SUPREME COURT
FIRST DIVISION

PHILIPPINE AMERICAN MANAGEMENT EMPLOYEES ASSOCIATION (FFW), FRANCISCO A. TORPIGOZA and ALBERTO LAUREANO,
***Petitioners*,**

-versus-

G.R. No. L-37206
April 15, 1988

COURT OF INDUSTRIAL RELATIONS and PHIL. AMERICAN MANAGEMENT and FINANCING COMPANY, INC.,
***Respondents*.**
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D E C I S I O N

CRUZ, *J.*:

Upon the increase of the minimum wage to P6.00 in 1965 under R.A. No. 4180 and to P8.00 under R.A. No. 6129 in 1970, one question that arose between the petitioners and the private respondent was the formula to be adopted in determining the monthly salaries of the workers. The parties agreed that this should be ascertained by multiplying the daily rate by 30, representing the number of paid working days, including Sundays and holidays.[1] Thus, the monthly

salaries of the workers would be P180.00 from April 21,1965, and later P240.00 from June 17, 1970 under the aforestated laws.

There was, however, a number of casual employees receiving higher than the statutory minimum wage at the time who were converted to regular employees but paid monthly salaries determined under a different formula. In their case, their actual rate was reduced to the minimum rate and this was then also multiplied by 30 calendar days. As the petitioners felt that the actual rate received by the casual workers and not the minimum wage only should be the basis of the monthly salaries, they sought a clarification or reconsideration to this effect of the challenged Decision.[2] The respondent court denied the motion, declaring that the issue had not been pleaded or litigated.[3] It also observed, significantly, that the employer should not be penalized for extending benefits over and above those specified by the minimum wage laws by requiring it to maintain the higher rates it had earlier granted to the casuals.[4]

In this appeal, the petitioners argue that the issue of the casual workers was actually pleaded and litigated. We agree. The records show that the petitioners were asking for a determination of the monthly salaries of not only those who were receiving less than the minimum wage but also those casuals who were then receiving higher rates.[5] This issue is therefore appropriate for the clarification sought in the petitioners' motion.

The petitioners claim that by using the minimum wage as the basis, the company would be discriminating against the casual employee who would be receiving less than the regular employee. Thus, if at the time the minimum wage was P8.00, the casual worker was already receiving P10.00, his monthly salary would be P10.00 times 26, representing the days actually worked by him, or P260.00, whereas the salary of the regular employee would be P8.00 times 30 calendar days, or P240.00 a month. This would be the same salary to be given the casual worker upon his conversion to regular status, which would result in a decrease of his usual compensation by P20.00 a month.

The respondent says, however, that upon his conversion to regular status, the casual worker would be actually receiving much more than the monthly salary of P240.00. In addition, he would be entitled to all

the fringe benefits enjoyed by the regular employees, such as vacation, sick and maternity leaves; periodic salary increases, bonuses, medical and dental services, home financing, group life insurance, and others. Moreover, it was the prerogative of management to determine what benefits to extend its employees subject only to the minimum requirements of the government. If it had chosen to give higher rates to the erstwhile casuals, their conversion to regular employees should not operate to the prejudice of the respondent itself as this would in effect punish it for its past generosity.

That may be so, but the point is that these casual employees have been converted to regular and so should be entitled to be treated as such in every respect. Accordingly, in addition to enjoying the fringe benefits mentioned by the respondent, they should also be allowed to retain the same rate they were enjoying at the time of their conversion to regular employees as otherwise they would be effectively demoted in rank and compensation. In the example given, therefore, the casual formerly receiving a daily rate of P10.00 should be entitled to have that rate multiplied by 30 calendar days, for a monthly salary of P300.00.

If the respondent felt the casuals should not be converted to regulars, then they should not have been so converted in the first place. If, as the respondent maintained, the work of the casuals was not permanent and merely periodic or temporary, then they should have been maintained only as casuals, to be hired when and as their services were necessary. Management would doubtless have the prerogative then of determining what special rate to pay them without being bound to extend them the other privileges the regular employees could demand.

As for the other issue raised, to wit, the determination of overtime pay, it appears that the basis used by the company is the quotient reached after dividing the readjusted monthly salary not by 30 calendar days but by 26, representing the number of days actually worked.[6] This was of course beneficial to the worker and under the law such benefit cannot now be validly withdrawn by the respondent. According to Section 19 of R.A. 6129:

> "Nothing in this Act shall deprive an employee of the right to seek fair wages, shorter working hours and better working conditions nor justify an employer in violating any other labor law applicable to his employees, in reducing the wage now paid to any of his employees in excess of the minimum wage established under this Act, or in reducing supplements furnished on the date of enactment."

And as we held in the case of Marcopper Mining Corporation vs. Ople:

> "'Whatever employee benefits or favorable practice being enjoyed by the employee' when it [P.D. No. 851] was promulgated should not be eliminated or diminished. If it were otherwise, it would lose its character as a measure intended to cope with the problems that the low salaried employees face in view of the inflationary state of the economy."[7]

Moreover, such a method having been agreed upon by the petitioner and the private respondent on May 6, 1969, and made retroactive to July 12, 1966,[8] and not being contrary to law, good customs or morals, the respondent court had no authority to disallow the same in derogation of the will of the parties.

The Court notes that since this case was submitted for decision in 1974, the respondent company has retrenched and then been dissolved. It is hoped that, taking into account this pending litigation, its receiver has taken the necessary steps to preserve such of its resources as will be needed to answer for the claims of the workers affected by this decision.[9]

WHEREFORE, the Decision of the respondent court is **AFFIRMED** insofar as it holds that the monthly salary of the regular employees shall be their minimum rate of P6.00 or P8.00 times 30 calendar days; **MODIFIED** in that the monthly salary of the casual employee converted to regular status shall be his actual rate at the time of conversion times 30 calendar days; and **REVERSED** insofar as it disallows the computation of the basis of overtime pay as the amount reached after dividing the readjusted monthly salary by the

number of actual working days, excluding Sundays and holidays, said computation being hereby **APPROVED** by the Court.

SO ORDERED.

Teehankee, *C.J.*, *(Chairman)*, Narvasa, Gancayco and Griño-Aquino, *JJ.*, concur.

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[1] Rollo, pp. 85-86.
[2] Ibid., pp. 101-106.
[3] Id., pp. 108-114.
[4] Id., p. 10.
[5] Id., pp. 23-24; p. 10.
[6] Id., p. 93.
[7] 105 SCRA 75, 83.
[8] Rollo, pp. 15, 16.
[9] Ibid., pp. 223-224.
