

FIRST DIVISION

[G.R. No. 124500, December 04, 1998]

PHILIPPINE SCOUT VETERANS SECURITY AND INVESTIGATION AGENCY, INC., RICARDO BONA AND SEVERO SANTIAGO, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND FLORENTINO LAMSEN, RESPONDENTS.

D E C I S I O N

BELLOSILLO, J.;

FLORENTINO LAMSEN was employed as security guard by the Philippine Scout Veterans Security and Investigation Agency, Inc. (PSVSIA). In May 1994 he filed before the Department of Labor a complaint against petitioner PSVSIA, its company manager Severo Santiago, and stockholder Ricardo Bona for illegal deduction and non-payment of overtime pay and service incentive leave pay. A month or so later he amended his cause of action by changing "nonpayment of overtime pay and service incentive leave pay" to "underpayment of wages and overtime pay." In his verified position paper to which he attached statements showing the amounts of overtime pay and night differential pay he received for the period covering January 1991 to March 1994, he alleged that despite his long and continuous service of more than thirty-one (31) years with PSVSIA his compensation still remained below the minimum wage provided by law thus: from 1 January 1991 to 7 January 1991, P69.00/day; from 8 January 1991 to 15 February 1991, P69.00/day; from 16 February 1991 to 15 March 1992, P86.00/day; from 16 March 1992 to 30 November 1993, P106.00/day; from 1 December 1993 to 15 December 1993, P118.00/day; and, from 16 December 1993 to 31 March 1994, P118.00/day.

Initially, petitioners moved to dismiss the complaint on the ground that respondent Lamsen was not an employee of PSVSIA but of its affiliate Abaquin Security and Detective Agency. However, when they subsequently filed their position paper, they changed their theory and asserted that the complaint had no factual basis. In support thereof, they submitted photocopies of a random sampling of Lamsen's payrolls to prove that the said employee had been fully paid his wages and overtime pay in the amounts prescribed by law.

On 31 January 1995 Labor Arbiter Eduardo J. Carpio rendered a decision ordering petitioners PSVSIA, Ricardo Bona and Severo Santiago to pay respondent Lamsen the total sum of P100,730.84 representing underpayment of wages and unpaid overtime pay. Petitioners appealed to the National Labor Relations Commission (NLRC) which on 21 November 1995 rendered a decision^[1] modifying that of the Labor Arbiter by making the monetary award retroactive to 19 May 1991 instead of 13 March 1991 as ruled by the Labor Arbiter.

In seeking relief from this Court, petitioners allege that respondent NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction in that after