SUPREME COURT
EN BANC

MANILA HOTEL COMPANY,
***Petitioner*,**

-versus-

G.R. No. L-18873
September 30, 1963

COURT OF INDUSTRIAL RELATIONS, ET AL.,
***Respondents*.**
x----------x

D E C I S I O N

BAUTISTA ANGELO, *J.*:

The Pines Hotel Employees Association filed on February 24, 1960 before the Court of Industrial Relations a petition praying, among other things, that its employees who were working at the Pines Hotel be paid additional compensation for overtime service rendered due to the exigencies of the business, as well as additional compensation for Sunday, legal holiday and night time work.

The Manila Hotel filed its answer denying the material averments of the petition and alleging, among others, that if overtime service was rendered the same was not authorized but was rendered voluntarily, for the employees were interested in the "tips" offered by the patrons of the hotel.

Presiding Judge Jose S. Bautista, to whom the petition was assigned, after trial, rendered judgment stating that the employees were entitled to the additional compensation demanded, including that for overtime work, because an employee who renders overtime service is entitled to compensation even if he rendered it without prior authority. A motion for reconsideration was filed on the ground that the order was contrary to law and the evidence, but the same was denied by the industrial court En Banc.

In compliance with the order of the court, the Examining Division of the Court of Industrial Relations submitted a report in which it stated that the amount due the employees as additional compensation for overtime and night services rendered from January to December 31, 1958 was P32,950.69. The management filed its objection to the report on the ground that it included 22 names of employees who were not employees of the Pines Hotel at the time the petition was filed so that insofar as said employees are concerned the petition merely involves a money claim which comes under the jurisdiction of the regular courts. The trial judge, however, overruled this objection holding that, while the 22 employees were actually not in the service at the time of the filing of the petition, they were however subsequently employed even during the pendency of the incident, and so their claim comes within the jurisdiction of the Court of Industrial Relations. Hence the present petition for review.

There is no merit in this appeal it appearing that while it is true that the 22 employees whose claim is objected to were not actually in their service at the time the instant petition was filed, they were however subsequently re-employed even while the present incident was pending consideration by the trial court. Moreover, it appears that the questioned employees were never separated from the service. Their status is that of regular seasonal employees who are called to work from time to time, mostly during summer season. The nature of their relationship with the hotel is such that during off season they are temporarily laid off but during summer season they are re-employed, or when their services may be needed. They are not strictly speaking separated from the services but are merely considered as on leave of absence without pay until they are re- employed. Their employment relationship is never severed but only suspended. As such, these

employees can be considered as in the regular employment of the hotel.

WHEREFORE, the Order appealed from is affirmed. No costs.

Bengzon, *C.J.*, Padilla, Labrador, Concepcion, Barrera, Paredes, Dizon, Regala and Makalintal, *JJ.*, concur.
Reyes, *J.*, took no part.
