



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

MARK ABADILLA, NELSON
AGUIRRE, HAYDEN ANDACA
JR., STELLA MARIE MINETTE
AÑO, NOE ARCA, JOSE ARRO,
MELENDE BACASON AUSA,
RENE BAÑARES, FERNANDO
BELEDIANO, MELISSA
BONGCARON, LYDIA
CAGALANAN, VICTORINO
CASPE JR., RICKY CONDADA
SR., DANE DAVILA, RECHEL¹
DE LOS SANTOS, ROEL DELA
FLOR, BETTY DEMONTAÑO,
JAY GALE DEONIDO, ALBERT
DESCUTIDO, EDWARD
DUMALA-OG, CIRIACO ENO,
MAE M. ERAS, BELLA JOY
GAMELO, TERESITA GELIM,
DEMSON GREMIO, HERNANI
GUANZON JR., ARACELI
JENTILIZO, SHARON LEE,
ELSA LISONDRA, ALVIN
LOPEZ, MERCY MELGAR,
REYMOND NARVASA, HARRY
NECESARIO, MARIO PACETE
JR., JOSEPH PALMA, JOEL
PANOLINO, DELILAH PAVIA,
JOEMARIE PEREZ, ROLANDO
PONTE, MILDRED POSTA,
GEORGE PRINCESA JR.,
ROSELYN PROVEDENCIA,

G.R. No. 258658

Present:

GESMUNDO,
*Chairperson,**
HERNANDO,
*Acting Chairperson,***
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.

* On official leave.

** Per Special Order No. 3098 dated June 13, 2024.

¹ Rollo, p. 9. Referred to as "Ritchel" in the Petition for Review on *Certiorari* and the records.

ERICKSON RIVERA, STEPHEN SAZON, ARNOLD TALADUA, ARNEL TALAVER, JOSE TANA JR., JANETH TEROSA, EDNA TORIO, ANALIZA TUBIL, FLOYD BRYAN UNDA, MARLYN VALERO, DONNY VARGAS, RICKY VALENCIANO, JOEY VILLETA,

Petitioners,

- versus -

PHILIPPINE AMUSEMENT & GAMING CORPORATION,²

Respondent.

Promulgated:

JUN 19 2024

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DECISION

HERNANDO, J.:

This Petition for Review on *Certiorari*³ (Petition) challenges the Decision⁴ and the Resolution⁵ of the Court of Appeals (CA) in CA-G.R. CEB SP No. 12537.

² Under Presidential Decree No. 1869 (1983), as amended by Republic Act No. 9487 (2007), the entity should be referred to as "Philippine Amusement and Gaming Corporation".

³ *Rollo*, pp. 9-62.

⁴ *Id.* at 43-51. The December 18, 2019 Decision in CA-G.R. CEB SP. No. 12537 was penned by Associate Justice Gabriel T. Ingles, and concurred in by Associate Justices Marilyn B. Lagura-Yap and Alfredo D. Ampuan of the Special Eighteenth Division, Court of Appeals, Cebu City.

⁵ *Id.* at 65-67. The September 30, 2021 Resolution in CA-G.R. CEB SP. No. 12537 was penned by Associate Justice Gabriel T. Ingles, and concurred in by Associate Justices Marilyn B. Lagura-Yap and Dorothy P. Montejo-Gonzaga of the Special Former Special Eighteenth Division, Court of Appeals, Cebu City.

The Parties

Mark Abadilla, Nelson Aguirre, Hayden Andaca Jr., Stella Marie Minette Año, Noe Arca, Jose Arro, Melende Bacason AUSA, Rene Bañares, Fernando Belediano, Melissa Bongcaron, Lydia Cagalanan, Victorino Caspe Jr., Ricky Condada Sr., Dane Davila, Rechel⁶ De Los Santos, Roel Dela Flor, Betty Demontaño, Jay Gale Deonido, Albert Descutido, Edward Dumala-Og, Ciriaco Eno, Mae M. Eras, Bella Joy Gamelo, Teresita Gelim, Demson Gremio, Hernani Guanzon Jr., Araceli Jentilizo, Sharon Lee, Elsa Lisondra Alvin Lopez, Mercy Melgar, Reymond Narvasa, Harry Necesario, Mario Pacete Jr., Joseph Palma, Joel Panolino, Delilah Pavia, Joemarie Perez, Rolando Ponte, Mildred Posta, George Princesa Jr., Roselyn Provedencia, Erickson Rivera, Stephen Sazon, Arnold Taladua, Arnel Talaver, Jose Tana Jr., Janeth Terosa, Edna Torio, Analiza Tubil, Floyd Bryan Undag, Marlyn Valero, Donny Vargas, Ricky Valenciano, Joey Villeta (collectively Abadilla, et al.), aver that they were employees of the Philippine Amusement and Gaming Corporation (PAGCOR).⁷

Abadilla et al. worked as either cook, assistant cook, waiter, purchaser, pantry aide, food processor, food attendant, steward, assistant food checker, dishwasher, kitchen supervisor, or busboy, among others, for PAGCOR's hotel and restaurant business.⁸ Their employment was evidenced by various contracts of employment designed to end after a fixed term but were occasionally renewed.⁹ Based on the records, the total period over which Abadilla et al. worked for PAGCOR ranged from one year to 17 years.¹⁰

On the other hand, PAGCOR is a government-owned or -controlled corporation (GOCC) with an original charter.¹¹ PAGCOR is governed by Presidential Decree No. 1869,¹² as amended by Republic Act No. 9487,¹³ or the PAGCOR Charter (PAGCOR Charter).

Andres Lizares was the general manager of PAGCOR in Bacolod City,¹⁴ and was referred to in such capacity in the records.

⁶ *Id.* at 9. Referred to as "Ritchel" in the Petition for Review on *Certiorari* and the records.

⁷ *Id.* at 12, 45.

⁸ *Id.* at 25, 95-96.

⁹ *Id.* at 12, 45.

¹⁰ *Id.* at 12-15, 45.

¹¹ *Id.* at 11, 50.

¹² Consolidating and Amending Presidential Decree Nos. 1067-A, 1067-B, 1067-C, 1399 and 163/2, Relative to the Franchise and Powers of the Philippine Amusement and Gaming Corporation (PAGCOR) (1983).

¹³ An Act Further Amending Presidential Decree No. 1869, Otherwise Known as PAGCOR Charter (2007).

¹⁴ *Rollo*, p. 85.

Factual Antecedents

Records show that Abadilla et al. were engaged on a “no work, no pay” basis, and performed works which were necessary and desirable in the business of PAGCOR.¹⁵ However, despite performing work for PAGCOR, Abadilla et al. averred that they were unduly deprived of the benefits extended to the regular employees of PAGCOR, including overtime pay, service incentive leave, and vacation leave.¹⁶

Prior to the filing of the initial complaint, PAGCOR announced its decision to close down its hotel business located at Goldenfield Complex, Bacolod City, and transfer to another location at L’Fisher Hotel, 14th Lacson St., Bacolod City.¹⁷ PAGCOR also announced its decision not to renew Abadilla et al.’s individual contracts.¹⁸

This prompted some¹⁹ of the workers to file an illegal dismissal complaint before the Civil Service Commission – Regional Office (CSCRO-VI).²⁰

On March 7, 2014, the CSCRO-VI promulgated its Decision²¹ dismissing the complaint for lack of jurisdiction.²² The dispositive portion of the CSCRO-VI Decision²³ reads:

WHEREFORE, the complaint of Mae M. Eras, et al. against Andres Lizares, General Manager, Philippine Amusement and Gaming Corporation, Bacolod City, is dismissed for lack of jurisdiction.²⁴

The CSCRO-VI scrutinized the individual contracts of Eras et al. and found that such contracts were “satiated with provisions prohibited by the [applicable Civil Service Commission (CSC)] guidelines, [and] did not convert them into government employees over which [CSCRO-VI] can exercise its jurisdiction.”²⁵ Simply stated, the CSCRO-VI concluded that Eras et al. were job order workers who were not government employees and were not covered by civil service laws and rules.

¹⁵ *Id.* at 12, 45.

¹⁶ *Id.* at 15, 45.

¹⁷ *Id.* at 15, 45.

¹⁸ *Id.* at 15, 45.

¹⁹ *Id.* at 45. The footnote cited in the CA Decision dated December 18, 2019 noted that the following petitioners filed a complaint before the Civil Service Commission – Regional Office: (1) Stella Marie Año, (2) Erickson Rivera, (3) Joemarie Perez, and (4) Ricky Valenciano.

²⁰ *Id.* at 15, 45.

²¹ *Id.* at 77–85. The March 7, 2014 Decision of the Civil Service Commission Regional Office No. 6 in CSCRO6 Case No. ND-14-003 was penned by Director V Atty. Rodolfo B. Encajonado.

²² *Id.* at 45.

²³ *Id.* at 77–85.

²⁴ *Id.* at 85.

²⁵ *Id.* at 84.

Undaunted, Abadilla et al.²⁶ filed a complaint before the Regional Trial Court of Bacolod City on June 4, 2014.²⁷ On November 12, 2014, the trial court dismissed the complaint for lack of jurisdiction and remanded the case to the CSC.²⁸

Thus, Abadilla et al. refiled the case with the CSCRO-VI,²⁹ but it was elevated *motu proprio* as a petition for review/appeal to the CSC in Quezon City.³⁰ On June 3, 2015, the CSC issued an order³¹ requiring Abadilla et al. to pay the appeal fee, which the latter complied with.³²

During the pendency of the case, PAGCOR issued a Memorandum³³ dated December 15, 2016 with the subject “End of Contract” effectively terminating Abadilla et al.’s services.

In an Order³⁴ dated February 9, 2017, the CSC required Abadilla et al. to comply with the requisites of a valid complaint under Section 11 of the Revised Rules on Administrative Cases in the Civil Service. Abadilla et al. complied with the CSC’s mandate on May 5, 2017, and re-filed their complaint.

On August 15, 2018, the CSC promulgated its assailed Order³⁵ and found that Abadilla et al. did not comply with the requisites of a valid complaint. The dispositive portion of the CSC Order³⁶ reads:

WHEREFORE, the Complaint of Dane J. Davilla and twenty-three (23) other employees of the [PAGCOR] is hereby **DISMISSED** without prejudice to its refiled upon compliance with the afore-cited requirements.

SO ORDERED, Quezon City[.]³⁷ (Emphasis in the original)

²⁶ *Id.* at 45. The footnote cited in the CA Decision dated December 18, 2019 noted that Stella Marie Añio did not join the complaint filed before the Regional Trial Court.

²⁷ *Id.* at 17, 45.

²⁸ *Id.* at 17, 45.

²⁹ *Id.* at 46. The footnote cited in the CA Decision dated December 18, 2019 stated that the second complaint was not made part of the records.

³⁰ *Id.* at 46. The footnote cited in the CA Decision dated December 18, 2019 stated that the order elevating the case was not made part of the records.

³¹ *CA rollo*, pp. 78–79. The June 3, 2015 Order of the Civil Service Commission in the case docketed as NDC-2015-05111 was penned by Assistant Commissioner Atty. Ariel G. Ronquillo.

³² *Rollo*, p. 46.

³³ *Id.* at 121–135.

³⁴ *Id.* at 99–100. The February 9, 2017 Order of the Civil Service Commission in the case docketed as NDC-2015-05111 was penned by Assistant Commissioner Atty. Ariel G. Ronquillo.

³⁵ *Id.* at 136–138. The August 15, 2018 Order of the Civil Service Commission in the case docketed as NDC-2015-05111 was penned by Assistant Commissioner Atty. Ariel G. Ronquillo.

³⁶ *Id.* at 136–138.

³⁷ *Id.* at 138.

Undaunted, Abadilla et al. filed their motion for reconsideration,³⁸ which was denied by the CSC in its Order³⁹ dated January 23, 2019. The decretal portion reads:

WHEREFORE, the Motion for Reconsideration of Dane J. Davilla, Assistant Cook, and twenty-three (23) others, employees of the [PAGCOR] is hereby **DENIED**. Accordingly, CSC Order No. 180224 dated August 15, 2018 **STANDS**.⁴⁰ (Emphasis in the original)

Dissatisfied, Abadilla et al. filed their Petition for Review⁴¹ under Rule 43 of the Rules of Court before the CA.⁴²

Ruling of the Court of Appeals

On December 18, 2019, the appellate court denied the petition for review for lack of merit. The dispositive portion of the CA Decision⁴³ reads:

WHEREFORE, the petition is denied for lack of merit.

SO ORDERED.⁴⁴ (Emphasis in the original)

Regarding the procedural issue on the timeliness of the action before the CSC, the appellate court found that the CSC treated the action as an original action instead of an appeal.⁴⁵

More importantly, the appellate court ruled that the civil service laws and rules do not apply to Abadilla et al.⁴⁶

Abadilla et al. sought reconsideration,⁴⁷ but to no avail for their motion for reconsideration was denied due to lack of merit. The CA found that the motion for reconsideration merely reiterated, repeated, and rehashed arguments from its appeal, which were thoroughly discussed in its assailed Decision dated December 18, 2019.⁴⁸

Thus, the dispositive portion of the CA Resolution⁴⁹ dated September 30, 2021 states:

³⁸ *Id.* at 139–147.

³⁹ *Id.* at 148–150. The January 23, 2019 Order of the Civil Service Commission in the case docketed as NDC-2015-05111 was penned by Assistant Commissioner Atty. Ariel G. Ronquillo.

⁴⁰ *Id.* at 150.

⁴¹ *Id.* at 151–171.

⁴² *Id.* at 44.

⁴³ *Id.* at 51.

⁴⁴ *Id.*

⁴⁵ *Id.* at 47–48.

⁴⁶ *Id.* at 48–50.

⁴⁷ *Id.* at 53–62.

⁴⁸ *Id.* at 66.

⁴⁹ *Id.* at 67.

IN LIGHT OF THE FOREGOING, we **DENY** the instant motion for reconsideration for lack of merit.

SO ORDERED.⁵⁰ (Emphasis in the original)

Dissatisfied, Abadilla et al. filed the instant Petition ascribing two errors on the part of the appellate court: (1) they are not confidential employees;⁵¹ and (2) they are regular employees of PAGCOR entitled to security of tenure.⁵²

Issue

The main issue in the Petition is the employment status of Abadilla et al.

Our Ruling

We affirm.

The Court finds that Abadilla et al. are contract of service and job order workers. Consequently, the CA did not gravely abuse its discretion in ruling that Abadilla et al. are not regular employees under the civil service, and are thus not under the jurisdiction of the CSC.

PAGCOR has the power to hire its own employees, as well as contract of service or job order workers

An employer-employee relationship in the public sector is primarily determined by special laws, civil service laws, rules and regulations.⁵³

It is undisputed that PAGCOR is a GOCC created under the PAGCOR Charter. Under its charter, PAGCOR was created for two main purposes: (1) to centralize and integrate the right and authority to operate and conduct games of chance into one corporate entity to be controlled, administered, and supervised by the Government;⁵⁴ and (2) to establish and operate clubs and casinos, for amusement and recreation, including sports gaming pools (basketball, football, lotteries, etc.) and such other forms of amusement and recreation including games of chance, which may be allowed by law within the territorial jurisdiction of the Philippines,⁵⁵ among others.

⁵⁰ *Id.*

⁵¹ *Id.* at 20–24.

⁵² *Id.* at 24–31.

⁵³ *National Transmission Corporation. v. Commission on Audit*, 800 Phil. 618, 629 (2016) [Per J. Mendoza, *En Banc*].

⁵⁴ See Presidential Decree No. 1869 (1983), sec. 1 (a).

⁵⁵ See Presidential Decree No. 1869 (1983), sec. 1 (b).

One of PAGCOR's corporate powers is the employment of such officers and personnel as may be necessary or proper to carry on its business.⁵⁶

The PAGCOR Charter explicitly states that PAGCOR is exempted from Civil Service Law and is governed by its own personnel management policies.⁵⁷ Accordingly, PAGCOR Charter, Sec. 16 states:

SECTION 16. *Exemption.* — All position in the Corporation, whether technical, administrative, professional, or managerial are exempt from the provisions of the Civil Service Law, rules and regulations, and shall be governed only by the personnel management policies set by the Board of Directors. All employees of the casinos and related services shall be classified as "Confidential" appointee.

We discussed the proper and more logical interpretation of PAGCOR Charter, Sec. 16, in *Civil Service Commission and Philippine Amusement and Gaming Corporation v. Salas*⁵⁸ (*Salas*). Thus, We ruled:

On this point, [W]e approve the more logical interpretation advanced by the CSC to the effect that "PD 1869 [Section 16] insofar as it exempts PAGCOR positions from the provisions of Civil Service Law and Rules has been amended, modified or deemed repealed by the 1987 Constitution and Executive Order No. 292 (Administrative Code of 1987)."

However, the same cannot be said with respect to the last portion of Section 16 which provides that "all employees of the casino and related services shall be classified as 'confidential appointees.'" While such executive declaration emanated merely from the provisions of the Civil Service Act of 1959, [Rule XX of the implementing rules, Sec. 2 thereof], the power to declare a position as policy-determining, primarily confidential or highly technical as defined therein has subsequently been codified and incorporated in [Executive Order No. 292, Book V, Section 12(9)] or the Administrative Code of 1987. This later enactment only serves to bolster the validity of the categorization made under . . . Presidential Decree No. 1869[Section 16]. Be that as it may, such [a] classification is not absolute and all-encompassing.⁵⁹ (Emphasis supplied, citations omitted)

Expounding on *Salas*, We ruled in *Philippine Amusement and Gaming Corporation v. Rilloraza*⁶⁰ (*Rilloraza*), among others, that PAGCOR Charter, Sec. 16, insofar as it declares all positions within PAGCOR as primarily confidential, is not absolutely binding on the courts. Thus:

Justice Regalado's incisive discourse yields three (3) important points: first, **the classification of a particular position as primarily confidential, policy-determining or highly technical amounts to no more than an**

⁵⁶ See Presidential Decree No. 1869 (1983), sec. 3 (e).

⁵⁷ See Presidential Decree No. 1869 (1983), sec. 16.

⁵⁸ 340 Phil. 526 (1997) [Per J. Regalado, *En Banc*].

⁵⁹ *Id.* at 534.

⁶⁰ 412 Phil. 114 (2001) [Per J. De Leon, Jr., Second Division].

executive or legislative declaration that is not conclusive upon the courts, the true test being the nature of the position. Second, whether primarily confidential, policy-determining or highly technical, the exemption provided in the Charter pertains to exemption from competitive examination to determine merit and fitness to enter the civil service. Such employees are still protected by the mantle of security of tenure. **Last, and more to the point, P.D. 1869, [Sec. 16,] insofar as it declares all positions within PAGCOR as primarily confidential, is not absolutely binding on the courts.**⁶¹ (Emphasis supplied)

Applying the foregoing, the PAGCOR Charter, Sec. 16 thereof, applies to government employees hired by PAGCOR.

In particular, the first sentence of Sec. 16, insofar as it exempts PAGCOR positions from the provisions of Civil Service Law and Rules, has been amended, modified, or deemed repealed by the 1987 Constitution and Executive Order No. 292⁶² or the Administrative Code of 1987.

On the other hand, the second sentence of Sec. 16 referring to “confidential employees” should not be liberally applied to all *other* PAGCOR employees. Instead, confidential employees of PAGCOR are determined by the nature of the position, and such a classification is not absolutely binding on the courts.

However, not all personnel hired by PAGCOR are considered government employees governed by applicable civil service laws and rules as discussed above.⁶³ **Other personnel hired by PAGCOR are considered contract of service or job order workers who are not government employees and are not under the jurisdiction of the CSC.**

As will be discussed separately, there are applicable government issuances for contract of service or job order workers.

*Abadilla, et al. are not
confidential employees of
PAGCOR*

In a catena of cases involving PAGCOR, We ruled that the internal security staff member in *Salas*,⁶⁴ casino operations manager in *Rilloraza*,⁶⁵ and slot machine roving token attendants,⁶⁶ are not confidential employees. In the cited jurisprudence, We took into account the nature of the functions, organizational

⁶¹ *Id.* at 128.

⁶² Instituting the “Administrative Code of 1987” (1987).

⁶³ *Rollo*, p. 81.

⁶⁴ 340 Phil. 526, 539 (1997) [Per J. Regalado, *En Banc*].

⁶⁵ 412 Phil. 114, 132 (2001) [Per J. De Leon, Jr., Second Division].

⁶⁶ *Philippine Amusement and Gaming Corporation v. Angara*, 511 Phil. 486, 488 (2005) [Per J. Austria-Martinez, Second Division].

ranking, and compensation level, of the employees concerned, then concluded that the positions were not of confidential employees.

Here, Abadilla et al. argue that they are not confidential employees of PAGCOR, contrary to the finding of the appellate court.⁶⁷ To support their argument, Abadilla et al. quoted the summary of the appellate court in its September 30, 2021 Resolution,⁶⁸ to wit:

Still and all and if only to make a point, we have thoroughly discussed the following in our decision: **(1) that, the labor code recognizes that the terms and conditions of employment of all government employees, including those of GOCC's, shall be governed by the civil service law, rules and regulations; (2) that CSC-COA-DBM Joint Circular No. 01-07, June 15, 2017, clarified that workers under contract of service or job order are not covered by Civil Service laws, rules and regulations; (3) that, in cases of GOCC's created by special law, the terms and conditions of employment of its employees are particularly governed by its charter; (4) that, the respondent is a government[-]owned and [-]controlled corporation and its charter, [Presidential Decree] 1869, provides that all positions in the [corporation, whether technical, administrative, professional or managerial are exempt from the provisions of the Civil Service law, rules and regulations and] shall be governed only by the personnel management policies set by the Board of Directors. All employees of the casinos and related services shall be classified as "confidential" appointee; (5) that, law and jurisprudence are clear on the matter, petitioners are not covered by the civil service laws and are not entitled to the benefits of those covered; (6) that, consequently the Civil Service Commission does not have jurisdiction over them; (7) that, their tenure as workers of the respondent is limited by the term set in their contract; (8) that, the decision of the CSCRO-VI did not amount to [*res judicata*] since it did not have jurisdiction over the subject matter and over the petitioners as contract of service and job order workers; (9) that, as a result, the issue of whether or not the CSC erred in dismissing the complaint pursuant to section 11 of the RRACCS need not be resolved.**⁶⁹ (Emphasis supplied)

Abadilla et al. gravely misinterpreted the first four pronouncements of the appellate court. Nowhere did the CA rule that they are confidential employees.

As Abadilla et al. themselves pointed out, the positions of cook, assistant cook, waiter, purchaser, pantry aide, food processor, food attendant, steward, assistant food checker, dishwasher, kitchen supervisor, or busboy, among others, belong to the lowest rank and cannot be considered confidential.⁷⁰

⁶⁷ *Rollo*, pp. 20–24.

⁶⁸ *Id.* at 20–21.

⁶⁹ *Id.* at 66–67.

⁷⁰ *Id.* at 21.

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Applying jurisprudence, the nature of Abadilla et al.'s functions, their organizational ranking, and compensation level, cannot be considered as confidential. Thus, Abadilla et al. are not confidential employees of PAGCOR.

Abadilla et al. are not regular employees, but contract of service and job order workers of PAGCOR

Abadilla et al. are neither confidential employees nor regular employees of PAGCOR. Instead, they are contract of service and job order workers.

The provisions of CSC Memorandum Circular No. 40, series of 1998⁷¹ (CSC Memorandum Circular No. 40-98), CSC Resolution No. 020790⁷² dated June 5, 2002 (CSC Resolution No. 020790), and CSC, COA, and Department of Budget and Management (DBM) Joint Circular No. 1, series of 2017⁷³ dated June 15, 2007 (CSC-COA-DBM Joint Circular No. 1) apply to contract of service and job order workers.

Workers under contracts of services and job orders are not considered to have rendered service for the government,⁷⁴ covers lump sum work or services where no employee-employer relationship exist,⁷⁵ exists for a period of short duration not exceeding six months on a daily basis,⁷⁶ are not covered by Civil Service Law, Rules, and Regulations, but by the Commission on Audit (COA) rules,⁷⁷ and do not enjoy the benefits enjoyed by government employees.⁷⁸

Thus, CSC Memorandum Circular No. 40-98, Rule XI, Secs. 1 and 2 read:

SECTION 1. Contracts of Services/Job Orders, as distinguished from those covered under Sec. 2 (e) and (f), RULE III of these Rules, need not be submitted to the Commission. **Services rendered thereunder are not considered government services.**

SECTION 2. Contracts of Services/Job Orders refer to employment described as follows:

- a. **The contract covers lump sum work or services such as janitorial, security, or consultancy services where no employer-employee relationship exist;**

⁷¹ CSC Memorandum Circular No. 40 (1989)

⁷² CSC Resolution No. 020790 (2002).

⁷³ CSC, COA, DBM Joint Circular No. 1 (2017).

⁷⁴ See Civil Service Commission Memorandum Circular No. 40 (1998), rule XI, sec. 1.

⁷⁵ See Civil Service Commission Memorandum Circular No. 40 (1998), rule XI, sec. 2 (a).

⁷⁶ See Civil Service Commission Memorandum Circular No. 40 (1998), rule XI, sec. 2 (b).

⁷⁷ See Civil Service Commission Memorandum Circular No. 40 (1998), rule XI sec. 2 (c).

⁷⁸ See Civil Service Commission Memorandum Circular No. 40 (1998), rule XI, sec. 2 (d).

- b. **The job order covers piece work or intermittent job of short duration not exceeding six months on a daily basis;**
- c. **The contracts of services and job orders are not covered by Civil Service Law, Rules and Regulations, but covered by COA rules;**
- d. **The employees involved in the contracts or job orders do not enjoy the benefits enjoyed by government employees, such as PERA, COLA and RATA. (Emphasis supplied)**

Furthermore, as expressly stated by the CSC, there are specific provisions that must not be incorporated in contract of services or job orders. Thus, Sec. 3 of CSC Resolution No. 020790 reads:

SECTION 3. The contract of services, MOA or job order shall not contain the following provisions:

- a. **The employee performs work or a regular function that is necessary and essential to the agency concerned or work also performed by the regular personnel of the hiring agency;**
- b. The employee is required to report to the office and render service during the agency's prescribed office hours from 8:00 am to 5:00 pm or for forty (40) hours per week;
- c. **The employee is entitled to benefits enjoyed by government employees such as ACA, PERA and RATA and other benefits given by the agency such as mid-year bonus, productivity incentive, Christmas bonus and cash gifts.**
- d. **The employee's conduct and performance shall be under the direct control and supervision of the government agency concerned.**
- e. The employee's performance shall be evaluated by the government agency. (Emphasis supplied)

The employment status is therefore clear. In jurisprudence, We ruled that “[a] plain reading of the foregoing provisions of CSC Resolution No. 020790 shows that workers hired under job orders are not government employees. They do not enjoy the same benefits as government employees and their services rendered are not considered government service.”⁷⁹

In 2017, the CSC, COA, and DBM noted the proliferation of individual job order and contract of service workers in the government, and issued a joint circular to address the issues on lack of social protection for the workers and inequality in benefits, as well as the obscure accountability of job order and contract of services workers due to lack of employee-employer relationship with the hiring agency.⁸⁰

⁷⁹ *People v. Palma Gil-Rolfo*, G.R. No. 249564 & 249568-76, March 21, 2022 [Per J. Hernando, Second Division] at 21. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁸⁰ See CSC, COA, DBM Joint Circular No. 1 (2017) par. 1.

In CSC-COA-DBM Joint Circular No. 1, it was expressly stated that contract of services or job order workers are not covered by Civil Service laws and rules. Accordingly, Section 7.4 of the CSC-COA-DBM Joint Circular No. 1 states:

7.4 The services of the contract of service and job order workers are not covered by Civil Service law and rules thus, not creditable as government service. They do not enjoy the benefits enjoyed by government employees, such as leave, PERA, RATA and thirteenth month pay.
(Emphasis supplied)

In jurisprudence, We emphasized that CSC-COA-DBM Joint Circular No. 1 clarified the earlier guidelines set forth by the CSC.⁸¹ We likewise reiterated that there is no employer-employee relationship between the government and job order workers, and that the latter's services are not considered government service.⁸² For these reasons, job order employees are not covered by Civil Service law, rules, and regulations.⁸³

Applying the foregoing to the case at bar, We find that Abadilla et al. are contract of service and job order workers in the government who are not government employees, and are not covered by Civil Service law, rules, and regulations.

In fact, the Contract of Employment⁸⁴ issued by PAGCOR to Abadilla et al. is indeed a contract of service or job order that complied with CSC Memorandum Circular No. 40-98 and CSC Resolution No. 020790.

We quote with approval the findings of the CSC in its Decision⁸⁵ dated March 7, 2014:

In the instant case, a circumspect examination of the Contract of Employment attached to the complaint indicates that the nature of the complainants' work in PAGCOR is [a] contract of services. Despite the fact that the employment contract is riddled with allusion to the applicability of Civil Service laws, rules and regulations, the spirit and intent of the contract as gleaned from its provisions, is in the nature of contract of services. Manifestations obtaining in the Employment Contract are under contract of services are noted, as follows:

⁸¹ *People v. Palma Gil-Rolfo*, G.R. No. 249564 & 249568-76, March 21, 2022 [Per J. Hernando, Second Division] at 22. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Rollo*, p. 74.

⁸⁵ *Id.* at 77-85.

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1. The employment contract provides in Paragraph 1 that employees who rendered work in excess of eight (8) hours a day are "entitled to an hourly overtime pay". . . . On the contrary, government employees who render overtime work are not paid monetary compensation equivalent to the number of hours rendered overtime. . . .;
2. Aside from the Night Shift Auditor, the services rendered by the complainants under the employment contract are considered "janitorial" services. . . The positions of the complainants indicated in the Summary of Services vary from cook, waiter, dishwasher, and pantry aide;
3. Complainants are paid a basic daily rate appropriate to their respective positions. Aside from the additional benefit of thirty-five [PHP 35.00] worth of meal per duty, complainants are not paid COLA, PERA, and RATA. . . . Moreover, the allegations in the complaint that complainants are not receiving benefits accorded to government employees such as leave benefits, 13th month pay and the like is sufficient to form a conclusion that they are not considered government employees cloaked by Civil Service laws and rules.
4. The complainants were not issued appointments in accordance with the appropriate Civil Service rules; hence, they are not considered "contractual employees." . . . and;
5. The [CSC] Negros Occidental Field Office is bereft of employment records or appointments of the complainants. This fact strengthens the conclusion that complainants in the instant case worked with PAGCOR under contract of services

The fact that the employment contracts of the complainants with PAGCOR contain provisions and items such as "eight (8) working hours a day," "strict observance of civil service laws, rules and regulations," (sic) and "contractual employment," does not automatically make the complainants government employees

....

Thus, complainants' employment contract with PAGCOR, satiated with provisions prohibited by [CSC Memorandum Circular No. 40-98 and CSC Resolution No. 020790], did not convert them into government employees over which this office can exercise its jurisdiction.

The confluence of the above-mentioned circumstances creates a reasonable conclusion that complainants rendered work at PAGCOR under contract of services. As such, complainants are not considered government employees; hence, outside the mantle of Civil Service laws, rules and regulations. Consequently, this Office is stripped of jurisdiction in matters involving job orders and workers covered by contracts of services.⁸⁶ (Emphases supplied)

⁸⁶ *Id.* at 82-84.

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It is clear from the records that the nature of Abadilla et al.'s functions, their organizational ranking, compensation level, and employment contracts, do not classify them as either confidential employees nor regular employees of PAGCOR.

Consequently, the CA did not gravely abuse its discretion in ruling that Abadilla et al. are job order workers, and are thus not under the jurisdiction of the CSC.

In summary, We rule that PAGCOR has the power to hire its own employees, as well as contract of service of job order workers. While it is recognized that the petitioners are contract of service or job order workers, We find that they are neither confidential employees nor regular employees of PAGCOR.

A final note.

What has become abundantly clear is what Abadilla et al. are not.

They are not confidential employees as determined by law and jurisprudence through the nature of their functions, their organizational ranking, and their compensation level.

They are also not regular employees nor government employees because of various government issuances limiting their contracts.

At the core of it all, Abadilla et al. are workers and personnel whose humanity must also be recognized.

This Court seeks to uphold the constitutional protection afforded to labor.⁸⁷ We sternly remind PAGCOR and all similar agencies that while their authority to contract services is recognized under applicable civil service rules,⁸⁸ such hiring authority should not be used to mistreat or otherwise mismanage contract of service or job order workers.

ACCORDINGLY, the Petition for Review on *Certiorari* is **DENIED**. The Court of Appeals' December 18, 2019 Decision and the September 30, 2021 Resolution in CA-G.R. CEB SP No. 12537 are **AFFIRMED**.

⁸⁷ See CONST., art. XIII, sec. 3, par. 1; art. II, sec. 18.

⁸⁸ *National Transmission Corporation. v. Commission on Audit*, 800 Phil. 618, 627 (2016) [Per J. Mendoza, *En Banc*].

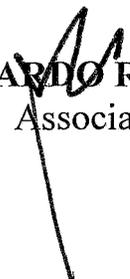
SO ORDERED.


RAMON PAUL L. HERNANDO
Associate Justice
Acting Chairperson

WE CONCUR:

(on official leave)
ALEXANDER G. GESMUNDO
Chairperson
Chief Justice

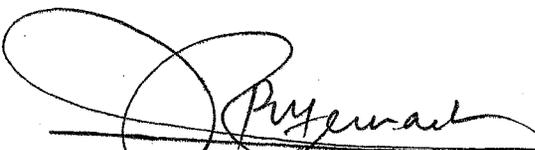

RODIL V. ZALAMEDA
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

ATTESTATION

I attest 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.



RAMON PAUL L. HERNANDO
Acting Chairperson

CERTIFICATION

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



MARVIC M.V.F. LEONEN
Acting Chief Justice

