FIRESTONE PLANTATIONS COMPANY, by and thru its representative, Appellant, *v.* **ZAWO REGISTRATION** NO. E2-114, et al. and THE BOARD OF GENERAL APPEALS, Ministry of Labour, Appellees.

APPEAL FROM THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT, MONTSERRADO COUNTY.

Heard November 19, 1985. Decided: December 18, 1985.

1. Watchmen working on plantations or within an agricultural establishment, and whose work are defined by assigned tasks and not by hours, are deemed to be agricultural workers under the provisions of section 700(f) of the Labor Practices Laws of Liberia. To hold otherwise would be arbitrary and discriminatory.
2. Watchmen working on a plantation qualify as agricultural employees under section 701(3)(b) as their attendance at the place of employment is the chief requisite and their work requirements should coincide with the provisions of that section.
3. The duties of office workers, watchmen, maintenance workers, engineers and similar workers employed by farmers or on farms, are activities that fall within the scope of the definition of agriculture as that term is defined by the law.

Appellees, who worked as night watchmen at the appellant's agricultural plantations, filed an unfair labour practice suit with the Ministry of Labour complaining that they had been working for the appellant for twelve years — from 1964 to the date of the filing of the complaint — for twelve hours a day without being paid overtime as provided for by the Labor Laws of Liberia. They therefore demanded that the appellant be made to pay them as overtime the number of hours worked in excess of the eight hours prescribed by the Labor Practices Laws. The appellant countered that the watchmen were considered under the law as agricultural workers, and that as such they were excluded from the benefits prescribed by section 801 of the Labor Practices Law, including exclusion from entitlement to overtime pay. The hearing officer disagreed and ruled in favor of the appellees, granting an award both to the appellees and to other watchmen who were not complainants to the suit.

On appeal to the Board of General Appeals, the ruling was affirmed. The Sixth Judicial

Circuit Court to which a further appeal was taken also affirmed the ruling, with the modification that the award be limited to only the original nine complainants, rather than to cover the other watchmen who were not parties to the suit.

On a further appeal to the Supreme Court, the ruling was reversed. The Court held that the complainants, whose work were carried out on agricultural plantations, were agricultural workers within the contemplation of the Labor Practices Laws, and that as such, they were covered by the provisions of sections 700(f) and 701(b) which allowed the employer to utilize the services of the watchmen for up to twelve hours per day but without extending to them the benefits of overtime prescribed by section 801 of the Labor Practices Law for employees outside the agricultural sector. Sections 700 and 701 excluded agricultural workers from receiving overtime because of the nature of their work.

The appellees had contended that the exclusion covered only certain agricultural workers and not persons not directly engaged in the planting and cultivation of the plantations. The Court disagreed, holding that such interpretation of the law would make the law arbitrary and discriminatory. The Court therefore *reversed* the judgment of the lower court.

John A. Dennis, George E. Henries and *Victor Hne* appeared for the appellant. *Henrique Smith* and *Carlor Smith* appeared for the appellees

MR. JUSTICE MORRIS delivered the opinion of the Court.

The genesis of this case dates back to January 20, 1981, when nine employees of the Firestone Plantations Company, head-quartered in Harbel, serving in the capacity of night watchmen, filed a complaint with the Ministry of Labour against their employer, claiming that they had been working for twelve hours a day since 1964 without being paid for overtime as provided by law. The hearing officer heard the complaint and ruled in favor of the complainants and all other watchmen who were not com-plainants, holding that the present complainants were regarded as representatives for the others. The hearing officer listed the complainants and the award made to each of them. The appel-lant, being dissatisfied with both the ruling of the hearing officer and the Board of General Appeals, appealed to the Sixth Judicial Circuit Court, Montserrado County, for judicial review. The Sixth Judicial Circuit Court affirmed the ruling of the Board of General Appeals, with the modification that the award be limited to the nine original complainants. The appellant again appealed from the ruling of the judge, especially that portion which declared that the

complainants were not agricultural employees.

The main issues in this case are whether or not the watchmen are agricultural workers and whether, although being required to work twelve hours per day, are therefore excluded from the benefits of overtime as provided by the Labor Practices Law of Liberia. In that connection, we herewith quote count one of the appellees' brief:

> "As to count 1 of appellant's bill of exception, appellees submit that the mere existence of an agro-industrial complex in addition to the requirement that only agricultural union may unionize its employees does not exclude the employment of workers other than task-oriented workers. Furthermore, it was never the intention of the Legislature to exclude all agricultural workers from the benefits enumerated under chapter 8 of the Labor Practices Law, but only those with specific tasks who are not paid hourly wages such as rubber tappers, harvesters, etc. Appellees submit that they are paid at an hourly rate, as is evidenced by the list of awards. Consequently, to make reference to their assignments as task-oriented workers is to take the term 'task' out of its ordinary meaning and in a manner inconsistent with the Labor Practices Law."

The appellees have relied on the opinion of this Court in the cases *Brownell v. Brownell,* 5 LLR 76 (1936) which was a divorce case; *George v. Republic of Liberia*, 14 LLR 158 (1960) which was a motion to dismiss an appeal in a prosecution for embezzlement; and several other cases decided in the past by this Court. We have not seen the relation which these cases, relied upon by the appellees, bears to the instant case. Appellees also quoted the Labor Practices Law of Liberia, chapter 8, section 700 (f); Black's Law Dictionary, 5th Edition, under "watchman", at page 1426; and the definition of the word task as given by Webster's New Collegiate Dictionary, at page 1193. We recite section 700(f) of the Labor Laws of Liberia relied upon by appellees:

> "(f) rubber-tree tappers and other agricultural workers whose work is defined by an assigned task and not by hours."

Since our statute is silent on the definition of agricultural labor, we shall seek the aid of common law authorities.

The California law was amended in 1940 by the employment commission to exclude specialized services from the term "agricultural labor" and to add a new provision which reads as follows:

> "Where the nature of the services is such that it might be properly said of the individual performing it that he is pursuing a special trade, calling, or occupation not closely connected with agriculture, the service does not constitute agricultural labor even though

the service may be per-formed on a farm by an employee of the owner or tenant thereof. Typical of such services are those performed by managers, supervisors, foremen, carpenters, painters, black-smiths, mechanics, or engineers, timekeepers, bookkeepers or other clerical workers, watchmen, janitors, cooks and gardeners." 53 ALR 2d., page 428, fn. 11.

In passing upon this amendment, the California court held that the exemption must be determined in accordance with the broad term "agricultural labor" as used in the Unemployment Compensation Act, and that the restriction contained in the commission's rule was arbitrary and discriminatory. This is the holding of the authorities:

"All employees on the plaintiff's 97,000 acre ranch were held excluded from coverage under the Unemployment Insurance Act for the years 1939 to 1941, in *Irvine Co. v. California Employment Comm.* (1946) 27 Cal2d 570, 165 P2d 908, under a definition of agricultural labor which up to 1940 was essentially the same as Treasury Regulation 90 under the federal act. To facilitate the operation of its ranch the plaintiff maintained several specialized crews, one of which maintained and operated irrigation, drainage, and reclamation systems; another group of workers consisted of electricians who repaired and maintained electric lines on the ranch, and did the necessary wiring and repairing; another group consisted of carpenters, painters, and plumbers, who looked after 245 large buildings and 190 small sheds on the ranch; another group of blacksmiths and mechanics worked at repairing and maintaining various equipment used on the ranch while another group of workers consisted of bookkeepers, stenographers, a selling and purchasing agent, and other office help, together with various foremen, superintendents, and managers of various kinds. The court held that all of these workers were included within the agricultural exemption for the entire period even though the applicable definition under the California law had been amended in 1940 by the employment commission so as to exclude such specialized services. The court concluded that the exemption must be determined in accordance with the broad term 'agricultural labor' as used in the Unemployment Compensation Act, and that the restriction contained in the commission's rule was arbitrary and discriminatory." *Ibid,* p. 428.

It is our candid opinion that the complainants are agricultural workers under the provision of section 700 (f) of the Labor Laws of Liberia, whose work is defined by an assigned task and not by hours, i.e., that of a watchman from six o'clock p.m. to six o'clock a.m. To hold otherwise would be arbitrary and discrimi-natory as held by the court *supra.*

To further buttress our position we also quote the following:

"In most of the cases where the question has arisen craftsmen employed in maintenance work on farms or ranches have been held included within the exemption of agricultural workers.

"Two carpenters, employed on a large dairy farm which produced 300 gallons of milk per day were held to come within the definition of agricultural labor as promulgated by regulation 90, in effect prior to 1940. In *Jones v Gaylord Guernsey Farms* (1942, CA 10th Okla) 128 F2d 1008, revg (DC), 41 F Supp. 367, the court pointing out that repairing fences and buildings was a necessary incident to the actual farming operations, since without fences cattle could not be raised, and without barns and granaries to hold the grain, there would be no object in planting or harvesting it.

"Mechanics who worked for a large dairy and whose duties consisted of maintaining and repairing the delivery trucks and other machinery used by the dairy in its business were held engaged in agricultural labor within the meaning of the social security exemption in *United States v Navar* (1946, CA5th Tex) 158 F2d. 91, affg (DC) 62 F Supp 344, the court stating that such employees were engaged in performing tasks necessarily incident to the operation of the dairy." *Ibid.*, page 427, (b) Maintenance Workers.

Further, section 701 (3) of our Labor Practices Law provides:

"3. Employees engaged in work

(a) of such a nature that it can only be performed at irregular intervals during the daily hours of work for which the employees need to be available for work or

(b) in which attendance at the place of employment is the chief requisite, or

(c) in the iron ore mining industry, may be required to work in excess of the number of hours speci-fied in sub-section I of this section; but in no such case shall the hours of work for which the employees need to be available for work exceed twelve hours a day or seventy-two hours a week."

The complainants also fall within the provision of section 701 (3) (b); their attendance at the place of employment being the chief requisite, they are therefore required to work in excess of the hours stipulated by Section 701 (1) but not in excess of twelve hours per day as provided above.

As we have said earlier, the main issues are the two issues which we have already decided, i.e., whether the complainants are agricultural workers and why they should work twelve hours a day.

Counsels for appellees also contended before us that the word "task", according to Webster's Dictionary, means a specified piece or amount of work usually assigned by another and which often is required or expected to be finished within a certain time. Therefore, they say, the complainants who were all night watch-men do not fall within this definition. Whilst it is true that this is one of the definitions of the word "task", it is equally true that the word "task" is also defined as the job allotted to someone as his duty or to some inanimate thing as its proper function. The word task is synonymous with duty, assignment, job, stint and chore. Task refers to a specific piece of work or service usually imposed by authority or circumstance, or sometimes undertaken voluntarily. The assignment or the job given the complainants was that of night watchmen, that is, to guide and take care of the premises entrusted to them during the night. Their task, in other word, was that of a night watchmen. WEBSTER'S THIRD NEW INTER-NATIONAL DICTIONARY 2342.

The contention of the appellees that it was not the intention of the Legislature to exclude all agricultural workers from the benefit enumerated in chapter 8 of the Labor Practices Law, but only those with specific task who are not paid hourly wages is far fetched. In our opinion, to subscribe such intention to the Legislature would mean discriminating. In *Navar et al v. United States*, it was held that workers in processing or pasteuring plant and repairmen, mechanics, and truck drivers employed on a dairy farm of taxpayers whose chief business was breeding cattle, raising calves into milk cows for dairy farm, and production, sale, and delivery, at wholesale and retail, of milk and cream were engaged in agricultural labor within the Social Security Act Provision excluding agricultural labor. 62 F Supp. 344.

Finally, it has been held that "the duties of office workers, watchmen, maintenance workers, engineers and similar workers employed by a farmer or on a farm, are activities within the scope of the definition of agriculture as defined in the act." Wecht, Herman A., *Wage Hour Law*, 133.

In view of all the facts we have narrated, the laws cited and the circumstances surrounding this case, it is our holding that the judgment of the lower court be and the same is hereby reversed. And it is hereby so ordered.

Judgment reversed.