1977 up to the execution of the CBA, the Trans-Asia, unlike that obtaining in the Chartered Bank Case, never used conflicting or different divisors but consistently employed the divisor of 286 days, which as earlier pointed out, was arrived at by subtracting only the unworked 52 Sundays and the 26 half-day-worked Saturdays from the total number of days in a year. The consistency in the established practice of the Trans-Asia, which incidentally is not disputed by complainants, did not give rise to any doubt which could have been resolved in favor of complainants.
>
> Besides, the respondents unlike the respondent bank in the Chartered Bank Employees Association vs. Hon. Blas F. Ople, et al. (supra) citing also the case of IBAAEU vs. Hon,. Amado Inciong (132 SCRA 663) which case have (sic) invalidated Section 2, Rule IV, Book III of the Implementing Rules of the Labor Code and Policy Instruction No. 9, have never relied on the said invalidated rule and Policy Instruction.
>
> The complainants' arguments and juxtapositions in claiming that they were denied payment of their holiday pay paled in the face of the prevailing company practices and circumstances abovestated.
>
> Also, for the reasons adverted to above, the complainants charge of unfair labor practice claiming that respondents in bad faith refused to comply with their contractual obligation under the CBA by not paying the complainants' holiday pay, must fail. Since respondents have nothing more to pay by way of legal holiday pay as it has already been included in their monthly salaries, the provision in the CBA relative to holiday pay is just but a recognition of the complainants right to payment of legal holiday pay as mandated by the Labor Code.
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> WHEREFORE, all the foregoing premises being considered, judgment is hereby rendered dismissing the complaint for lack of merit.
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> SO ORDERED.[3]

Petitioners appealed to the National Labor Relations Commission. In its Resolution, dated 23 November 1993, the NLRC dismissed the appeal and affirmed the decision of the labor arbiter, to wit:

> We find no cogent reason to change or disturb the decision appealed from, the same being substantially supported by the facts and evidence on record. "It is a well-settled rule that findings of facts of administrative bodies, if based on substantial evidence are controlling on the reviewing authority." (Planters Products, Inc. vs. NLRC, G. R. No. 78524 & 78739,

January 20, 1989; 169 SCRA 328).

We find no abuse of discretion and/or error in the assailed decision.

WHEREFORE, the appeal are (sic) hereby DISMISSED for lack of merit and the decision appealed from is AFFIRMED.

SO ORDERED.[4]

Petitioners' motion for reconsideration was, likewise, denied by the NLRC in its Resolution, dated 13 September 1994.

Petitioners are now before us faulting the NLRC with the following assignment of errors:

I

PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION IN UPHOLDING THE LABOR ARBITER'S DECISION DESPITE THE LACK OF SUBSTANTIAL EVIDENCE TO SUPPORT IT

II

IN UPHOLDING THE LABOR ARBITER'S DECISION DESPITE THE LACK OF SUBSTANTIAL EVIDENCE TO SUPPORT IT, PUBLIC RESPONDENT NLRC VIOLATED THE CONSTITUTIONAL AND LEGAL MANDATE TO RESOLVE ALL DOUBTS IN SOCIAL LEGISLATION IN FAVOR OF LABOR.[5]

Petitioners, in furtherance of their first assignment of error, assert that the NLRC "blatantly an unshamedly disregarded" the numerous evidence in support of their claim and relied merely on the sole evidence presented by Trans-Asia, the "286" days divisor, in dismissing their appeal and, in so doing, is guilty of grave abuse of discretion.[6]

We do not agree.

Trans-Asia's inclusion of holiday pay in petitioners' monthly salary is clearly established by its consistent use of the divisor of "286" days in the computation of its employees' benefits and deductions. The use by Trans-Asia of the "286" days divisor was never disputed by petitioners. A simple application of mathematics would reveal that the ten (10) legal holidays in a year are already accounted for with the use of the said divisor. As explained by Trans-Asia, if one is to deduct the unworked 52 Sundays and 26 Saturdays (derived by dividing 52 Saturdays in half since petitioners are required to work half-day on Saturdays) from the 365 calendar days in a year, the resulting divisor would be 286 days (should actually be 287 days). Since the ten (10) legal holidays were never included in subtracting the unworked and unpaid days in a calendar year, the only logical conclusion would be that the payment for holiday pay is already incorporated into the said divisor. Thus, when viewed against this very convincing piece of evidence, the arguments put forward by petitioners to support their claim of non-payment of holiday pay, i.e., the pre-condition stated in the Employees' Manual for entitlement to holiday pay, the absence of a stipulation in the employees' appointment papers for the inclusion of