

NASIPIT LUMBER COMPANY, INC., AND PHILIPPINE WALLBOARD CORPORATION, PETITIONERS, VS. NATIONAL WAGES AND PRODUCTIVITY COMMISSION, WESTERN AGUSAN WORKERS UNION (WAWU-ULGWP LOCAL 1...

G.R. No. 113097. April 27, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The Labor Code, as amended by RA 6727 (the Wage Rationalization Act), grants the National Wages and Productivity Commission (NWPC) the power to prescribe rules and guidelines for the determination of appropriate wages in the country. Hence, “guidelines” issued by the Regional Tripartite Wages and Productivity Boards (RTWPB) without the approval of or, worse, contrary to those promulgated by the NWPC are ineffectual, void and cannot be the source of rights and privileges.

The Case

This is the principle used by the Court in resolving this petition for certiorari under Rule 65 of the Rules of Court assailing the Decision[1] dated March 8, 1993, promulgated by the NWPC[2] which disposed as follows:

“WHEREFORE, premises considered, the Decision appealed from is hereby MODIFIED. The application for exemption of Anakan Lumber Company is hereby GRANTED for a period of one (1) year retroactive to the date subject Wage Orders took effect until November 21, 1991. The applications for exemption of Nasipit Lumber Company and Philippine Wallboard Corporation are hereby DENIED for lack of merit, and as such, they are hereby ordered to pay their covered workers the wage increases under subject Wage Orders retroactive to the date of effectivity of said Wage Orders plus interest of one percent (1%) per month.

SO ORDERED.”

Petitioners also challenge the NWPC’s Decision[3] dated November 17, 1993 which denied their motion for reconsideration.

The RTWPB’s August 1, 1991 Decision, which the NWPC modified, disposed as follows:

“WHEREFORE, all foregoing premises considered, the instant petition for exemption from compliance with Wage Order Nos. RX-01 and RX-01-A is hereby approved under and by virtue of criteria No. 2, Section 3 of RTWPB Guidelines No. 3 on Exemption, dated November 26, 1990, for a period of only one (1) year, retroactive to the date said Wage Order took effect up to November 21, 1991.

SO ORDERED.”[4]

The Facts

The undisputed facts are narrated by the NWPC as follows:

“On October 20, 1990, the Region X [Tripartite Wages and Productivity] Board issued Wage Order No. RX-01 which provides as follows:

‘Section 1. Upon the effectivity of this Wage Order, the increase in minimum wage rates applicable to workers and employees in the private sector in Northern Mindanao (Region X) shall be as follows:

- a. The provinces of Agusan del Norte, Bukidnon, Misamis Oriental, and the Cities of Butuan, Gingoog, and Cagayan de Oro - - - -P13.00/day
- b. The provinces of Agusan del Sur, Surigao del Norte and Misamis Occidental, and the Cities of Surigao Oroquieta, Ozamis and Tangub - - - - P11.00/day
- c. The province of Camiguin P9.00/day’

Subsequently, a supplementary Wage Order No. RX-01-A was issued by the Board on November 6, 1990 which provides as follows:

‘Section 1. Upon the effectivity of the original Wage Order RX-01, all workers and employees in the private sector in Region X already receiving wages above the statutory minimum wage rates up to one hundred and twenty pesos (P120.00) per day shall also receive an increase of P13, P11, P9 per day, as provided for under Wage Order No. RX-01;’

Applicants/appellees Nasipit Lumber Company, Inc. (NALCO), Philippine Wallboard Corporation (PWC), and Anakan Lumber Company (ALCO), claiming to be separate and distinct from each other but for expediency and practical purposes, jointly filed an application for exemption from the above-mentioned Wage Orders as distressed establishments under Guidelines No. 3, issued by the herein Board on November 26, 1990, specifically Sec. 3(2) thereof which, among others, provides:

‘A. For purposes of this Guidelines the following criteria to determine whether the applicant-firm is actually distressed shall be used.

x x x x x x x x

2. Establishment belonging to distressed industry - an establishment that is engaged in an industry that is distressed due to conditions beyond its control as may be determined by the Board in consultation with DTI and NWPC. (Underscoring supplied)

x x x x x x x x

Applicants/appellees aver that they are engaged in logging and integrated wood processing industry but are distressed due to conditions beyond their control, to wit: 1) Depressed economic conditions due to worldwide recession; 2) Peace and order and other emergency-related problems causing disruption and suspension of normal logging operations; 3) Imposition of environmental fee for timber production in addition to regular forest charges; 4) Logging moratorium in Bukidnon; 5) A reduction in the annual allowable volume of cut logs of NALCO & ALCO by 59%; 6) Highly insufficient raw material supply; 7) Extraordinary increases in the cost of fuel, oil, spare parts, and maintenance; 8) Excessive labor cost/production ratio that is more or less 47%; and 9) Lumber export ban.

On the other hand, oppositor/appellant Unions jointly opposed the application for exemption on the ground that said companies are not distressed establishments since their capitalization has not been impaired by 25%.”[5]

Citing liquidity problems and business decline in the wood-processing industry, the RTWPB approved the applicants’ joint application for exemption in this wise:

“1. The Board considered the arguments presented by petitioners and the oppositors. The Board likewise took

note of the financial condition of petitioner firms. One of the affiliates, Anakan Lumber Company, is confirmed to be suffering from capital impairment by: 14.80% in 1988, 71.35% in 1989 and 100% in 1990. On the other hand, NALCO had a capital impairment of 6.41%, 13.53% and 17.04% in 1988, 1989 and 1990, respectively, while PWC had no capital impairment from 1988 to 1990. However, the Board also took note of the fact that petitioners are claiming for exemption, not on the strength of capital impairment, but on the basis of belonging to a distressed industry - an establishment that is engaged in an industry that is distressed due to conditions beyond its control as may be determined by the Board in consultation with DTI and NWPC.

2. Inquiries made by the Board from the BOI and the DTI confirm that all petitioner-firms are encountering liquidity problems and extreme difficulty servicing their loan obligations.

3. A perusal of the Provincial Trade and Industry Development Plan for Agusan del Norte and Butuan City where petitioners are operating their business, confirms the existence of a slump in the wood-processing industry due to the growing scarcity of [a] large volume of raw materials to feed the various plywood and lumber mills in the area. A lot of firms have closed and shifted to other ventures, the report continued, although the competitive ones are still in operation.

4. The Board took note of the fact that most of the circumstances responsible for the financial straits of petitioners are largely external, over which petitioners have very little control. The Board feels that as an alternative to closing up their business[es] which could bring untold detriment and dislocation to [their] 4,000 workers and their families, petitioners should be extended assistance and encouragement to continue operating - so that jobs could thereby be preserved during these difficult times. One such way is for the Board to grant them a temporary reprieve from compliance with the mandated wage increase specifically W.O. RX-01 and RX-01-A only.”[6]

Dissatisfied with the RTWPB’s Decision, the private respondents lodged an appeal with the NWPC, which affirmed ALCO’s application but reversed the applications of herein petitioners, NALCO and PWC. The NWPC reasoned:

“The Guidelines No. 3 dated November 26, 1990, issued by the herein Board cannot be used as valid basis for granting applicants/appellees application for exemption since it did not pass the approval of this Commission.

Under the Rules of Procedure on Minimum Wage Fixing dated June 4, 1990, issued by this Commission pursuant to Republic Act 6727, particularly Section 1 of Rule VIII thereof provides that:

‘Section 1. Application For Exemption. Whenever a wage order provides for exemption, applications thereto shall be filed with the appropriate Board which shall process the same, subject to guidelines issued by the Commission.’ (Underscoring supplied)

Clearly, it is the Commission that is empowered to set [the] criteria on exemption from compliance with wage orders. While the Boards may issue supplementary guidelines on exemption, the same should first pass the Commission for the purpose of determining its conformity to the latter’s general policies and guidelines relative thereto. In fact, under the “Guidelines on Exemption from Compliance with the Prescribed Wage/Cost of Living Allowance Increases Granted by the Regional Tripartite Wages and Productivity Boards” dated February 25, 1991, issued by the Commission, there is a provision that “(T)he Board may issue supplementary guidelines for exemption x x x subject to review/approval by the Commission”. (Section 11). In the case at bar, after the Commission Secretariat made some comments on said Guidelines No. 3, the same was never submitted again for [the] Commission’s approval either justifying its original provisions or incorporating the comments made thereon. Until and unless said Guidelines No. 3 is approved by the Commission, it has no operative force and effect.

The applicable guidelines on exemption therefore is that one issued by the Commission dated February 25, 1991, the pertinent portion of which reads:

“Section 3. CRITERIA FOR EXEMPTION

X X X X X X X X

2. Distressed Employers/Establishment:

a. In the case of a stock corporation, partnership, single proprietorship or non-stock, non-profit organization engaged in business activity or charging fees for its services.

When accumulated losses at end of the period under review have impaired by at least 25 percent the:

- Paid-up-capital at the end of the last full accounting period preceding the application, in the case of corporations;
- Total invested capital at the beginning of the last full accounting period preceding the application, in the case of partnership and single proprietor-ships”(Underscoring supplied)

A perusal of the financial documents on record shows that for the year 1990, which is the last full accounting period preceding the applications for exemption, appellees NALCO, ALCO, and PWC incurred a capital impairment of 1.89%, 28.72%, and 5.03%, respectively. Accordingly, based on the criteria set forth above in the NWPC Guidelines on Exemption, only the application for exemption of ALCO should be approved in view of its capital impairment of 28.72%.

We are not unmindful of the fact that during the Board hearing conducted, both labor and management manifested their desire for a uniform decision to apply to all three (3) firms. However, we cannot grant the same for want of legal basis considering that we are required by the rules to decide on the basis of the merit of application by an establishment having a legal personality of its own.”[7]

In denying petitioners’ motion for reconsideration, public respondent explained:

“The fact that applicant companies relied in good faith upon Guidelines No. 3 issued by the Board a quo, the same is not sufficient reason that they should be assessed based on the criteria of said Guidelines considering that it does not conform to the policies and guidelines relative to wage exemption issued by this Commission pursuant to Republic Act 6727. Consequently, it has no force and effect. As such, said Guidelines No. 3 cannot therefore be a source of a right no matter if one has relied on it in good faith. In like manner that the workers, who are similarly affected, cannot be bound thereof.

Moreover, even assuming that Guidelines No. 3 conforms to the procedural requirement, still, the same cannot be given effect insofar as it grants exemption by industry considering that the subject Wage Order mentioned only distressed establishments as one of those to be exempted thereof. It did not mention exemption by industries. Well-settled is the rule that an implementing guidelines [sic] cannot expand nor limit the provision of [the] law it seeks to implement. Otherwise, it shall be considered ultra vires. And, contrary to applicant companies’ claim, this Commission does not approve rules implementing the Wage Orders issued by the Regional Tripartite Wages and Productivity Boards. Perforce, it cannot be said that this Commission has approved the Rules Implementing Wage Order No[s]. RX-01 and RX-01-A.”[8]

Hence, this recourse.[9]

The Issue

Petitioners raise this solitary issue:

“With all due respect, Public Respondent National Wages and Productivity Commission committed grave abuse of discretion amounting to lack of or in excess of jurisdiction in ruling that RTWPB-X-Guideline No. 3 has ‘no operative force and effect’, among others, and consequently, denying for lack of merit the application for exemption of petitioners Nasipit Lumber Company, Inc. and Philippine Wallboard Corporation from the

coverage of Wage Orders Nos. RX-01 and RX-01-A.”

In the main, the issue boils down to a question of power. Is a guideline issued by an RTWPB without the approval of or, worse, contrary to the guidelines promulgated by the NWPC valid?

The Court’s Ruling

The petition is unmeritorious. The answer to the above question is in the negative.

Sole Issue: Approval of NWPC Required

Petitioners contend that the NWPC gravely abused its discretion in overturning the RTWPB’s approval of their application for exemption from Wage Orders RX-01 and RX-01-A. They argue that under Art. 122 (e) of the Labor Code, the RTWPB has the power “[t]o receive, process and act on applications for exemption from prescribed wage rates as may be provided by law or any wage order.”[10] They also maintain that no law expressly requires the approval of the NWPC for the effectivity of the RTWPB’s Guideline No. 3. Assuming arguendo that the approval of the NWPC was legally necessary, petitioners should not be prejudiced by their observance of the guideline, pointing out that the NWCP’s own guidelines[11] took effect “only on March 18, 1991 long after Guideline No. 3 was issued on November 26, 1990.”[12] Lastly, they posit that the NWPC guidelines “cannot be given retroactive effect as [they] will affect or change the petitioners’ vested rights.”[13]

The Court is not persuaded.

Power to Prescribe Guidelines Lodged in the NWPC, Not in the RTWPB

The three great branches and the various administrative agencies of the government can exercise only those powers conferred upon them by the Constitution and the law.[14] It is through the application of this basic constitutional principle that the Court resolves the instant case.

RA 6727 (the Wage Rationalization Act), amending the Labor Code, created both the NWPC and the RTWPB and defined their respective powers. Article 121 of the Labor Code lists the powers and functions of the NWPC, as follows:

“ART. 121. Powers and Functions of the Commission. - The Commission shall have the following powers and functions:

- (a) To act as the national consultative and advisory body to the President of the Philippine[s] and Congress on matters relating to wages, incomes and productivity;
- (b) To formulate policies and guidelines on wages, incomes and productivity improvement at the enterprise, industry and national levels;
- (c) To prescribe rules and guidelines for the determination of appropriate minimum wage and productivity measures at the regional, provincial or industry levels;
- (d) To review regional wage levels set by the Regional Tripartite Wages and Productivity Boards to determine if these are in accordance with prescribed guidelines and national development plans;
- (e) To undertake studies, researches and surveys necessary for the attainment of its functions and objectives, and to collect and compile data and periodically disseminate information on wages and productivity and other related information, including, but not limited to, employment, cost-of-living, labor costs, investments and returns;
- (f) To review plans and programs of the Regional Tripartite Wages and Productivity Boards to determine whether these are consistent with national development plans;

- (g) To exercise technical and administrative supervision over the Regional Tripartite Wages and Productivity Boards;
- (h) To call, from time to time, a national tripartite conference of representatives of government, workers and employers for the consideration of measures to promote wage rationalization and productivity; and
- (i) To exercise such powers and functions as may be necessary to implement this Act.

x x x x x x x x” (Underscoring supplied)

Article 122 of the Labor Code, on the other hand, prescribes the powers of the RTWPB thus:

“ART.122. Creation of Regional Tripartite Wages and Productivity Boards.

x x x x x x x x

The Regional Boards shall have the following powers and functions in their respective territorial jurisdiction:

- (a) To develop plans, programs and projects relative to wages, income and productivity improvement for their respective regions;
- (b) To determine and fix minimum wage rates applicable in their region, provinces or industries therein and to issue the corresponding wage orders, subject to guidelines issued by the Commission;
- (c) To undertake studies, researches, and surveys necessary for the attainment of their functions, objectives and programs, and to collect and compile data on wages, incomes, productivity and other related information and periodically disseminate the same;
- (d) To coordinate with the other Regional Boards as may be necessary to attain the policy and intention of this Code.
- (e) To receive, process and act on applications for exemption from prescribed wage rates as may be provided by law or any Wage Order; and
- (f) To exercise such other powers and functions as may be necessary to carry out their mandate under this Code.” (Underscoring supplied)

The foregoing clearly grants the NWPC, not the RTWPB, the power to “prescribe the rules and guidelines” for the determination of minimum wage and productivity measures. While the RTWPB has the power to issue wage orders under Article 122 (b) of the Labor Code, such orders are subject to the guidelines prescribed by the NWPC. One of these guidelines is the “Rules on Minimum Wage Fixing,” which was issued on June 4, 1990.[15] Rule IV, Section 2 thereof, allows the RTWPB to issue wage orders exempting enterprises from the coverage of the prescribed minimum wages.[16] However, the NWPC has the power not only to prescribe guidelines to govern wage orders, but also to issue exemptions therefrom, as the said rule provides that “[w]henever a wage order provides for exemption, applications thereto shall be filed with the appropriate Board which shall process the same, subject to guidelines issued by the Commission.”[17] In short, the NWPC lays down the guidelines which the RTWPB implements.

Significantly, the NWPC authorized the RTWPB to issue exemptions from wage orders, but subject to its review and approval.[18] Since the NWPC never assented to Guideline No. 3 of the RTWPB, the said guideline is inoperative and cannot be used by the latter in deciding or acting on petitioners’ application for exemption. Moreover, Rule VIII, Section 1 of the NWPC’s Rules of Procedure on Minimum Wage Fixing issued on June 4, 1990 -- which was prior to the effectivity of RTWPB Guideline No. 3 -- requires that an application for exemption from wage orders should be processed by the RTWPB, subject specifically to the guidelines issued by the NWPC.

To allow RTWPB Guideline No. 3 to take effect without the approval of the NWPC is to arrogate unto RTWPB a power vested in the NWPC by Article 121 of the Labor Code, as amended by RA 6727. The Court will not countenance this naked usurpation of authority. It is a hornbook doctrine that the issuance of an administrative rule or regulation must be in harmony with the enabling law. If a discrepancy occurs “between the basic law and an implementing rule or regulation, it is the former that prevails.”[19] This is so because the law cannot be broadened by a mere administrative issuance. It is axiomatic that “[a]n administrative agency cannot amend an act of Congress.”[20] Article 122 (e) of the Labor Code cannot be construed to enable the RTWPB to decide applications for exemption on the basis of its own guidelines which were not reviewed and approved by the NWPC, for the simple reason that a statutory grant of “powers should not be extended by implication beyond what may be necessary for their just and reasonable execution. Official powers cannot be merely assumed by administrative officers, nor can they be created by the courts in the exercise of their judicial functions.”[21]

There is no basis for petitioners’ claim that their vested rights were prejudiced by the NWPC’s alleged retroactive application of its own rules[22] which were issued on February 25, 1991 and took effect on March 18, 1991.[23] Such claim cannot stand because Guideline No. 3, as previously discussed and as correctly concluded by the NWPC,[24] was not valid and, thus, cannot be a source of a right; much less, a vested one.

The Insertion in Guideline No. 3 of “Distressed Industry” as a Criterion for Exemption Void

The Court wishes to stress that the law does not automatically grant exemption to all establishments belonging to an industry which is deemed “distressed.” Hence, RX-O1, Section 3 (4), must not be construed to automatically include all establishments belonging to a distressed industry. The fact that the wording of a wage order may contain some ambiguity would not help petitioners. Basic is the rule in statutory construction that all doubts in the implementation and the interpretation of the provisions of the Labor Code, as well as its implementing rules and regulations, must be resolved in favor of labor.[25] By exempting all establishments belonging to a distressed industry, Guideline No. 3 surreptitiously and irregularly takes away the mandated increase in the minimum wage awarded to the affected workers. In so acting, the RTWPB proceeded against the declared policy of the State, enshrined in the enabling act, “to rationalize the fixing of minimum wages and to promote productivity-improvement and gain-sharing measures to ensure a decent standard of living for the workers and their families; to guarantee the rights of labor to its just share in the fruits of production; x x x.”[26] Thus, Guideline No. 3 is void not only because it lacks NWPC approval and contains an arbitrarily inserted exemption, but also because it is inconsistent with the avowed State policies protective of labor.

NWPC Decision Not Arbitrary

To justify the exemption of a distressed establishment from effects of wage orders, the NWPC requires the applicant, if a stock corporation like petitioners, to prove that its accumulated losses impaired its paid-up capital by at least 25 percent in the last full accounting period preceding the application[27] or the effectivity of the order.[28] In the case at bar, it is undisputed that during the relevant accounting period, NALCO, ALCO and PWC sustained capital impairments of 1.89, 28.72, and 5.03 percent, respectively.[29] Clearly, it was only ALCO which met the exemption standard. Hence, the NWPC did not commit grave abuse of discretion in approving the application only of ALCO and in denying those of petitioners. Indeed, the NWPC acted within the ambit of its administrative prerogative when it set guidelines for the exemption of a distressed establishment. Absent any grave abuse of discretion, NWPC’s actions will not be subject to judicial review.[30] Accordingly, we deem the appealed Decisions to be consistent with law.

WHEREFORE, the petition is hereby DISMISSED. The assailed Decisions are hereby AFFIRMED. Costs against petitioners.

SO ORDERED.

Davide, Jr., (Chairman), Bellosillo, Vitug, and Quisumbing, JJ., concur.

[1] Rollo, pp. 32-38.

[2] Signed by then Labor Secretary Ma. Nieves R. Confesor, chairman; Secretary Cielito F. Habito, vice chairman; and Cedric R. Bagtas, (representing labor), Vicente S. Bate (also representing labor), and Carmelita M. Pineda, members. The two other members representing the “employer sector,” Francisco R. Floro and Eduardo T. Rondain, dissented.

[3] Rollo, pp. 39-44.

[4] Ibid., p. 44.

[5] Ibid., pp. 32-34.

[6] RTWPB Decision, pp. 7-8; Rollo, pp.65-66.

[7] NWPC Decision dated March 8, 1993, pp. 4-6; Rollo, pp. 35-37.

[8] Assailed “Decision” denying the motion for reconsideration, pp. 4-5; Rollo, pp. 42-43.

[9] The case was deemed submitted for resolution on May 9, 1996 upon receipt by this Court of private respondents’ Memorandum dated April 22, 1996.

[10] Petitioners’ Memorandum, pp. 14-15; Rollo, pp. 234-235.

[11] Rollo, pp. 79-80.

[12] Petitioners’ Memorandum, p. 21; Rollo, p. 241.

[13] Ibid., p.18; Rollo, p.238.

[14] Azarcon vs. Sandiganbayan, 268 SCRA 747, 760-761, February 26, 1997.

[15] Rollo, pp. 68-77.

[16] Ibid., p. 73.

[17] Section 1, Rule VIII, NWPC’s Rule on Minimum Wage Fixing. Underscoring supplied.

[18] Section 11 of NWPC’s original Guidelines on Exemption From Compliance with the Prescribed Wage/Cost of Living Allowance Increase Granted by the RTWPBs dated February 25, 1991; Rollo, p.80.

[19] Land Bank of the Philippines vs. Court of Appeals, 249 SCRA 149, 158, October 6, 1995, per Francisco, J.; citing Shell Philippines, Inc. vs. Central Bank of the Philippines, 162 SCRA 628, June 27, 1988.

[20] Cebu Oxygen & Acetylene Co., Inc. vs. Drilon, 176 SCRA 24, 29, August 2, 1989, per Gancayco, J.; citing Manuel vs. General Auditing Office, 42 SCRA 660, December 29, 1971.

[21] Gonzales, Neptali A., Administrative Law: A Text, p. 46, 1979 ed.; citing 42 Am Jur., 316-318. (Emphasis supplied.)

[22] Rollo, pp. 79-80.

[23] Petition, p. 22; rollo, p. 23.

[24] NWPC Decision dated November 17, 1993, p. 4; rollo, p. 42.

[25] Article 4, Labor Code of the Philippines. See *Chartered Bank Employees Association vs. Ople*, 138 SCRA 273, August 28, 1985 and *Insular Bank of Asia and America Employees' Union (IBAAEU) vs. Inciong*, 132 SCRA 663, October 23, 1984.

[26] §. 2, RA 6727.

[27] § 3, par. 2 of Original NWPC Guidelines on Exemption From Compliance with the Prescribed Wage/Cost of Living Allowance Increase Granted by the RTWPBs dated February 25, 1991. See *Central Textile Mills, Inc. vs. National Wages and Productivity Commission*, 260 SCRA 368, 369, August 7, 1996. See also National Wages Council (now abolished predecessor of the NWPC) Policy Guideline No. 8, Section 5 as cited in *Radio Communications of the Phils., Inc. (RCPI) vs. National Wages Council*, 207 SCRA 581, 582-583, March 26, 1992.

[28] § 3, par. 3-a.1, Revised NWPC Guidelines on Exemption From Compliance with the Prescribed Wage/Cost of Living Allowance Increase Granted by the RTWPBs dated September 15, 1992. See *Joy Brothers, Inc., vs. National Wages and Productivity Commission*, G.R. No. 122932, p. 3, June 17, 1997.

[29] NWPC Decision dated March 8, 1993, p. 5; rollo, p. 36.

[30] See *PNOC-Energy Development Corp. vs. NLRC*, 201 SCRA 487, 494, September 11, 1991.

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