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THIRD DIVISION

[G.R. No. 82819. February 8, 1989]

LUZ LUMANTA, *ET AL.*, *petitioners, vs.* NATIONAL LABOR RELATIONS COMMISSION and FOOD TERMINAL, INC., *respondents.*

SYLLABUS

1. CONSTITUTIONAL LAW; CIVIL SERVICE; COVERAGE UNDER 1973 AND 1987 CONSTITUTIONS; PHRASE "CORPORATIONS WITH ORIGINAL CHARTER," CONSTRUED. — *Juco* was decided under the 1973 Constitution, Article II-B, Section 1 (1) of which provided: "The civil service embraces every branch, agency, subdivision, and instrumentality of the Government, including every government-owned or controlled corporation." The 1987 Constitution which took effect on 2 February 1987, has on this point a notably different provision which reads: "The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations *with original charter*." The Court, in *National Service Corporation (NASECO) v. National Labor Relations Commission, G.R. No. 69870, promulgated on 29 November 1988*, quoting extensively from the deliberations of the 1986 Constitutional Commission in respect of the intent and meaning of the new phrase "with original charter," in effect held that government-owned and controlled corporations *with original charter* refer to corporations chartered *by special law* as distinguished from corporations organized under our general incorporation statute — the Corporation Code. In *NASECO*, the company involved had been organized under the general incorporation statute and was a subsidiary of the National Investment Development Corporation (NIDC) which in turn was a subsidiary of the Philippine National Bank, a bank chartered by a special statute. Thus, government-owned or controlled corporations like NASECO are effectively excluded from the scope of the Civil Service.

2. ID.; ID.; ID.; 1987 CONSTITUTION, NOT CASE LAW EMBODIED IN *JUCO*, APPLIES IN CASE AT BAR; REASON THEREFOR.

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— It is the 1987 Constitution, and not the case law embodied in *Juco*, which applies in the case at bar, under the principle that jurisdiction is determined as of the time of the filing of the complaint. At the time the complaint against private respondent FTI was filed (*i.e.*, 20 March 1987), and at the time the decisions of the respondent Labor Arbiter and National Labor Relations Commission were rendered (*i.e.*, 31 August 1987 and 18 March 1988, respectively), the 1987 Constitution had already come into effect.

3. **LABOR AND SOCIAL LEGISLATION; NATIONAL LABOR RELATIONS COMMISSION; IN CASE AT BAR, DISPUTE CONCERNING TERMS AND CONDITIONS OF EMPLOYMENT WITHIN JURISDICTION OF LABOR ARBITER; REASON THEREFOR.** — Letter of Instruction No. 1013, dated 19 April 1980, included Food Terminal, Inc. in the category of "government-owned or controlled corporations." Since then, FTI served as the marketing arm of the National Grains Authority (now known as the National Food Authority). The pleadings show that FTI was previously a privately owned enterprise, created and organized under the general incorporation law, with the corporate name "Greater Manila Food Terminal Market, Inc." The record does not indicate the precise amount of the capital stock of FTI that is owned by the government; the petitioners' claim, and this has not been disputed, that FTI is not hundred percent (100%) government-owned and that it has some private shareholders. We conclude that because respondent FTI is government-owned and controlled corporation *without original charter*, it is the Department of Labor and Employment, and not the Civil Service Commission, which has jurisdiction over the dispute arising from employment of the petitioners with private respondent FTI, and that consequently, the terms and conditions of such employment are governed by the Labor Code and not by the Civil Service Rules and Regulations.

APPEARANCES OF COUNSEL

J. S. Torregoza & Associates for petitioners.
The Solicitor General for public respondent.
The Government Corporate Counsel for Food Terminal, Inc.

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RESOLUTION

FELICIANO, *J.*:

The present Petition for *Certiorari* seeks to annul and set aside the Decision of the National Labor Relations Commission rendered on 18 March 1988 in NLRC-NCR Case No. 00-03-01035-87, entitled "*Luz Lumanta, et al., versus Food Terminal Incorporated.*" The Decision affirmed an order of the Labor Arbiter dated 31 August 1987 dismissing petitioners' complaint for lack of jurisdiction.

On 20 March 1987, petitioner Luz Lumanta, joined by fifty-four (54) other retrenched employees, filed a complaint for unpaid retrenchment or separation pay against private respondent Food Terminal, Inc. ("FTI") with the Department of Labor and Employment. The complaint was later amended to include charges of underpayment of wages and non-payment of emergency cost of living allowances (ECOLA).

Private respondent FTI moved to dismiss the complaint on the ground of lack of jurisdiction. It argued that being a government-owned and controlled corporation, its employees are governed by the Civil Service Law not by the Labor Code, and that claims arising from employment fall within the jurisdiction of the Civil Service Commission and not the Department of Labor and Employment.

The petitioners opposed the Motion to Dismiss contending that although FTI is a corporation owned and controlled by the government, it has still the marks of a private corporation: it directly hires its employees without seeking approval from the Civil Service Commission and its personnel are covered by the Social Security System and not the Government Service Insurance System. Petitioners also argued that being a government-owned and controlled corporation without original charter, private respondent FTI clearly falls outside the scope of the civil service as marked out in Section 2 (1), Article IX of the 1987 Constitution.

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On 31 August 1987, Labor Arbiter Isabel P. Oritiguerra issued an Order,[1] the dispositive part of which read:

"On account of the above findings the instant case is governed by the Civil Service Law. The case at bar lies outside the jurisdictional competence of this Office.

WHEREFORE, premises considered this case is hereby directed to be DISMISSED for lack of jurisdiction of this Office to hear and decide the case.

SO ORDERED."

On 18 March 1988, the public respondent National Labor Relations Commission affirmed on appeal the order of the Labor Arbiter and dismissed the petitioners' appeal for lack of merit.

Hence this Petition for *Certiorari*.

The only question raised in the present Petition is whether or not a labor law claim against a government-owned and controlled corporation, such as private respondent FTI, falls within the jurisdiction of the Department of Labor and Employment.

In refusing to take cognizance of petitioners' complaint against private respondent, the Labor Arbiter and the National Labor Relations Commission relied chiefly on this Court's ruling in *National Housing Authority v. Juco*,[2] which held that "there should no longer be any question at this time that employees of government-owned or controlled corporations are governed by civil service law and civil service rules and regulations."

Juco was decided under the 1973 Constitution, Article II-B, Section 1 (1) of which provided:

"The civil service embraces every branch, agency, subdivision, and instrumentality of the Government, including every government-owned or controlled corporation."

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[1] *Rollo*. p. 18.

[2] 134 SCRA 172 (1985).

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The 1987 Constitution which took effect on 2 February 1987, has on this point a notably different provision which reads:

"The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations *with original charter*." (Article IX-B, Section 2 [1]).

The Court, in *National Service Corporation (NASECO) v. National Labor Relations Commission, G.R. No. 69870, promulgated on 29 November 1988*,[3] quoting extensively from the deliberations[4] of the 1986 Constitutional Commission in respect of the intent and meaning of the new phrase "with original charter," in effect held that government-owned and controlled corporations *with original charter* refer to corporations chartered *by special law* as distinguished from corporations organized under our general incorporation statute — the Corporation Code. In *NASECO*, the company involved had been organized under the general incorporation statute and was a subsidiary of the National Investment Development Corporation (NIDC) which in turn was a subsidiary of the Philippine National Bank, a bank chartered by a special statute. Thus, government-owned or controlled corporations like NASECO are effectively excluded from the scope of the Civil Service.

It is the 1987 Constitution, and not the case law embodied in *Juco*,[5] which applies in the case at bar, under the principle that jurisdiction is determined as of the time of the filing of the

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[3] Consolidated with *Engenia C. Credo v. National Labor Relations Commission*, G.R. No. 70295.

[4] Record of the Constitutional Commission, Volume I, pp. 583-585; Deliberations were held on 15 July 1986.

[5] The public respondents overlooked the fact that even in this case which they had chiefly relied upon in throwing out petitioners' complaint, the Court made it clear that its decision "refers [only] to corporations claimed as government owned or controlled entity. It does not cover cases involving private firms taken over by the government in foreclosure or similar proceedings." (134 SCRA at 172 [1985])

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complaint.[6] At the time the complaint against private respondent FTI was filed (*i.e.*, 20 March 1987), and at the time the decisions of the respondent Labor Arbiter and National Labor Relations Commission were rendered (*i.e.*, 31 August 1987 and 18 March 1988, respectively), the 1987 Constitution had already come into effect.

Letter of Instruction No. 1013, dated 19 April 1980, included Food Terminal, Inc. in the category of "government-owned or controlled corporations."[7] Since then, FTI served as the marketing arm of the National Grains Authority (now known as the National Food Authority). The pleadings show that FTI was previously a privately owned enterprise, created and organized under the general incorporation law, with the corporate name "Greater Manila Food Terminal Market, Inc."[8] The record does not indicate the precise amount of the capital stock of FTI that is owned by the government; the petitioners' claim, and this has not been disputed, that FTI is not hundred percent (100%) government-owned and that it has some private shareholders.

We conclude that because respondent FTI is government-owned and controlled corporation *without original charter*, it is the Department of Labor and Employment, and not the Civil Service Commission, which has jurisdiction over the dispute arising from employment of the petitioners with private respondent FTI, and that consequently, the terms and conditions of such employment are governed by the Labor Code and not by the Civil Service Rules and Regulations.

Public respondent National Labor Relations Commission acted without or in excess of its jurisdiction in dismissing petitioners' complaint.

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[6] *Lee v. Municipal Trial Court of Legaspi City*, Branch I, 145 SCRA 408 (1986); *People v. Mariano*, 71 SCRA 600 (1976); *Laperal v. Cruz*, 63 SCRA 329 (1975); *People v. Fontanilla*, 23 SCRA 1227 (1968); and *Rilloraza v. Arciaga*, 21 SCRA 717 (1967).

[7] *Rollo*, p. 18.

[8] *Rollo*, p. 69.

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ACCORDINGLY, the Petition for *Certiorari* is hereby *GRANTED* and the Decision of public respondent Labor Arbiter dated 31 August 1987 and the Decision of public respondent Commission dated 18 March 1988, both in NLRC-NCR Case No. 00-03-01035-87 are hereby *SET ASIDE*. The case is hereby *REMANDED* to the Labor Arbiter for further appropriate proceedings.

Fernan, C.J., Gutierrez, Jr., Bidin, and *Cortes, JJ.*, concur.

FIRST DIVISION

[G.R. No. 84141. February 8, 1989]

TOP RATE INTERNATIONAL SERVICES, INC., *petitioner, vs.* **THE COURT OF APPEALS, JUDGE IGNACIO CAPULONG, in his capacity as Presiding Judge of Branch 134 of the Regional Trial Court of Makati, BANCO FILIPINO SAVINGS & MORTGAGE BANK, and SYCIP, SALAZAR, HERNANDEZ & GATMAITAN,** *respondents.*

SYLLABUS

REMEDIAL LAW; TECHNICAL RULES OF PROCEDURE; SHOULD NOT BE ENCOURAGED TO IMPEDE THE SPEEDY AND JUST RESOLUTION OF A CASE; CASE AT BAR. — In sustaining the Regional Trial Court's refusal to dismiss the lessee's *certiorari* petition notwithstanding its having become moot and academic after the ejectment complaint had been amended to cure the technical defect therein, the Court of Appeals sanctioned a clear dilatory maneuver of Banco Filipino as defendant-lessee in the ejectment case (Civil Case No. 28903). No other purpose could possibly be served by the filing of the *certiorari* case in the Regional Trial Court except to hold up