

PHILNABANK EMPLOYEES ASSOCIATION (PEMA), DBP EMPLOYEES UNION (DBPEU), LBP EMPLOYEES ASSOCIATION (LBPEA), ALERT AND CONCERNED EMPLOYEES FOR BETTER SSS (ACCESS), AND KAPATIRAN NG ...

G.R. No. 104209. November 16, 1993

Ponente: VITUG J.

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VITUG J.:

Assailed in this petition for certiorari is a provision of the Supplemental Rules Implementing Republic Act No. 6971 (Productivity Incentives Act of 1990), jointly promulgated by the Secretary of the Department of Finance and the Secretary of the Department of Labor and Employment, excluding from the coverage of said Act the employees of the Philippine National Bank ("PNB"), Development Bank of the Philippines ("DBP"), Land Bank of the Philippines ("LBP"), Social Security System ("SSS") and Government Service and Insurance System ("GSIS").

Parenthetically, certain rank and file employees of the Public Estates Authority filed a motion for intervention to join the petitioners[1] which they later withdrew, nonetheless, asserting that "any resolution in the instant petition would likewise apply" to them.[2]

Republic Act No. 6971 was signed into law on 22 November 1990 by then President Corazon C. Aquino. It took effect on 9 December 1990 (fifteen days after its publication in two newspapers of general circulation).

Section 3 of the law states:

"SEC. 3. Coverage. - This Act shall apply to all business enterprises with or without existing and duly recognized or certified labor organizations, including government-owned and controlled corporations performing proprietary functions. It shall cover all employees and workers including casual, regular, supervisory and managerial employees.

The same Act empowers the Secretary of Labor and Employment and the Secretary of Finance, "after due notice and hearing," to "jointly promulgate and issue within six (6) months from the effectivity of (the) Act such rules and regulations as are necessary to carry out (its) provisions" (Sec. 6, R.A. 6971).

On 03 June 1991, the then Labor Secretary Ruben D. Torres and Finance Secretary Jesus P. Estanislao promulgated the Rules Implementing Republic Act No. 6971. The Rules took effect on 18 June 1991 following the required publication thereof in a national newspaper of general circulation.

Section 1, Rule II, of the aforesaid Rules provides:

"Section 1. Coverage. These Rules shall apply to:

(a) All business enterprises with or without existing duly recognized or certified labor organizations, including government-owned and controlled corporations performing proprietary functions.

(b) All employees and workers including casual, regular, rank-and-file, supervisory and managerial employees."

Forthwith, petitioner organizations requested their respective employers to constitute and convene a Labor-Management Committee (LMC) to discuss and adopt a Productivity Incentives Program (PIP). In the meantime, productivity bonuses were distributed by the PNB, DBP, LBP, SSS and GSIS.[3]

On 24 December 1991, Secretary Estanislao sent the following memorandum to all heads of government financial institutions (GFIs):

To : GFI Heads

From : Jesus P. Estanislao

On : Productivity Incentive Award

1. The President has asked me to remind all the GFI heads about our agreement to desist from making any further payments/moves regarding productivity incentives until such time as DOLE/DOF can issue clarificatory guidelines.

2. In view of the move of SSS, the President has authorized me to indicate that GFIs may have a choice on granting productivity incentives under the new law or the traditional PIA (productivity incentive award), provided the terms and conditions of either choice are exactly the same.

3. She has also instructed me to coordinate with DOLE and the immediate issuance of a possible clarificatory guideline.

(Sgd.) JESUS P. ESTANISLAO"[4]

In accordance with this memorandum, PNB Executive Vice-President Domingo A. Santiago, Jr., sent a letter to petitioner Philnabank Employees Association, through its president Jerry P. Tan, advising the latter that in view of the Estanislao memorandum, PNB was "constrained to wait for the issuance of the said clarificatory guidelines." [5]

Allegedly without due notice and hearing, Secretary Estanislao and Secretary Torres subsequently issued the Supplemental Rules Implementing Republic Act No. 6971, clarifying or amending the previously promulgated rules because "the coverage of GOCCs (government owned and controlled corporations) performing proprietary functions would require harmonization with present definitions, concepts, strategies, policies and thrusts involving the rationalization of the government corporate sector." Paragraph (a), Section 1, Rule II, of the Rules was thereby modified to read, as follows:

Coverage. These Rules shall apply to:

(a) All business enterprises with or without existing duly certified labor organizations, including government-owned and controlled corporations performing proprietary functions which are established solely for business or profit or gain and accordingly excluding those created, maintained or acquired in pursuance of a policy of the state, enunciated in the Constitution or by law, and those whose officers and employees are covered by the Civil Service.

Government-owned and controlled corporations meeting the criteria provided in the immediately preceding paragraph shall be certified to by the Government Corporate Monitoring and Coordinating Committee established by E.O. No. 236 of July 22, 1987." (Underscoring supplied.)

On 7 January 1992, under the letterhead, "Kapatiran Ng Manggagawa Sa GFI" (KAMAGFI), PEMA President Jerry P. Tan sent Secretary Torres and Secretary Estanislao a letter contesting the amendatory rule and giving them forty-eight (48) hours within which "to recall and revoke" the same. He also informed the heads of the two departments that the supplemental rules were creating "serious demoralization(s)" among the officers and employees of the GFIs and that failure to revoke and recall the Supplemental Rules "would mean drastic legal actions and massive concerted activities" on the part of GFI employees.[6] KAMAGFI also addressed an open letter, dated 09 January 1992, of similar tenor, to the President of the Philippines, Secretary Estanislao, Secretary Torres, Senate President Neptali Gonzales, Speaker Ramon Mitra, Jr., Senator Teofisto Guingona, and Congressmen Felicito Payumo and Alberto Veloso.[7] On January 10, 1992, the matter was referred by the Office of the President to Secretary Torres.[8]

On 09 March 1992, the instant petition for certiorari was filed.

The petitioners contend that by promulgating the Supplemental Rules, the respondents have "overstepped the bounds of their rule-making authority by amending the coverage of the Act as provided in Section 3 thereof." Arguing that Republic Act No. 6971 has been intended by the lawmakers to cover all government-owned and controlled corporations which are performing proprietary functions, without qualifications, the petitioners assert that the respondents have "arrogated upon themselves the power not only to make law, but also to unmake it by adopting rules inconsistent with and contrary to the clear intention and the end sought to be attained by the Act." [9] The petitioners conclude that the respondents have thus gravely abused their discretion, amounting to lack of jurisdiction.

The respondents, through the Solicitor General, contest the herein petition as being both an improper remedy, considering that the respondents "did not adjudicate the rights and obligations of the GFI employees," and precipitate, since the petitioners' recourse should have first been administratively pursued with the Civil Service Commission." [10]

The instant petition for certiorari cannot be granted.

Firstly, the respondent department secretaries, in promulgating the questioned rule did so in accordance with the mandate of Republic Act No. 6971. Concededly, in the process, neither did said respondents act in any judicial or quasi-judicial capacity nor did they arrogate unto themselves any, such performance of judicial or quasi-judicial prerogative. A petition for certiorari is a special civil action that may be invoked only against a tribunal, board, or officer exercising judicial functions. Section 1, Rule 65, of the Revised Rules of court is explicit on this matter; viz:

SECTION 1. Petition for certiorari. - When any tribunal, board, or officer exercising judicial functions, has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings, as the law requires, of such tribunal, board or officer.

Secondly, although not inflexible, we have repeatedly declined on grounds of prematurity, as well as in the interest of good order, a hasty recourse to the courts when administrative avenues are still open.[11]

Thirdly, while this case is styled as a petition for certiorari, there is, however, no denying the fact that, in essence, it seeks the declaration by the court of the unconstitutionality and illegality of the questioned rule, thus partaking the nature, in reality, of one for declaratory relief over which this Court has only appellate, not original, jurisdiction.

Fourthly, even in cases, where this Court is conferred with primary jurisdiction, starting with the case of *Santiago vs. Vasquez et al.*,^[12] we have stressed, thus -

"x x x We discern in the proceedings in this case a propensity on the part of petitioner, and, for that matter, the same may be said of a number of litigants who initiate recourses before us, to disregard the hierarchy of courts in our judicial system by seeking relief directly from this Court despite the fact that the same is available in the lower courts in the exercise of their original or concurrent jurisdiction, or is even mandated by law to be sought therein. This practice must be stopped, not only because of the imposition upon the precious time of this Court but also because of the inevitable and resultant delay, intended or otherwise, in the adjudication of the case which often has to be remanded or referred to the lower court as the proper forum under the rules of procedure, or as better equipped to resolve the issues since this Court is not a trier of facts. We, therefore, reiterate the judicial policy that this Court will not entertain direct resort to it unless the redress desired cannot be obtained in the appropriate courts or where exceptional and compelling circumstances justify availment of a remedy within and calling for the exercise of our primary jurisdiction."

Finally, the principal issue raised by the petitioners, i.e., whether or not the government financial institutions herein involved (but which have not even been impleaded) are embraced by the phrase "government-owned and controlled corporation performing proprietary functions" in the context of Republic Act 6971, is itself not necessarily a mere question of law that, for certain, can totally discard a factual assessment of the respective operations of said institutions and the degree that such operations interrelate, as the case may be, to their governmental or proprietary functions. This Court has said, more than once, that it is not an initial evaluator of facts.

WHEREFORE, the instant petition for certiorari is DISMISSED. No costs.

SO ORDERED.

Feliciano, (Chairman), Bidin, Romero, and Melo, JJ., concur.

[1] Rollo, p. 123.

[2] *Ibid.*, p. 159.

[3] Petition, p. 5; Rollo, p. 6.

[4] Rollo, pp. 37 & 65.

[5] *Ibid.*, p. 38.

[6] *Ibid.*, p. 41.

[7] *Ibid.*, p. 42.

[8] *Ibid.*, p. 43.

[9] Petition, p. 12; Rollo, p. 13.

[10] Comment, p. 13; Rollo, p. 103.

[11] *Cruz vs. del Rosario*, 9 SCRA 755; *Llarena vs. Hon. Lacson*, 108 Phil, 510; *Chua Huat, et al. vs. Hon. Bagatsing, et al.*, 199 SCRA 1.

[12] 217 SCRA 633.

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