

**JOSE VILLANUEVA, SR., PETITIONER, VS. HON. VICENTE LEOGARDO, JR., IN HIS CAPACITY AS THE THEN DEPUTY MINISTER, MINISTRY OF LABOR & EMPLOYMENT (NOW DEPARTMENT), AND PEOPLE'S SECURITY, INC., RESPONDENT**

*G.R. No. 101501. November 20, 1992*

Ponente: GRIÑO-AQUINO, J.

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**GRIÑO-AQUINO, J.:**

This petition for certiorari under Rule 65 of the Rules of Court seeks the nullification of the orders dated March 8, 1983 and February 4, 1985 of Deputy Minister of the Department of Labor and Employment (DOLE) Vicente Leogardo, Jr., affirming the order dated August 6, 1981 of Regional Director Francisco L. Estrella of the National Capital Region who dismissed the other money claims of the petitioner.

On December 22, 1980, petitioner filed a complaint against the People's Security, Inc., private respondent, for illegal deduction, underpayment of overtime and emergency cost of living allowance, legal holiday pay, premium pay for holiday and rest day pay, violation of Presidential Decree No. 851 for the years 1977 to 1980, unpaid wages and service incentive leave pay.

In his position paper, petitioner averred that he was employed by the private respondent in January 1984 as a security guard. From the first day of his employment, he was made to work twelve (12) hours a day on regular days, holidays, and rest days in violation of Arts. 87, 91, 93 and 94 of the New Labor Code, as amended, providing for overtime pay, Legal holiday pay, and premium pay for work performed on such number of hours and for such days. He was not paid Emergency Cost of Living Allowance (ECOLA) and illegal deductions were made by the private respondent from his salary for the purpose of donating the same to the families of guards who died in the line of duty and of contributing to the cash bond and/or premium of the surety bond which would answer for any damages which a guard may incur in the performance of his duties. Finally, petitioner alleges that he was not fully paid his 5-day service incentive leave pay in 1976, 1978, 1979 and 1980 for he received only a 4-day service incentive leave pay contrary to Art. 95 of the New Labor Code which provides that:

"Art. 95. Right to service incentive leave. - (a) Every employee who has rendered at least one year of service shall be entitled to a yearly service incentive leave of five days with pay.

"(b) This provision shall not apply to those who are already enjoying the benefit herein provided, those enjoying vacation leave with pay of at least five days and those employed in establishments regularly employing less than ten employees or in establishments exempted from granting this benefit by the Secretary of Labor after considering the viability or financial condition of such establishment.

"(c) The grant of benefit in excess of that provided herein shall not be made a subject of arbitration or any court of administrative action.

On February 24, 1981, private respondent filed a position paper denying the petitioner's claims. It alleged that all

deductions from his salary were made in accordance with law, like his Social Security contributions and medicare contributions; that he was assigned to a regular 8-hour shift but upon his own request, he was allowed to continue working by the next shift as his extra/regular job for the purpose of augmenting his income even if the next shift was supposed to be handled by another guard. Hence, he is estopped from demanding that he be paid overtime pay for work rendered beyond his regular 8-hour shift.

On August 6, 1981, an order was issued by Director Francisco L. Estrella ordering the respondent:

"x x x to pay herein complainant the amount of FOUR HUNDRED TWENTY-EIGHT (P428.00) PESOS, representing the amount illegally deducted, unpaid wages and five days service incentive leave pay.

"The other money claims are dismissed for lack of merit." (p. 9, Rollo.)

On August 25, 1981, petitioner appealed that order to the Minister of Labor and Employment.

On March 8, 1983, Deputy Minister Leogardo affirmed Director Estrella's findings. Petitioner's motion for reconsideration was likewise denied in the order dated February 4, 1985. Hence, this petition.

After a careful review of the records, the Court finds no merit in the petition for review and holds that the respondent Deputy Secretary did not gravely abuse his discretion when he dismissed the appeal for lack of merit and affirmed the order dated August 6, 1981 of Director Estrella. The order dated March 8, 1983 of public respondent is duly supported by the evidence on record, to wit:

"Be that as it may, the payrolls submitted by respondent indisputably show that complainant was accordingly paid of his 13th month pay, living allowance and incentive leave pay and overtime pay (Annexes 'B' - 'B-8' and 'C' - 'C-1' Respondent). Even the pay slips presented by complainant indicates (sic) the payment of his allowance. The contention that the legal holiday pay and premium pay for holiday, rest day and overtime pay are already included in the salary of complainant is supported by the evidence on record." (p. 35, Rollo.)

The principle is well-established that findings of administrative agencies are generally accorded not only respect but even finality. Judicial review by this Court in cases does not go so far as to require this Court to evaluate the sufficiency of the evidence upon which the Deputy Minister and the Regional Director based their determinations but is limited to issues of jurisdiction or grave abuse of discretion (*Special Events & Central Shipping Office Workers Union vs. San Miguel Corp.*, 122 SCRA 557).

WHEREFORE, the petition is DISMISSED for lack of merit. The orders dated March 8, 1983 and February 4, 1985 of the public respondent are hereby AFFIRMED.

**SO ORDERED.**

Cruz, (Chairman), Padilla, and Bellosillo, JJ., concur.

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