

**MANOLITO BARLES, PATRICIO ELOMINA, AND JUAN SAYO,
PETITIONERS, VS. HON. BENEDICTO ERNESTO BITONIO DIRECTOR,
BUREAU OF LABOR RELATIONS, JORESTY OQUENDO, LUIS
BERNALES, J. OCENA A...**

G.R. No. 120270. June 16, 1999

Ponente: DAVIDE, JR., C.J.

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DAVIDE, JR., C.J.:

This special civil action for certiorari under Rule 65 of the Rules of Court originated from a petition for audit of union funds filed by petitioners with the Bureau of Labor Relations (BLR) and appealed to the Secretary of the Department of Labor and Employment (hereafter Secretary of Labor) who subsequently endorsed the appeal to the BLR. Petitioners now assail BLR Resolutions[1] of 25 April 1995 and 14 March 1995 of the BLR upholding the Bureau's jurisdiction over appeals on decisions involving the examination of union accounts endorsed to it by the Secretary of Labor.

In February 1991, petitioners Manolito Barles, Patricio Elomina and Juan Sayo were elected president, treasurer and auditor, respectively, of Ilaw Buklod ng Manggagawa's IBM Local Chapter No. 15. Private respondents Joresty Oquendo and Juanito Ragasa also ran for the positions of president and secretary in the same election but they lost to petitioners.

On 24 June 1992, the new Executive Board passed a Resolution increasing union dues from P16.00 to P40.00 a month. This was ratified by the members. On 3 August 1992, private respondents filed with the BLR a petition for the immediate audit and examination of union funds.

Subsequent events were summarized by the BLR as follows:

On 10 November 1992, this Office issued an order directing one of its staff, Ms. Dorisa Geluz, to 'proceed with the conduct of the audit.'

The order was appealed to the Office of the Secretary, with the appeal being docketed as OS-MA-A-1-11-93 (BLR-AE No. 8-11-92). On 08 February 1993, through Undersecretary Laguesma, the Office of the Secretary set aside the order and dismissed the petition on the ground that it 'x x x is a duplication of the complaint earlier filed by the [private respondents] with the Office of the Regional Director.'

On 05 April 1993, upon motion for reconsideration of the [private respondents], the Office of the Secretary reconsidered its 08 February 1993 order. It thus reinstated the earlier order issued by this Office on 10 November 1992.

On 13 August 1993, upon motion of [petitioners], the Office of the Secretary modified its 08 February 1993 order and ruled that:

'While we sustain the Order for the holding of an account examination of the union, we have deemed it proper to take valid cognizance of the argument that the Bureau of Labor Relations is an improper venue for the same.

To give substance to Administrative Order 186 decentralizing line functions, the matter of the conduct for the union account examination is hereby endorsed to the Regional Office. Let the account examiner of DOLE Regional Office No. IV, perform this task.

Wherefore, premises considered, the motion for reconsideration is hereby denied. The Order for the conduct of union account examination is affirmed, but modified to the extent that the same shall be conducted by DOLE Regional Office No. IV through its competent personnel.

`Let the records of the case be forwarded to the Regional Office for the appropriate proceedings therein.'

Pursuant to this order, the account examiner, regional Office No. IV initiated the conduct of audit by calling for a pre-audit conference. [Petitioners], however, filed a petition for certiorari with the Supreme Court docketed as G.R. No. 111671, seeking to annul and set aside the order of the Office of the Secretary. In the conference of 30 September 1993, the audit was supposed to have been held in abeyance `until the petition for certiorari filed by the [petitioners] is resolved.'

Subsequently, the Regional Office sent notices to both parties setting pre-audit conferences on 26 November 1993, 10 December 1993, and 23 December 1993. [Petitioners] did not appear in any of these conferences. On record, they formally filed a request dated 03 December 1993 to hold in abeyance the pre-audit conference because of the pendency of their petition for certiorari with the Supreme Court. Parenthetically, the Supreme Court had earlier dismissed the petition on 22 November 1993; the Court would later on dismiss the petition with finality on 24 January 1994.

In the meantime, on 01 December 1993, the Regional Office sent a letter to the employer of [petitioners] asking for `x x x a certification as to the amount of union dues checked-off and other deductions made from the salaries of union members.' On 28 December 1993, the Regional Office also sent a subpoena duces tecum to [petitioners], directing them to bring `x x x all the financial documents of the union for the period from July 1989 to July 1992.'

On 05 April 1994, [petitioners'] employer sent the Regional Office a summary of union collections and remittances from July 1989 to July 1992. On 18 April 1994, the Regional Office again sent [petitioners'] employer another request, this time asking for `x x x a certification as to the amount other than union dues deducted from the salaries of union members and as well as non-union members.' On 11 May 1994 [petitioners'] employer, through Mr. Antonio de las Alas, issued a certification complying with this request.

On 02 June 1994, the Regional Director issued an order based on the recommendations of the account examiner. The pertinent portion of the order states:

`Since it is obvious that the incumbent officers do not want this Office to conduct the examination of the book of accounts x x x, the undersigned (the account examiner) shall have the certification furnished to us by Mr. Antonio De las Alas, Jr., as basis for the audit and no other way except to resolve this case, once and for all, the undersigned recommends the following:

"1. That the incumbent officers hold a general membership meeting and likewise explain the amount of P352,496.00 to the general membership and open the book of accounts to any member as well as the complainants and furnish this Office the minutes of the particular meeting.

"2. The incumbent officers are given 20 days to submit compliance report of the said meeting.

" x x x.

This Office finds the above-findings and recommendations in order, hence it is hereby adopted.

WHEREFORE, the responsible officers particularly, the union president, union treasurer, the retired former

union treasurer, the former union auditor and the union auditor are ordered to comply with the foregoing recommendations. x x x

Consequently, the responsible officers are given twenty (20) days from receipt of this ORDER to convene a general meeting for the purpose of putting into effect the mandate of the ORDER and to make a report of compliance thereon.[2]

In their appeal to the Secretary of Labor, petitioners asserted that the Regional Director denied them due process, and that the audit was not only barred by prescription but also proscribed by Article 274 of the Labor Code in that union accounts cannot be examined during the sixty-day freedom period or within thirty days immediately preceding the date of election of union members.

On 28 October 1994, Undersecretary Bienvenido E. Laguesma endorsed the appeal and the entire records of the case back to the BLR pursuant to Administrative Order No. 186 and the Rules of Procedure on Mediation-Arbitration, both of which embodied the government's decentralization policy.

In its resolution of 14 March 1995, the BLR found the appeal unmeritorious, as the Secretary of Labor's Order of 13 August 1993 authorizing the Regional Director to proceed with the audit of union funds and our Resolution of 24 January 1994 in G.R. No. 111671 establish *res judicata*. The BLR noted however, that the "report submitted by the account examiner and adopted by the Regional Director is incomplete," and it is "not clear whether the account examiner actually conducted an audit;" thus, the BLR ordered Regional Office No. IV to conduct a more exhaustive re-audit.[3]

On 3 April 1995, petitioners moved to strike out or reconsider the aforesaid resolution challenging the jurisdiction of the BLR over appeals from orders, resolutions and decisions of the Regional Director on petitions for union accounts examination.

Petitioners' arguments were later condensed by the BLR in its Resolution of 25 April 1995 in this wise:

The instant case allegedly is an internal dispute covered by Article 241 (p) of the Labor Code. Thus, the appellate procedure established in Article 259 of the Labor Code and Section 5, Rule VIII of the implementing rules should apply. Accordingly, the decision of the Regional Director should have been appealed to the Office of the Secretary, not to this office. Respondents further argue that Republic Act No. 6715 stripped this office of adjudicatory powers and transferred the same to the Office of the Secretary. Consequently, Administrative Order No. 186, which was issued by the Office of the Secretary itself and which served as basis for it to endorse the case to this Office, constitutes an unauthorized amendment of the law.[4]

The BLR, however, denied the motion explaining that its appellate authority over complaints of union account examinations is explicit under the Rules of Procedure on Med-Arbitration issued on 10 April 1992. In addition, the BLR has the power to examine the financial records of legitimate labor organizations. This power is either (1) primary, inherent and expressed under Book IV, Title VII, Chapter 4, Section 16 of the Administrative Code of 1987 or (2) delegated upon the DOLE Secretary under Article 274 of the Labor Code, *La Tondeña Workers Union v. Secretary of Labor*, and Administrative Order No. 189 insofar as it is consistent with the latter case. The BLR also has original and exclusive authority to hear intra-union disputes (such as a petition to examine union accounts) under Articles 226 and 241 of the Labor Code. The BLR added that R.A. No. 6715 never stripped it of its quasi-adjudicatory powers particularly over internal union disputes, and Administrative Order No. 186 did not amend but precisely implemented Article 274 of the Labor Code.

Before the Court, petitioners now assail the aforementioned Resolution and reiterate the arguments adduced in their motion to strike out or reconsider the 14 March 1995 resolution of the BLR. They assert that the BLR Director, in taking cognizance of the appeal from the Order of the Regional Director upon the Secretary of Labor's

endorsement, acted with grave abuse of discretion amounting to lack of jurisdiction or excess in the exercise thereof because the latter can "neither delegate nor abdicate his appellate jurisdiction to a subordinate body or entity" like the BLR. Petitioners argue that R.A. No. 6715 removed the adjudicatory functions of the BLR. Hence, Administrative Order No. 186 and the Rules of Procedure on Mediation Arbitration which restored said power to the BLR under the "guise of decentralization policy" consequently amended Articles 259 and 274 of the Labor Code in violation of the principle that administrative laws and regulations must supplement, not supplant substantive law as enunciated by the Court in *Philippine Apparel Workers Union vs. NLRC*. Petitioners also question the validity and constitutionality of Administrative Order 186 and the Rules of Procedure on Mediation Arbitration.

Public respondent through the Solicitor General insists on its appellate jurisdiction over revisions, etc. relative to complaints for union accounts examination. Citing *La Tondeña v. Secretary of Labor*, the Solicitor General points that by endorsing the case to the BLR, the Secretary of Labor, actually authorized the BLR to act on his behalf. Apart from any endorsement, the power of the BLR to examine union accounts is clear under the Administrative Code and Article 226 of the Labor Code. Moreover, public respondent asserts that petitioners' reliance on Article 259 of the Labor Code is misplaced since this case involves an internal union dispute while the former is concerned with disputes between unions in a certification election.

The only issue under consideration is whether the BLR has jurisdiction to review decisions of the DOLE Regional Director endorsed to it (BLR) by the Secretary of Labor. No constitutional issue is involved and the attempt to introduce the same here is nothing but a ruse to confuse the issues.

We resolve the issue in the affirmative and approve the BLR ruling on the matter.

Appellate authority over decisions of the Regional Director involving examinations of union accounts is expressly conferred on the BLR under the Rules of Procedure on Mediation-Arbitration, and we quote:

RULE II

MED-ARBITRATION

SEC. 3. Jurisdiction of the Regional Director. - the Regional Director shall exercise original and exclusive jurisdiction over application for union registration, petitions for cancellation of union registration and complaints for examination of union's books of accounts (*italics supplied*).

SEC. 4. Jurisdiction of the Bureau.-

x x x

(b) The Bureau shall exercise appellate jurisdiction over all cases originating from the Regional Director involving union registration or cancellation of certificates of union registration and complaints for examination of union books of accounts (*italics supplied*).

The language of the law is categorical. Any additional explanation on the matter is superfluous.

It is clear then that the DOLE Secretary has no appellate jurisdiction over decisions of Regional Directors involving petitions for examinations of union accounts. Petitioners argument that the DOLE Secretary delegated or even abdicated his appellate powers deserves scant consideration. He does not possess such power hence he cannot delegate, much more, abdicate powers which he does not own. The fallacy in petitioners' argument arose from their equally erroneous proposition that since this case stemmed from a petition to audit union funds/accounts - an internal union dispute - the procedure for appeals outlined in Article 259[5] and Section 5 of Rule VIII of the Implementing Rules apply.[6] Under these provisions, it is the DOLE Secretary who has

appellate jurisdiction. Article 259 however governs appeals on petitions for certification elections. As the Solicitor General correctly assessed, a certification election is a dispute between unions; it is not an internal union dispute. Article 259 is clearly inapplicable.

Section 5 of Rule VIII of the Implementing Rules on the other hand, admittedly applies to internal union conflicts, but again it is not apropos to the case at bar as the relief granted under a complaint averring an intra-union dispute involves an order for the cancellation of the registration certificate of the erring union or the expulsion of the guilty party.[7] The case at bar originated from a petition for an audit of union accounts. In *La Tondeña Workers Union vs. Secretary of Labor*,[8] the Court classified such a petition as an intra-union conflict. The obvious relief that may be granted in a petition for audit is an order for the examinations of the books of accounts. Section 5 of Rule VIII of the Implementing Rules is likewise inappropriate.

The DOLE Secretary, however, can properly delegate to the BLR his visitorial powers under Article 274 which includes the power to examine the financial accounts of legitimate labor organizations. The provision reads as follows:

Article 274. Visitorial power. - The Secretary of Labor and Employment or his duly authorized representative is hereby empowered to inquire into the financial activities of legitimate labor organizations upon the filing of a complaint under oath and duly supported by the written consent of at least twenty (20%) percent of the total membership of the labor organization concerned and to examine their books of accounts and other records to determine compliance or non-compliance with the law and to prosecute any violations of the law and the union constitution and by-law; Provided, That such inquiry or examination shall not be conducted during the sixty (60)-day freedom period nor within the thirty (30) days immediately preceding the date of election of union officers.

While the provision did not explicitly mention the BLR, and only made a cryptic reference to the DOLE Secretary's "duly authorized representative", the latter was identified by the Court as the BLR in *La Tondeña Workers Union vs. Secretary of Labor* when it ruled that "union accounts examiners of the Bureau mentioned in Rule 1, Sec. 1 (ff) of "Book V of the implementing rules as having the power to audit the books of accounts of unions are actually officials of the BLR because the word 'Bureau' is defined in Rule 1, Sec. 1 (b) of the same rules as the Bureau of Labor Relations." The Court additionally declared therein that the DOLE Secretary authorized the BLR to examine union accounts for and in his behalf when he endorse the case to the latter, thus:

[T]he delegation of authority to union accounts examiners in Rule 1, sec. 1 (ff) is not exclusive. By indorsing the case to the BLR, the Secretary of Labor and Employment must be presumed to have authorized the BLR to act on his behalf. Xxxx, the Secretary made two indorsements: first, when he referred to the BLR the letter dated July 27, 1989 of Ramon de la Cruz and Norma Marin seeking the annulment of the audit report of the DOLE NCR, and second, on September 4, 1990, when, instead of acting on the petition for review of the union, he endorsed it to the BLR.[9]

The DOLE Secretary can also delegate his other functions and duties pursuant to Section 40, Chapter 8, Book IV of the Administrative Code provided that the delegation is in writing, indicating the officer or class of officers or employees to whom the delegation is made and only insofar as the delegation is necessary for the latter to implement plans and programs adequately.

In any case, the endorsement of the DOLE Secretary is consistent with Article 226 of the Code, thus:

Art. 226. Bureau of Labor Relations. - The Bureau of Labor Relations and the Labor Relations Divisions in the regional offices of the Department of Labor shall have original and exclusive authority to act, at their own initiative or upon request of either or both parties, on all inter-union and intra-union conflicts, x x x. (italics supplied)

As already held by the Court in *La Tondeña Workers Union vs. Secretary of Labor*, intra-union conflicts such as examinations of accounts are under the jurisdiction of the BLR. However, the Rules of Procedure on mediation-Arbitration purposely and expressly separated or distinguished examinations of union accounts from the genus of intra-union conflicts and provided a different procedure for the resolution of the same. Original jurisdiction over complaints for examinations of union accounts is vested on the Regional Director and appellate jurisdiction over decisions of the former is lodged with the BLR. This is apparent from Sections 3 and 4 of the Med-Arbitration Rules as already mentioned. Contrast these two sections from Section 2 and Section 56 of the same rules. Section 2 expressly vests upon Med-Arbiters original and exclusive jurisdiction to hear and decide inter alia "all other inter-union or internal union disputes." Section 5 states that the decisions of the Med-Arbiters shall be appealable to the DOLE Secretary. These are the provisions consistent with Section 5 of Rule VIII of the Implementing Rules of the Labor Code but as already explained inapplicable to the same at bar.

Without doubt, the rules of Procedure on Mediation-Arbitration did not amend or supplant substantive law but implemented and filled in details of procedure left vacuous or ambiguous by the Labor Code and its Implementing Rules. Petitioners' reliance on *Philippine Apparel Workers Union vs. NLRC*,^[10] in support of their "amendment theory" is therefore misplaced. In said case, the Court nullified the rules issued by the DOLE Secretary supposed to implement but in effect supplanted P.D. No. 1123. The Mediation-Arbitration Rules do not suffer from the same legal infirmity.

Administrative Order No. 189 is a different matter but completely irrelevant here. True, the DOLE Secretary ostensibly endorsed the appeal to the BLR on the basis of said administrative order, but it was already established herein that the endorsement was procedurally tenable under the Rules of Procedure on Med-Arbitration and consistent with the authority of the BLR to inquire into the financial accounts of legitimate labor organizations. In other words, irrespective and independent of any endorsement, it is the BLR which has jurisdiction over complaints for examinations of union accounts. It is worth mentioning at this point that the BLR, independent or any delegation, can *moto proprio* or upon its own authority inspect a union's financial status under Book IV, Title VII, Chapter 4, Section 16 of the Administrative Code of 1987, thus:

Section 16. Bureau of Labor Relations - The Bureau of Labor Relations shall set policies, standards, and procedures on the registration and supervision of legitimate labor union activities including denial, cancellation and revocation of labor union permits. It shall also set policies, standards, and procedure relating to collective bargaining agreements, and examination of financial records of accounts of labor organizations to determine compliance with relevant laws. (*italics supplied*)

In sum, the BLR did not exceed its jurisdiction or committed grave abuse of discretion in taking cognizance of petitioners' appeal. At any rate, this Court's ruling in G.R. No. 111671 dismissing the petition for certiorari filed by petitioners in their quest to nullify the 13 August 1993 order of the office of the DOLE Secretary requiring the Regional office to proceed with the audit constitutes *res judicata*. This should put an end to this litigation already prolonged by procedural ploys which this Court will no longer tolerate. This case involves a simple matter of auditing union accounts which should have been conducted with dispatch eons ago.

WHEREFORE, the instant petition is dismissed for lack of merit. The resolutions of the Bureau of Labor Relations promulgated on 25 March 1995 and 14 March 1995 dismissing petitioners' appeal are hereby affirmed in toto. The Regional Office No. IV of the Department of Labor and Employment is hereby ordered to proceed immediately with the audit and examination of the Ilaw Buklod ng Manggagawa IBM Local Chapter No. 15.

Costs against petitioners.

SO ORDERED.

Melo, Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

[1] BLR Case No. A-11-39-94 entitled, "In the Matter of Audit and examination of union funds of Ilaw at Buklod ng Manggagawa Local No. 15, Joresty Oquendo et. al. v. Manolito Barles, et. al.

[2] Per Benedicto Ernesto K. Bitonio, Jr., Director., BLR Case No. A-11-39-94; BLR Resolution of 14 March 1995; Rollo, 48-51.

[3] Id., 51.

[4] Rollo, 43-44.

[5] Art. 259. Appeal from certification election orders. Any party to an election may appeal the order or results of the election as determined by the Med-Arbiter directly to the Secretary of Labor and Employment on the ground that the rules and regulations or parts thereof established by the Secretary of Labor and Employment for the conduct of the election have been violated.

[6] Sec. 5 Appeal. The aggrieved party may, within ten (10) calendar days from receipt of the decision of the med-arbiter, appeal the same to the Secretary on any of the following grounds:

(a) grave abuse of discretion; and

(b) gross incompetence.

x x x

[7] Section 4, Rule VIII of the Implementing Rules of the Labor Code.

[8] 239 SCRA 117 [1994].

[9] Supra, note 5 at 123.

[10] 106 SCRA 444 [1981].

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