

PACIFIC LUMBER & WOOD RESOURCES, INC., AND/OR RENATO VILLEGAS AND FRANKLIN ABELLA, IN THEIR CAPACITY AS GENERAL MANAGER AND OPERATION MANAGER, RESPECTIVELY, PETITIONER, VS. NATI...

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

Before Us is a Petition for Certiorari[1] under Rule 65 assailing the Resolutions dated May 31, 2010[2] and August 31, 2010[3] issued by the public respondent National Labor Relations Commissions (NLRC), Eighth Division (formerly 5[th] Division), Cagayan de Oro City in NLRC Case No. MAC-03-011286-2010.

The assailed Resolution dated May 31, 2010 dismissed petitioner's appeal from the Decision⁴ dated December 29, 2009 issued by the Labor Arbiter Noel Augusto S. Magbanua in NLRC Case No. RAB-13-05-00159-09 entitled “Elmer G. Cinco, et.al. v. Pacific Timber and Wood Resources Inc. and/or Renato Villegas and Franklin Abella in their Capacity as General Manager and Operation Manager” for Illegal Dismissal, Underpayment of Wages, and Other Money Claims while the second assailed Resolution dated August 31, 2010 denied petitioner's motion for reconsideration.

The Facts

The petition draws its origin from the complaints for illegal dismissal and underpayment of wages with prayers for various money claims individually filed by the private respondents dated September 19, 2009 against petitioner Pacific Lumber & Wood Resources, Inc., and/or Renato Villegas & Franklin Abella in their capacity as General Manager and Operation Manager respectively before the Regional Arbitration Branch (RAB) No. XIII, NLRC, Butuan City. As they involved similar issues and against the same respondent, the complaints were thereafter consolidated.

Private respondents Bernabe S. Rebstillo, Bernabe Kionisala, Alberto Durado, Benjie Kionisala, Mary Grace De Guzman, Reynaldo Postrero, Brando Gomez, Emmanuel Duncano, Elmer Cinco, and Edwin Kionisala were employees of petitioner Pacific Timber & Wood Resources, Inc. (hereinafter referred to as Petitioner), a duly organized domestic corporation engaged in the sawmill business whose principal place of operation is located at Purok 7, Bagyangon, Banza, Butuan City. Renato Villegas and Franklin Abella are its General Manager and Operations Manager, respectively.

In private respondents' position papers, they all alleged that they were hired by petitioner on various dates as utility workers and tasked to do the following, viz: filing of lumber, carpenters, mason, etc. They rendered services from 7:00 a.m. to 4:00 p.m., from Mondays through Saturdays. They were receiving P150.00 a day without overtime pay, holiday pay, and other benefits. They were illegally dismissed from work on various dates. Thus, the instant complaint.

Petitioner, in its position paper, denied that it illegally dismissed the private respondents as they were hired due to

the urgent need for additional manpower and that they were paid per task and not hired as regular, casual, or probationary employees.

After due proceedings, the Labor Arbiter, in a Decision dated December 29, 2009, dismissed the complaint for illegal dismissal for lack of merit but ordered petitioner to pay private respondents wage differentials in the total amount of P50,734.00 upon finding that the private complainants were paid below the minimum wage. The decretal portion of the Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered dismissing the complaint for illegal dismissal in the above-entitled cases for lack of merit.

However, respondent Pacific Timber and Wood Resources, Inc. is hereby ordered to pay complainants their wages differentials in the total amount of P50,734.00 only as computed in the body of this decision.

Other claims are hereby ordered dismissed for lack of merit and/or for failure to substantiate.

SO ORDERED.[5]

Not satisfied with the Labor Arbiter's decision, petitioner appealed to the NLRC- Eighth Division, Cagayan de Oro City which dismissed the appeal and affirmed the assailed decision of the Labor Arbiter in its Resolution dated May 31, 2010, the dispositive portion of which reads:

WHEREFORE, the appeal is dismissed for lack of merit. Accordingly, the assailed Decision of the Executive Labor Arbiter dated 29 December 2009 is hereby AFFIRMED.

SO ORDERED.[6]

Petitioner's motion for reconsideration was likewise denied by the NLRC in its Resolution dated August 31, 2010. Thus, this instant petition for certiorari under Rule 65 petitioner invoking the following issues, to wit:

I.

WHETHER OR NOT THE PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION (NLRC), EIGHTH DIVISION (FORMERLY FIFTH DIVISION), CAGAYAN DE ORO CITY, ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN ISSUING THE QUESTIONED RESOLUTIONS DATED 31 MAY 2010 AND 31 AUGUST 2010.

II

WHETHER OR NOT PETITIONER IS ENTITLED TO THE WRIT PRAYED FOR TO ENJOIN THE EXECUTION OF THE QUESTIONED RESOLUTIONS.[7]

Our Ruling

The petition is bereft of merit.

Petitioner primarily questions the NLRC's award of wage differentials to the private respondents. It claims that private respondents are not entitled thereto considering that they were hired on task or pakyaw basis. The minimum wage rate provided for eight hours (8) work per day is not applicable to them because the very short periods of their employment indicate that they work as phase or seasonal worker.

The argument is without legal basis.

As correctly pointed out by the private respondents, through the Public Attorney's Office, Section 9, Chapter 1, Rule VII of the Omnibus Rules Implementing the Labor Code made clear that all workers paid by results,

including those who are paid on piecework, takay, pakyaw, or task basis, shall receive not less than the applicable statutory minimum wage rates prescribed under the Act for the normal working hours which shall not exceed eight hours a day, or a proportion thereof for work of less than the normal working hours.

Section 3(f), of the Rules Implementing Presidential Decree No. 1713 increasing the minimum daily wage rates provides, thus:

Section 3. xxx

xxx

f. All employees paid by the result shall receive not less than the applicable new minimum wage rates for eight (8) hours work a day, except where a payment by result rate has been established by the Secretary of Labor. xxx (emphasis supplied)

In the case of *Makati Haberdashery, Et.Al. v. NLRC*[8], the Supreme Court instructs:

Coming now to the second issue, there is no dispute that private respondents are entitled to the Minimum Wage as mandated by Section 2(g) of Letter of Instruction No. 829, Rules Implementing Presidential Decree No. 1614 and reiterated in Section 3(f), Rules Implementing Presidential Decree 1713 which explicitly states that, "All employees paid by the result shall receive not less than the applicable new minimum wage rates for eight (8) hours work a day, except where a payment by result rate has been established by the Secretary of Labor. ..."No such rate has been established in this case. (emphasis supplied)

In the instant case, considering that the private respondents were paid by result, or on task or pakyaw basis, they must be paid not less than the applicable minimum wage for eight (8) hours work a day, except where a payment by result rate has been established by the Secretary of Labor. As in the aforecited case, no such rate has been established in this case. Thus, there is no dispute that private respondents are entitled to the minimum wage as mandated by law.

Further, Section 2, Rule I, Book III of the Omnibus Rules Implementing the Labor Code provides for the exemption to the 8-hour work that warrants minimum wage as follows:

Section 2.) Exemption-The provisions of this Rule shall not apply to the following persons if they qualify for exemption under the conditions set forth herein:

xxx

e.) Workers who are paid by results, including those who are paid on piece-work, takay, pakiao, or task basis, and other non-time work if their output rates are in accordance with the standards prescribed under Section 8, Rule VII, Book III of these regulations, or where such rates have been fixed by the Secretary of Labor in accordance with the aforesaid Section. (emphasis supplied)

In the case at bench, considering that there is no showing that the wage received by the private respondents is in accordance with the standards provided by law or was fixed by the Secretary of Labor, the aforecited exemption cannot be made applicable to them. Consequently, private respondents are entitled to the applicable minimum wage rate for eight (8) hours work a day.

Further, Section 3 (f) of the Rules Implementing Presidential Decree 1713 provides:

Section. 3 xxx

(f) All employees paid by the result shall receive not less than the applicable new minimum wage rates for eight (8) hours work a day, except where a payment by result rate has been established by the Secretary of

Labor. (emphasis supplied)

From all the foregoing, it is clear that the private respondents are entitled to the minimum daily wage rate as provided by law. As the petitioner admits that the private respondents received only the amount of P150.00 per day, which is well below the minimum wage, and an additional amount of P234.00 or more every pay day, We hold that the NLRC is correct in affirming the findings and computations of the Labor Arbiter in awarding wage differentials to the private respondents.

Section 5(d), Rule VII-A, Book III of the Omnibus Rules Implementing the Labor Code explicitly states:

Section 5. xxx

xxx

d) Where the output rates established by the employer do not conform with the standards prescribed herein, or with the rates prescribed by the Department of Labor in an appropriate order, the employees shall be entitled to the difference between the amount to which they are entitled to receive under such prescribed standards or rates and that actually paid them by the employer. (emphasis supplied)

Hence, private respondents are indubitably entitled to the difference between the minimum wage they are entitled to receive and the amount of wage they actually received from the petitioner.

Petitioner argues that the private respondents cannot claim compensation for minimum wage since the amount of P150.00 is the total amount of consideration they have mutually agreed upon as pakyao workers or for the contract of services rendered.

The contention is untenable.

Basic is the rule that the relations between capital and labor are not merely contractual. They are so impressed with public interest that labor contracts must yield to the common good. Therefore, such contracts are subject to the special laws on labor unions, collective bargaining, strikes and lockouts, closed shop, wages, working conditions, hours of labor and similar subjects.[9]

Indeed, a contract of employment is impressed with public interest. For this reason, provisions of applicable statutes are deemed written into the contract. Hence, the “parties are not at liberty to insulate themselves and their relationships from the impact of labor laws and regulations by simply contracting with each other.”[10]

Hence, as the relationship between petitioner and private respondents is one that is affected with public interest, the otherwise applicable laws and regulations on minimum wage cannot just be rendered illusory by the petitioner's claim that private respondents are entitled only to P150.00 as that is the total amount of consideration they have mutually agreed upon.

As regards the issue of whether or not petitioner is entitled to the issuance of the writ of TRO/WPI applied for, the same has already been resolved and denied in Our Minute Resolution dated February 28, 2012. Thus, there is no more need to discuss further the second issue raised.

All told, We hold that the NLRC did not act with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed resolutions, which resolutions are found to be in accordance with law and jurisprudence.

THE FOREGOING CONSIDERED, the instant PETITION is thus DISMISSED. The NLRC's Resolutions dated May 31, 2010 and August 31, 2010 are hereby AFFIRMED in toto.

SO ORDERED.**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Borja, J., Chairperson and Badelles, JJ., concur.

[1] Rollo, p.8.

[2] Rollo, pp. 40-43.

[3] Rollo, pp. 45-46.

[4] Rollo, pp. 59-66.

[5] Rollo, p. 66

[6] Rollo, p. 42

[7] Rollo, p. 20.

[8] G.R. Nos. 83380-81 November 15, 1989.

[9] Article 1700, Civil Code of the Philippines.

[10] *Pakistan Airlines Corporation v. Ople*, 190 SCRA 90, September 28, 1990; *Magsalin v. National Organization of Working Men*, 451 Phil. 254, May 9, 2003; *Bernardo v. NLRC*, 369 Phil. 443, July 12, 1999.

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