



Republic of the Philippines
Supreme Court
 Manila

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 WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

JUL 29 2016

THIRD DIVISION

**HILARIO DASCO,
 REYMIR PARAFINA,
 RICHARD PARAFINA,
 EDILBERTO ANIA,
 MICHAEL ADANO,
 JAIME BOLO, RUBEN E. GULA,
 ANTONIO CUADERNO and
 JOVITO CATANGUI,**
 Petitioners,

G.R. No. 211141

Present:

VELASCO, JR., J.,
Chairperson,
 PERALTA,
 PEREZ,
 REYES, and
 JARDELEZA, JJ.

- versus -

**PHILTRANCO SERVICE
 ENTERPRISES INC./CENTURION
 SOLANO, Manager,**

Promulgated:

Respondents.

June 29, 2016

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DECISION

REYES, J.:

This appeal by petition for review on *certiorari*¹ seeks to annul and set aside the Decision² dated August 30, 2013 and Resolution³ dated January 28, 2014 of the Court of Appeals (CA) in CA-G.R. SP No. 126210, which nullified and set aside the Decision⁴ dated February 22, 2012 and Resolution⁵

¹ Rollo, pp. 8-24.

² Penned by Associate Justice Hakim S. Abdulwahid, with Associate Justices Marlene Gonzales-Sison and Edwin D. Sorongon concurring; id. at 27-35.

³ Id. at 37-38.

⁴ Rendered by Presiding Commissioner Gerardo C. Nograles, with Commissioners Perlita B. Velasco and Romeo L. Go concurring; id. at 49-55.

⁵ Id. at 56-57.

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dated May 30, 2012 of the National Labor Relations Commission (NLRC) in NLRC-NCR Case No. 07-10173-11, and reinstated the Decision⁶ dated October 17, 2011 of the Labor Arbiter (LA), dismissing the monetary claims of Hilario Dasco, Reymir Parafina, Richard Parafina, Edilberto Ania, Michael Adano, Jaime Bolo, Ruben E. Gula, Antonio Cuaderno and Jovito Catangui (petitioners).

The Facts

This case stemmed from a complaint⁷ for regularization, underpayment of wages, non-payment of service incentive leave (SIL) pay, and attorney's fees, filed by the petitioners against Philtranco Service Enterprises Inc., (PSEI), a domestic corporation engaged in providing public utility transportation, and its Manager, Centurion Solano (respondents).

On various dates from 2006 to 2010, the petitioners were employed by the respondents as bus drivers and/or conductors with travel routes of Manila (Pasay) to Bicol, Visayas and Mindanao, and *vice versa*.⁸

On July 4, 2011, the petitioners filed a case against the respondents alleging that: (1) they were already qualified for regular employment status since they have been working with the respondents for several years; (2) they were paid only ₱404.00 per round trip, which lasts from two to five days, without overtime pay and below the minimum wage rate; (3) they cannot be considered as field personnel because their working hours are controlled by the respondents from dispatching to end point and their travel time is monitored and measured by the distance because they are in the business of servicing passengers where time is of the essence; and (4) they had not been given their yearly five-day SIL since the time they were hired by the respondents.⁹

⁶ Issued by Labor Arbiter Enrique L. Flores, Jr.; id. at 58-62.

⁷ Id. at 63-66.

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| Name | Date Hired | Routes | Salary |
|---------------------|------------|---------------------------------------|-------------|
| Reymir Parafina | 4/24/2010 | Manila-Sorsogon and <i>vice versa</i> | P404.00/day |
| Richard Parafina | 4/8/2008 | Manila-Sorsogon and <i>vice versa</i> | P404.00/day |
| Edilberto U. Ania | 3/22/2009 | Manila-Sorsogon and <i>vice versa</i> | P404.00/day |
| Michael Adano | 11/20/2008 | Manila-Sorsogon and <i>vice versa</i> | P404.00/day |
| Jaime T. Bolo | 4/8/2008 | Manila-Davao and <i>vice versa</i> | P404.00/day |
| Ruben E. Gula | 2/8/2009 | Manila-Davao and <i>vice versa</i> | P404.00/day |
| Antonio M. Cuaderno | 4/20/2010 | Manila-Davao and <i>vice versa</i> | P404.00/day |
| Jovito P. Catangui | 2/17/2006 | Manila-Davao and <i>vice versa</i> | P404.00/day |
| Hilario Dasco | 10/6/2007 | Manila-Daet and <i>vice versa</i> | P404.00/day |

Id. at 68-69.

⁹ Id. at 69-71.

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In response, the respondents asserted that: (1) the petitioners were paid on a fixed salary rate of ₱0.49 centavos per kilometer run, or minimum wage, whichever is higher; (2) the petitioners are seasonal employees since their contracts are for a fixed period and their employment was dependent on the exigency of the extraordinary public demand for more buses during peak months of the year; and (3) the petitioners are not entitled to overtime pay and SIL pay because they are field personnel whose time outside the company premises cannot be determined with reasonable certainty since they ply provincial routes and are left alone in the field unsupervised.¹⁰

Ruling of the LA

On October 17, 2011, the LA rendered a Decision¹¹ in favor of the respondents but declared the petitioners as regular employees of the respondents.¹² The LA held that the respondents were able to prove that the petitioners were paid on a fixed salary of ₱0.49 per kilometer run, or minimum wage, whichever is higher. The LA also found that the petitioners are not entitled to holiday pay and SIL pay because they are considered as field personnel.¹³

Dissatisfied with the LA's decision, the petitioners interposed a Partial Appeal¹⁴ filed on December 8, 2011 before the NLRC.

Ruling of the NLRC

In a Decision¹⁵ dated February 22, 2012, the NLRC granted the petitioners' appeal and modified the LA's decision, the dispositive part of which reads:

WHEREFORE, premises considered, the Partial Appeal is GRANTED. The Decision of the [LA] dated October 17, 2011 is hereby MODIFIED in that [PSEI] is directed to pay [the petitioners] wage differentials covering a period of three (3) years counted backwards from the time they filed their complaint against respondents but taking into consideration the respective dates of employment and the prevailing minimum wage rate applicable. [PSEI] is likewise directed to pay [the petitioners SIL] and overtime benefits limited also for a period of three (3) years counted backwards from the time they filed their complaint against respondents.

¹⁰ Id. at 77-79.

¹¹ Id. at 58-62.

¹² Id. at 62.

¹³ Id. at 60.

¹⁴ Id. at 103-112.

¹⁵ Id. at 49-55.

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SO ORDERED.¹⁶

The NLRC held that the petitioners are not field personnel considering that they ply specific routes with fixed time schedules determined by the respondents; thus, they are entitled to minimum wage, SIL pay, and overtime benefits.¹⁷ With regard to the respondents' claim that the petitioners have a fixed term contract, the NLRC concurred with the findings of the LA that the respondents failed to show any document, such as employment contracts and employment records, that would show the dates of hiring, as well as the fixed period agreed upon.¹⁸

The respondents filed a Motion for Reconsideration¹⁹ on March 12, 2012 but it was denied in a Resolution²⁰ dated May 30, 2012; hence, they filed a Petition for *Certiorari*²¹ before the CA.

Meanwhile, during the pendency of this case before the CA, the petitioners filed a motion for issuance of writ of execution to enforce the NLRC decision. Accordingly, a Writ of Execution dated November 6, 2012 was issued. By virtue of such writ, two units of buses owned by PSEI were levied and sold in a public auction, for the amount of ₱600,000.00. Thereafter, a corresponding Sheriff's Certificate of Sale was issued.²²

Ruling of the CA

The CA, in its Decision²³ dated August 30, 2013, reversed and set aside the NLRC rulings and reinstated the LA's decision. Consequently, the writ of execution, levy, auction sale and certificate of sale of PSEI's properties were declared null and void. The petitioners and the NLRC Sheriff were directed to return the subject properties or turn over the monetary value thereof to the respondents.²⁴

In overturning the NLRC's decision, the CA considered the petitioners as field workers and, on that basis, denied their claim for benefits, such as overtime pay and SIL pay. According to the CA, there was no way for the respondents to supervise the petitioners on their job. The petitioners are practically on their own in plying the routes in the field, as in fact, they can deviate from the fixed routes, take short cuts, make detours,

¹⁶ Id. at 54-55.

¹⁷ Id. at 53-54.

¹⁸ Id. at 53.

¹⁹ Id. at 113-117.

²⁰ Id. at 56-57.

²¹ Id. at 118-126.

²² Id. at 34.

²³ Id. at 27-35.

²⁴ Id. at 34-35.

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and take breaks, among others. The petitioners work time and performance are not constantly supervised by the respondents, thus making them field personnel.²⁵

Aggrieved by the foregoing disquisition, the petitioners moved for reconsideration²⁶ but it was denied by the CA in its Resolution²⁷ dated January 28, 2014. Hence, the present petition for review on *certiorari*.

The Issue

The main issue in this case is whether the petitioners as bus drivers and/or conductors are field personnel, and thus entitled to overtime pay and SIL pay.²⁸

Ruling of the Court

The petition is impressed with merit.

Again, the Court reiterates that as a rule, it is not a trier of facts and this applies with greater force in labor cases. Hence, factual findings of quasi-judicial bodies like the NLRC, particularly when they coincide with those of the LA and if supported by substantial evidence, are accorded respect and even finality by this Court. But where the findings of the NLRC and the LA are contradictory, as in the present case, this Court may delve into the records and examine for itself the questioned findings.²⁹

Nevertheless, the facts and the issues surrounding this petition are no longer novel for this Court. The determination of whether bus drivers and/or conductors are considered as field personnel was already threshed out in the case of *Auto Bus Transport Systems, Inc. v. Bautista*,³⁰ where the Court explained that:

As a general rule, [field personnel] are those whose performance of their job/service is not supervised by the employer or his representative, the workplace being away from the principal office and whose hours and days of work cannot be determined with reasonable certainty; hence, they are paid specific amount for rendering specific service or performing specific work. *If required to be at specific*

²⁵ Id. at 33-34.

²⁶ Id. at 39-46.

²⁷ Id. at 37-38.

²⁸ Id. at 17.

²⁹ *Victory Liner, Inc. v. Race*, 548 Phil. 282, 293 (2007).

³⁰ 497 Phil. 863 (2005).

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places at specific times, employees including drivers cannot be said to be field personnel despite the fact that they are performing work away from the principal office of the employee. x x x

x x x x

x x x At this point, it is necessary to stress that the definition of a "field personnel" is not merely concerned with the location where the employee regularly performs his duties but also with the fact that the employee's performance is unsupervised by the employer. As discussed above, field personnel are those who regularly perform their duties away from the principal place of business of the employer *and whose actual hours of work in the field cannot be determined with reasonable certainty.* Thus, in order to conclude whether an employee is a field employee, it is also necessary to ascertain if actual hours of work in the field can be determined with reasonable certainty by the employer. In so doing, an inquiry must be made as to whether or not the employee's time and performance are constantly supervised by the employer.³¹

Guided by the foregoing norms, the NLRC properly concluded that the petitioners are not field personnel but regular employees who perform tasks usually necessary and desirable to the respondents' business. Evidently, the petitioners are not field personnel as defined above and the NLRC's finding in this regard is supported by the established facts of this case: (1) the petitioners, as bus drivers and/or conductors, are directed to transport their passengers at a specified time and place; (2) they are not given the discretion to select and contract with prospective passengers; (3) their actual work hours could be determined with reasonable certainty, as well as their average trips per month; and (4) the respondents supervised their time and performance of duties.

In order to monitor their drivers and/or conductors, as well as the passengers and the bus itself, the bus companies put checkers, who are assigned at tactical places along the travel routes that are plied by their buses. The drivers and/or conductors are required to be at the specific bus terminals at a specified time. In addition, there are always dispatchers in each and every bus terminal, who supervise and ensure prompt departure at specified times and arrival at the estimated proper time. Obviously, these drivers and/or conductors cannot be considered as field personnel because they are under the control and constant supervision of the bus companies while in the performance of their work.

As correctly observed by the NLRC:

³¹ Id. at 873-874, citing the Bureau of Working Conditions, Advisory Opinion to Philippine Technical-Clerical Commercial Employees Association.

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[I]t is undisputed that [the petitioners] as bus drivers/conductors ply specific routes of [PSEI], x x x averaging 2 to 5 days per round trip. They follow fixed time schedules of travel and follow the designated route of [PSEI]. Thus, in carrying out their functions as bus drivers/conductors, they are not at liberty to deviate from the fixed time schedules for departure or arrival or change the routes other than those specifically designated for [PSEI], in accordance with the franchise granted to the [PSEI] as a public utility provider. In other words, [the petitioners] are clearly under the strict supervision and control of [PSEI] in the performance of their functions otherwise the latter will not be able to carry out its business as public utility service provider in accordance with its franchise.³²

The Court agrees with the above-quoted findings of the NLRC. Clearly, the petitioners, as bus drivers and/or conductors, are left alone in the field with the duty to comply with the conditions of the respondents' franchise, as well as to take proper care and custody of the bus they are using. Since the respondents are engaged in the public utility business, the petitioners, as bus drivers and/or conductors, should be considered as regular employees of the respondents because they perform tasks which are directly and necessarily connected with the respondents' business. Thus, they are consequently entitled to the benefits accorded to regular employees of the respondents, including overtime pay and SIL pay.


WHEREFORE, the petition is **GRANTED**. The Decision dated August 30, 2013 and Resolution dated January 28, 2014 of the Court of Appeals in CA-G.R. SP No. 126210 are **REVERSED** and **SET ASIDE**. The Decision dated February 22, 2012 and Resolution dated May 30, 2012 of the National Labor Relations Commission in NLRC-NCR Case No. 07-10173-11 are **REINSTATED**.

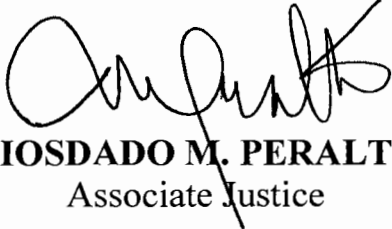
SO ORDERED.


BIENVENIDO L. REYES
Associate Justice


³² *Rollo*, pp. 53-54.

WE CONCUR:


PRESBITERO J. VELASCO, JR.
 Associate Justice
 Chairperson


DIOSDADO M. PERALTA
 Associate Justice


JOSE PORTUGAL PEREZ
 Associate Justice


FRANCIS H. JARDELEZA
 Associate Justice

CERTIFICATION

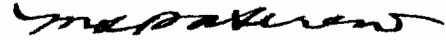
Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
 Associate Justice
 Chairperson

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CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

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WILFREDO V. LAPAN
Division Clerk of Court
Third Division

JUL 29 2016