

**THE CONFERENCE OF MARITIME MANNING AGENCIES, INC.,
ALSTER INTERNATIONAL SHIPPING, INC., CREAMSHIP
MANAGEMENT, INC., EL GRANDE SHIPPING CORP., EASTGATE
(INT’L.) MARITIME AGENCIES...**

G.R. No. 114714. April 21, 1995

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

Petitioner Conference of Maritime Manning Agencies, Inc., an incorporated association of licensed Filipino manning agencies, and its co-petitioners, all licensed manning agencies which hire and recruit Filipino seamen for and in behalf of their respective foreign shipowner-principals, urge us to annul Resolution No. 01, series of 1994, of the Governing Board of the Philippine Overseas Employment Administration (POEA) and POEA Memorandum Circular No. 05, series of 1994, on the grounds that:

(1)

The POEA does not have the power and authority to fix and promulgate rates affecting death and workmen's compensation of Filipino seamen working in ocean-going vessels; only Congress can.

(2)

Even granting that the POEA has that power, it, nevertheless, violated the standards for its exercise.

(3)

The resolution and the memorandum circular are unconstitutional because they violate the equal protection and non-impairment of obligation of contracts clauses of the Constitution.

(4)

The resolution and the memorandum circular are not valid acts of the Governing Board because the private sector representative mandated by law has not been appointed by the President since the creation of the POEA.

Governing Board Resolution No. 01, issued on 14 January 1994,[1] reads as follows:

GOVERNING RESOLUTION NO. 01
SERIES OF 1994.

WHEREAS, it is the policy of the Administration to afford protection to Filipino overseas contract workers, including seafarers and their families, promote their interest and safeguard their welfare;

WHEREAS, the Administration under its mandate has the Power and function to secure the best terms and conditions of employment of Filipino contract workers and ensure compliance therewith;

WHEREAS, the minimum compensation and other benefits in cases of death, disability and loss or damage to crew's effects provided under the POEA Standard Employment Contract for seafarers which was revised in 1989 are now becoming very much lesser than the prevailing international standards and those given to unionized seafarers as provided by their collective bargaining agreements;

WHEREAS, the Tripartite Technical Working Group convened for the purpose of deliberating the compensation and benefits provided under the POEA Standard Employment Contract for seafarers has recommended for the upgrading of the said compensation and benefits;

WHEREAS, for the interest of Filipino seafarers and their families, there is an urgent need to improve and realign the minimum compensation and other benefits provided under the POEA Standard Employment Contract for seafarers in order to keep them at par with prevailing international standards and those provided under collective bargaining agreements.

NOW, THEREFORE, the POEA Governing Board, in a meeting duly convened, hereby resolves to amend and increase the compensation and other benefits as specified under Part II, Section C, paragraph 1 and Section L, paragraphs 1 and 2 of the POEA Standard Employment Contract for Seafarers which shall henceforth read as follows:

I.

"Section C. COMPENSATION AND BENEFITS

1. In case of death of the seaman during the term of his Contract, the employer shall pay his beneficiaries the Philippine Currency equivalent to the amount of US\$50,000 and an additional amount of US\$7,000 to each child under the age of twenty-one (21) but not exceeding four children at the exchange rate prevailing during the time of payment.

Where the death is caused by warlike activity while sailing within a declared warzone or war risk area, the compensation payable shall be doubled. The employer shall undertake appropriate warzone insurance coverage for this purpose."

x x x

III.

The maximum rate provided under Appendix I-A shall likewise be adjusted to US\$50,000 regardless of rank and position of the seafarer.

IV.

Upon effectivity, the new compensation and other benefits herein provided shall apply to any Filipino seafarer on board any vessel, provided, that the cause of action occurs after this Resolution takes effect.

V.

This Resolution shall take effect after sixty (60) days from publication in a newspaper of general circulation.

Memorandum Circular No. 05, issued on 19 January 1994[2] by POEA Administrator Felicisimo Joson and addressed to all Filipino seafarers, manning agencies, shipowners, managers and principals hiring Filipino seafarers, informed them that Governing Board Resolution No. 01 adjusted the rates of compensation and other

benefits in Part II, Section C, paragraph 1; Section L, paragraphs 1 and 2; and Appendix 1-A of the POEA Standard Employment Contracts for Seafarers, which adjustments took effect on 20 March 1994, and that:

IV. Upon effectivity, the new compensation and other benefits ... shall apply to any Filipino seafarer already on-board any vessel, provided, that the cause of action occurs after the said compensation and benefits take effect.

The Tripartite Technical Working Group mentioned in the Resolution, which convened on 7 January 1994, was composed of the following:

- DA Crescencio M. Siddayao, POEA
- Dir. Angeles T. Wong, POEA
- Dir. Jaime P. Jimenez, POEA
- Dir. Lorna O. Fajardo, POEA
- OIC Salome Mendoza, POEA
- Capt. Gregorio Oca, AMOSUP
- Atty. Romeo Occena, PSU-ALU-TUCP
- Mr. Vicente Aldanese, FAME
- Capt. Emmanuel L. Regio, PAMAS
- Atty. Rexlito Bermudez, COMMA
- Atty. Alexandro M. Cruje, POEA
- Mr. Jay Rosauro Baluyot, POEA
- Ms. Magdalena Sarcos, POEA
- Atty. Augusto Arreza, FSA[3]

In their comment, the public respondents contend that the petition is without merit and should be dismissed because (a) the issuance of the challenged resolution and memorandum circular was a valid exercise of the POEA's rule-making authority or power of subordinate legislation which this Court had sustained in *Eastern Shipping Lines, Inc. vs. POEA*[4] (b) the "non-appointment" of the third member of the Governing Board does not necessarily invalidate the acts of the Board, for it has been functioning "under the advisement of the Tripartite Technical Working Group which group is incidentally constituted by the private sector, i.e., seafarer employers and/or associations of manning agencies including herein petitioner," for which reason "the third member complement ... has been substantially represented by said technical working group";[5] and (c) the consensus on the increase in the rates of compensation and other benefits was arrived at after appropriate consultations with the shipowners and the private sector; the Board therefore soundly exercised its discretion.

In view of the importance of the issues raised, we gave due course to the petition and required the parties to submit their respective memoranda. The petitioners did, while the public respondents opted to adopt their comment as their memorandum.

The constitutional challenge of the rule-making power of the POEA based on impermissible delegation of legislative power had been, as correctly contented by the public respondents, brushed aside by this Court in *Eastern Shipping Lines, Inc. vs. POEA*. [6] The petitioner in that case assailed the constitutionality of

Memorandum Circular No. 02 of the POEA (effective 1 February 1984) which prescribed a standard contract to be adopted by both foreign and domestic shipping companies in the hiring of Filipino seamen for overseas employment. The challenged resolution and memorandum circular here merely further amended Memorandum Circular No. 02, which was earlier amended in 1989 per Memorandum Circular No. 41, series of 1989.[7]

In sustaining the rule-making authority of the POEA and in holding against the claimed infirmity of delegation of legislative power, Eastern first considered the history of the charter of the POEA and then discussed separately the above constitutional issues thus:

[T]he petitioner questions the validity of Memorandum Circular No. 2 itself as violative of the principle of non-delegation of legislative power. It contends that no authority had been given the POEA to promulgate the said regulation; and even with such authorization, the regulation represents an exercise of legislative discretion which, under the principle, is not subject to delegation.

The authority to issue the said regulation is clearly provided in Section 4(a) of Executive Order No. 797, reading as follows:

"x x x The governing Board of the Administration (POEA), as hereunder provided, shall promulgate the necessary rules and regulations to govern the exercise of the adjudicatory functions of the Administration (POEA)."

Similar authorization had been granted the National Seamen Board, which, as earlier observed, had itself prescribed a standard shipping contract substantially the same as the format adopted by the POEA.

The second challenge is more serious as it is true that legislative discretion as to the substantive contents of the law cannot be delegated. What can be delegated is the discretion to determine how the law may be enforced, not what the law shall be. The ascertainment of the latter subject is a prerogative of the legislature. This prerogative cannot be abdicated or surrendered by the legislature to the delegate....

...

The principle of non-delegation of powers is applicable to all the three major powers of the Government but is especially important in the case of the legislative power because of the many instances when its delegation is permitted. The occasions are rare when executive or judicial powers have to be delegated by the authorities to which they legally pertain. In the case of legislative power, however, such occasions have become more and more frequent, if not necessary. This had led to the observation that the delegation of legislative power has become the rule and its non-delegation the exception.

The reason is the increasing complexity of the task of government and the growing inability of the legislature to cope directly with the myriad problems demanding its attention. The growth of society has ramified its activities and created peculiar and sophisticated problems that the legislature cannot be expected reasonably to comprehend. Specialization even in legislation has become necessary. To many of the problems attendant upon present-day undertakings, the legislature may not have the competence to provide the required direct and efficacious, not to say, specific solutions. These solutions may, however, be expected from its delegates, who are supposed to be experts in the particular fields assigned to them.

The reasons given above for the delegation of legislative powers in general are particularly applicable to administrative bodies. With the proliferation of specialized activities and their attendant peculiar problems, the national legislature has found it more and more necessary to entrust to administrative agencies the authority to issue rules to carry out the general provisions of the statute. This is called the "power of subordinate legislation."

...

With this power, administrative bodies may implement the broad policies laid down in a statute by "filling in" the details which the Congress may not have the opportunity or competence to provide. This is effected by their promulgation of what are known as supplementary regulations, such as the implementing rules issued by the Department of Labor on the new Labor Code. These regulations have the force and effect of law.

...

Memorandum Circular No. 2 is one such administrative regulation. The model contract prescribed thereby has been applied in a significant number of the cases without challenge by the employer. The power of the POEA (and before it the National Seamen Board) in requiring the model contract is not unlimited as there is a sufficient standard guiding the delegate in the exercise of the said authority. That standard is discoverable in the executive order itself which, in creating the Philippine Overseas Employment Administration, mandated it to protect the rights of overseas Filipino workers to "fair and equitable employment practices." [8]

The POEA mandate referred to as providing the reasonable standard for the exercise of the POEA's rule-making authority is found in the statement of powers and functions of the said office in paragraph (a), Section 4 of E.O. 797, to wit:

(a)

The Administration shall formulate and undertake in coordination where necessary with the appropriate entities concerned, a systematic program for promoting and monitoring the overseas employment of Filipino workers taking into consideration domestic manpower requirements, and to protect their rights to fair and equitable employment practices. It shall have original and exclusive jurisdiction over all cases, including money claims, involving employer-employee relations arising out of or by virtue of any law or contract involving Filipino workers for overseas employment, including seamen. This adjudicatory function shall be undertaken in appropriate circumstances in consultation with the Construction Industry Authority of the Philippines. The governing Board of the Administration, as hereinunder provided, shall promulgate the necessary rules and regulations to govern the exercise of the adjudicatory functions of the Administration.

It is, of course, well established in our jurisdiction that, while the making of laws is a non-delegable power that pertains exclusively to Congress, nevertheless, the latter may constitutionally delegate the authority to promulgate rules and regulations to implement a given legislation and effectuate its policies, for the reason that the legislature finds it impracticable, if not impossible, to anticipate situations that may be met in carrying the law into effect. All that is required is that the regulation should be germane to the objects and purposes of the law; that the regulation be not in contradiction to but in conformity with the standards prescribed by the law. [9] This is the principle of subordinate legislation which was discussed by this Court in *People vs. Rosenthal* [10] and in *Pangasinan Transportation vs. Public Service Commission*. [11] Thus in *Calalang vs. Williams*, [12] this Court stated:

In the case of *People vs. Rosenthal and Osmeña*, G.R. Nos. 46076 and 46077, promulgated June 12, 1939, and in *Pangasinan Transportation vs. The Public Service Commission*, G.R. No. 47065, promulgated June 26, 1940, this Court had occasion to observe that the principle of separation of powers has been made to adapt itself to the complexities of modern governments, giving rise to the adoption, within certain limits, of the principle of "subordinate legislation", not only in the United States and England but in practically all modern governments. Accordingly, with the growing complexity of modern life, the multiplication of the subjects of governmental regulations, and the increased difficulty of administering the laws, the rigidity of the theory of separation of governmental powers has, to a large extent, been relaxed by permitting the delegation of greater powers by the legislative and vesting a larger amount of discretion in administrative and executive officials, not only in the

execution of the laws, but also in the promulgation of certain rules and regulations calculated to promote public interest.

That the challenged resolution and memorandum circular, which merely further amended the previous Memorandum Circular No. 02, strictly conform to the sufficient and valid standard of "fair and equitable employment practices" prescribed in E.O. No. 797 can no longer be disputed.[13]

There is, as well, no merit to the claim that the assailed resolution and memorandum circular violate the equal protection and contract clauses of the Constitution. To support its contention of inequality, the petitioners claim discrimination against foreign shipowners and principals employing Filipino seamen and in favor of foreign employers employing overseas Filipinos who are not seamen.

It is an established principle of constitutional law that the guaranty of equal protection of the laws is not violated by legislation based, on reasonable classification. And for the classification to be reasonable, it (1) must rest on substantial distinctions; (2) must be germane to the purpose of the law; (3) must not be limited to existing conditions only; and (4) must apply equally to all members of the same class.[14] There can be no dispute about the dissimilarities between land-based and sea-based Filipino overseas workers in terms of, among other things, work environment, safety, dangers and risks to life and limb, and accessibility to social, civic, and spiritual activities.

Nor is there merit in the claim that the resolution and memorandum circular violate the contract clause of the Bill of Rights.

The executive order creating the POEA was enacted to further implement the social justice provisions of the 1973 Constitution, which have been greatly enhanced and expanded in the 1987 Constitution by placing them under a separate Article.[15] The Article on Social Justice was aptly described as the "heart of the new Charter" by the President of the 1986 Constitution Commission, retired Justice Cecilia Muñoz-Palma.[16] Social justice is identified with the broad scope of the police power of the state and requires the extensive use of such power.[17] In *Calalang vs. Williams*,[18] this Court, speaking through Justice Jose P. Laurel, expounded on social justice thus:

Social justice is "neither communism, nor despotism, nor atomism, nor anarchy," but the humanization of laws and the equalization of social and economic forces by the State so that justice in its rational and objectively secular conception may at least be approximated. Social justice means the promotion or the welfare of all the people, the adoption by the Government of measures calculated to insure economic stability of all the competent elements of society, through the maintenance of a proper economic and social equilibrium in the interrelations of the members of the community, constitutionally, through the adoption of measures legally justifiable, or extra-constitutionally, through the exercise of powers underlying the existence of all governments on the time-honored principle of *salus populi est suprema lex*.

Social justice, therefore, must be founded on the recognition of the necessity of interdependence among diverse and diverse units of a society and of the protection that should be equally and evenly extended to all groups as a combined force in our social and economic life, consistent with the fundamental and paramount objective of the state of promoting the health, comfort, and quiet of all persons, and of bringing about "the greatest good to the greatest number."

The constitutional prohibition against impairing contractual obligations is not absolute and is not to be read with literal exactness. It is restricted to contracts with respect to property or some object of value and which confer rights that may be asserted in a court of justice; it has no application to statutes relating to public subjects within

the domain of the general legislative powers of the State and involving the public rights and public welfare of the entire community affected by it. It does not prevent a proper exercise by the State of its police power by enacting regulations reasonably necessary to secure the health, safety, morals, comfort, or general welfare of the community, even though contracts may thereby be affected, for such matters cannot be placed by contract beyond the power of the State to regulate and control them.[19]

Verily, the freedom to contract is not absolute; all contracts and all rights are subject to the police power of the State and not only may regulations which affect them be established by the State, but all such regulations must be subject to change from time to time, as the general well-being of the community may require, or as the circumstances may change, or as experience may demonstrate the necessity.[20] And under the Civil Code, contracts of labor are explicitly subject to the police power of the State because they are not ordinary contracts but are impressed with public interest. Article 1700 thereof expressly provides:

ART. 1700. 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.

The challenged resolution and memorandum circular being valid implementations of E.O. 797, which was enacted under the police power of the State, they cannot be struck down on the ground that they violate the contract clause. To hold otherwise is to alter long-established constitutional doctrine and to subordinate the police power to the contract clause.

The last issue concerns the contention that without the appointment by the President of the third member of the governing board, the POEA cannot legally function and exercise its powers. This contention merits scant consideration. Section 4 of E.O. No. 797 indubitably declares the immediate creation of the POEA. Thus upon the effectivity of E.O. No. 797, the POEA attained its juridical personality. The appointment of the third member "who shall be well versed in the field of overseas employment," provided for in paragraph (b) of the said Section, was not meant to be a sine qua non to the birth of the POEA, much less to the validity of the acts of the Board. As a matter of fact, in the same paragraph the President is given the "discretion [to] designate a Deputy Administrator as the third member of the Board."

WHEREFORE, for lack of merit, the instant petition is DISMISSED with costs against the petitioners.

SO ORDERED.

Padilla, (Chairman), Bellosillo, Quiason, and Kapunan, JJ., concur.

[1] Annex "A" of Petition; Rollo, 29-30.

[2] Annex "B" of Petition; Rollo, 31-33.

[3] Annex "2" of Comment (Minutes of the Seabased Tripartite Technical Working Group's Meeting Held on 07 January 1993 [sic] at Deputy Administrator Siddayao's Conference Room); Rollo, 82-84.

[4] 166 SCRA 533 [1988].

[5] Rollo, 70-71.

[6] Supra note 4.

[7] Annex "1" of Comment; Rollo, 75-81.

[8] Supra note 4, at 542-545.

[9] People vs. Exconde, 101 Phil. 1125, 1129-1130 [1957], citing Calalang vs. Williams, 70 Phil. 726 [1940]; Pangasinan Transportation vs. Public Service Commission, 70 Phil. 22 [1940]; People vs. Rosenthal, 68 Phil. 328 [1939]; People vs. Vera, 65 Phil. 56 [1937]; and Rubi vs. Provincial Board of Mindoro, 39 Phil. 660 [1919].

[10] Supra note 9.

[11] Supra note 9.

[12] Supra note 9, at 732.

[13] In the past, this Court has held the following, inter alia, as sufficient standards for purposes of subordinate legislation: public welfare in Municipality of Cardona vs. Binangonan, 36 Phil. 547 [1917]; necessary in the interest of law and order in Rubi vs. Provincial Board, supra note 9; public interest in People vs. Rosenthal, supra note 9; justice and equity in Antamok GoldFields Mining Co. vs. CIR, 70 Phil. 340 [1940]; public convenience and welfare in Calalang vs. Williams, supra note 9; justice and equity and substantial merits of the case in International Hardwood and Veneer Co. vs. Pangil Federation of Workers, 70 Phil. 602 [1940]; simplicity, economy and efficiency in Cervantes vs. Auditor General, 91 Phil. 359 [1952]; and national interest in Free Telephone Workers' Union vs. Minister of Labor and Employment, 108 SCRA 757 [1981].

[14] People vs. Cayat, 68 Phil. 12, 18 [1939].

[15] Article XIII.

[16] Record of the Constitutional Commission, vol. V, 945, 1010. See Aris (Phil.) Inc. vs. NLRC, 200 SCRA 246 [1991].

[17] ENRIQUE M. FERNANDO, The Constitution of the Philippines, 2nd ed. [1977], 79-80; Philippine Apparel Worker's Union vs. NLRC, 106 SCRA 444 [1981].

[18] Supra note 9, at 734-735.

[19] 16 C.J.S. Constitutional Law § 281 [1930 ed.].

[20] THOMAS M. COOLEY, A Treatise on the Constitutional Limitations, vol. Two, Eighth Ed., 1236-1237; Ongsiako vs. Gamboa, 86 Phil. 50, 54-55 [1950].

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