ALLIED INVESTIGATION BUREAU, INC., PETITIONER, VS. HON. SECRETARY OF LABOR & EMPLOYMENT, ACTING THROUGH UNDERSECRETARY CRESENCIANO B. TRAJANO, RESPONDENTS.

G.R. No. 122006. November 24, 1999

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

For consideration of this Court is a petition for certiorari under Rule 65 of the Rules of Court with prayer for the issuance of a temporary restraining order/writ of preliminary injunction seeking to nullify and set aside 1) the Order, dated May 9, 1995, of Regional Director Romeo A. Young in Case No. NCROO-9501-RI-042-SPL; and 2) the Order, dated September 19, 1995 of the Secretary of Labor and Employment through Undersecretary Cresenciano B. Trajano.

Petitioner Allied Investigation Bureau, Inc. is a security agency. On January 11, 1994, it entered into a security contract with Novelty Philippines, Inc. (NPI, for brevity) whereby it obligated itself to provide security services to the latter.[1]

On January 17, 1995, private respondents Melvin T. Pelayo and Samuel Sucanel, two of the security guards assigned by petitioner to NPI, filed a complaint with the Office of respondent Regional Director Romeo A. Young charging petitioner with non-compliance with Wage Order No. NCR-03,[2] which increased the minimum daily pay of workers by P17.00, or from P118.00 to P135.00 effective December 16, 1993; and further, by P10.00, or from P135.00 to P145.00 daily beginning April 1, 1994. Private respondents, likewise, sought the recovery of wage differentials.[3]

On February 9 and 14, 1995, the Office of Regional Director Young conducted inspection visits at petitioner's establishment. Senior Labor Enforcement Officer Eduvigis A. Acero issued a Notice of Inspection Results, the pertinent portion of which reads:

> "FINDINGS AS A RESULT OF INSPECTION CONDUCTED:
>
> - Non-implementation under W.O. # NCR-03 from Dec. 16, 1993 to Dec. 15, 1994 to security guards assigned at Novelty Phils., Inc. However, their prime client has been granted an exemption by the Wage Board under W.O. # NCR-03 with Case No. NCRO-W.O. # 3-E (9) dated June 7, 1994. Please see attached xerox copy.
>
> - Non-remittance of SSS Premiums
>
> - Excessive deduction or Bayanihan System (P20.00) every pay day instead of P5.00 only.
>
> INSTRUCTIONS TO EMPLOYER:
>
> You are required to effect restitution and/or correction of the foregoing at the company or plant level within five (5) calendar days hereof.
>
> Any question on the above findings should be submitted to this office within five (5) working days from notice

> hereof, otherwise order of compliance shall be issued.
>
> x x x.[4]

Said report was explained to and received by petitioner's Human Resources Director, Eufracio G. Quiambao III on February 14, 1995.[5]

Thereafter, in order to facilitate amicable settlement between the parties, a series of conferences and hearings were scheduled by the Office of the Regional Director. However, despite due notice, petitioner failed to appear in any of said hearings.

On May 9, 1995, respondent Regional Director issued an Order, the dispositive portion of which reads:

> WHEREFORE, premises considered and considering further that the above computed wage differentials form part of the legal remunerations of the complainants, respondent - ALLIED INVESTIGATION BUREAU, INC., is hereby ordered to pay to the ninety-two employees the total amount of EIGHT HUNDRED SEVEN THOUSAND FIVE HUNDRED SEVENTY PESOS AND THIRTY-SIX CENTAVOS (P807.570.36) to be distributed to the individual employees in accordance with the schedule mentioned above, within ten (10) days from receipt hereof. Otherwise, Writ of execution shall issue to enforce this Order.
>
> The issue on the non-remittance of SSS premiums is hereby indorsed to the Social Security System, the same being within its jurisdiction to properly pass upon.
>
> SO ORDERED.[6]

Petitioner appealed the above Order to respondent Secretary of Labor and Employment, without however, posting a cash or surety bond equivalent to the monetary award in the said Order appealed from.[7]

On September 19, 1995, the Secretary of Labor, thru Undersecretary Cresenciano B. Trajano issued an Order[8] dismissing petitioner's appeal for failure to perfect said appeal.

Hence, the instant petition for certiorari with prayer for the issuance of a temporary restraining order/writ of preliminary injunction wherein petitioner raises the following issues:

> - Whether or not respondent Regional Director acted without jurisdiction in adjudicating the private respondents' money claims where the aggregate money claim of each of them exceeds P5,000.00.
>
> - Whether or not respondent Secretary of Labor & Employment, acting through Undersecretary Cresenciano B. Trajano, acted with grave abuse of discretion in dismissing herein petitioner's appeal attacking the jurisdiction of respondent Regional Director in adjudicating subject money claims of private respondents.[9]

Petitioner argues that the power to adjudicate money claims belongs to the Labor Arbiter who has exclusive jurisdiction over employees' claims where the aggregate amount of the claims of each employee exceeds P5,000.00.[10]

Petitioners cites Articles 129 and 217 of the Labor Code of the Philippines which provide, respectively, that the power of the Regional Director to adjudicate employees' money claims is subject to the condition that the aggregate money claims of each employee does not exceed P5,000.00;[11] and, that the Labor Arbiter has jurisdiction over all other claims arising from employer-employee relations, including those of persons in domestic or household service, involving an amount exceeding five thousand pesos (P5,000.00), whether or not accompanied with a claim for reinstatement.

Petitioner further contends that since the Order appealed from is void and without legal effect, said Order never assumed finality and, therefore, it was improper for the respondent Secretary of Labor to outrightly dismiss the

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appeal on the ground that petitioner failed to post a cash/surety bond.[12]

Petitioner alleges that respondent Secretary of Labor acted with grave abuse of discretion in evading its duty to entertain the appeal on a technical ground.[13]

Finally, petitioner prays for the issuance of a temporary restraining order or a writ of preliminary injunction as the enforcement of the alleged void orders would cause them great prejudice if not irreparable damage.

Petitioner's arguments are untenable.

While it is true that under Articles 129[14] and 217[15] of the Labor Code, the Labor Arbiter has jurisdiction to hear and decide cases where the aggregate money claims of each employee exceeds P5,000.00, said provisions of law do not contemplate nor cover the visitorial and enforcement powers of the Secretary of Labor or his duly authorized representatives.

Rather, said powers are defined and set forth in Article 128 of the Labor Code (as amended by R.A. No. 7730) thus:

> Art. 128. Visitorial and enforcement power. -
>
> (a) The Secretary of Labor or his duly authorized representatives, including labor regulation officers, shall have access to employer's records and premises at any time of the day or night whenever work is being undertaken therein, and the right to copy therefrom, to question any employee and investigate any fact, condition or matter which may be necessary to determine violations or which may aid in the enforcement of this Code and of any labor law, wage order or rules and regulations issued pursuant thereto.
>
> (b) Notwithstanding the provisions of Articles 129 and 217 of this Code to the contrary, and in cases where the relationship of employer-employee exists, the Secretary of Labor and Employment or his duly authorized representatives shall have the power to issue compliance orders to give effect to the labor standards provisions of this Code and other labor legislation based on the findings of labor employment and enforcement officers or industrial safety engineers made in the course of inspection. The Secretary or his duly authorized representatives shall issue writs of execution to the appropriate authority for the enforcement of their orders, except in cases where the employer contests the findings of the labor employment and enforcement officer and raises issues supported by documentary proofs which were not considered in the course of inspection.

An order issued by the duly authorized representatives of the Secretary of Labor and Employment under this article may be appealed to the latter. In case said order involves a monetary award, an appeal by the employer may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Secretary of Labor and Employment in the amount equivalent to the monetary award in the order appealed from. (Underscoring supplied)

x x x

The aforequoted provision explicitly excludes from its coverage Articles 129 and 217 of the Labor Code by the phrase "(N)otwithstanding the provisions of Articles 129 and 217 of this Code to the contrary x x x" thereby retaining and further strengthening the power of the Secretary of Labor or his duly authorized representatives to issue compliance orders to give effect to the labor standards provisions of said Code and other labor legislation based on the findings of labor employment and enforcement officers or industrial safety engineers made in the course of inspection.

In the case at bar, the Office of respondent Regional Director conducted inspection visits at petitioner's establishment on February 9 and 14, 1995 in accordance with the above-mentioned provision of law. In the course of said inspection, several violations of the labor standard provisions of the Labor Code were discovered and

reported by Senior Labor Enforcement Officer Eduvigis A. Acero in his Notice of Inspection Results. It was on the bases of the aforesaid findings (which petitioner did not contest), that respondent Regional Director issued the assailed Order for petitioner to pay private respondents the respective wage differentials due them.

Clearly, as the duly authorized representative of respondent Secretary of Labor, and in the lawful exercise of the Secretary's visitorial and enforcement powers under Article 128 of the Labor Code, respondent Regional Director had jurisdiction to issue his impugned Order.

In a recent case,[16] the Supreme Court ruled in this wise:

Assailed in this special civil action for certiorari is the Order dated August 1, 1995 issued by public respondent Regional Director Romeo A. Young of the Department of Labor and Employment (DOLE) in Case NO. NCROO-9503-IS-035, ordering petitioner Lord and Lady Salon to pay private respondent Ateldo Barroga the sum of P14,099.05 representing his underpaid wages and premium pay for work on holidays. This suit is an offshoot of the complaint for payment of salary differentials filed by private respondent against petitioner on March 20, 1995. Upon investigation conducted by public respondent's office, petitioner was found to have committed the following violations: (1) underpayment of wages, (2) non-implementation of premium pay for worked legal holidays, and (3) non-availability of records at the time of inspection. Consequent to the parties' failure to reach an amicable settlement, public respondent issued the assailed resolution. Petitioner asserts that public respondent exceeded his jurisdiction in taking cognizance of the complaint and ordering the payment of P14,099.05 to private respondent because the award of the latter amount goes over the jurisdictional amount of P5,000.00 for cases filed before the Regional Director, thus, is properly cognizable by the Labor Arbiter instead.

We dismiss the petition. Pursuant to Section 1 of Republic Act 7730 [Approved on June 2, 1994] which amended Article 128 (b) of the Labor Code, the Secretary of Labor and Employment or his duly authorized representative, in the exercise of their visitorial and enforcement powers, are now authorized to issue compliance orders to give effect to the labor standards provisions of this Code and other labor legislation based on the findings of labor employment and enforcement officers or industrial safety engineers made in the course of inspection, sans any restriction with respect to the jurisdictional amount of P5,000.00 provided under Article 129 and Article 217 of the Code.

The instant case therefore falls squarely within the coverage of the aforecited amendment as the assailed order was issued to enforce compliance with the provisions of the Code with respect to the payment of proper wages. Hence, petitioner's claim of lack of jurisdiction on the part of public respondent is bereft of merit.

ACCORDINGLY, the petition is hereby DISMISSED.

Anent the issue of whether or not the respondent Secretary of Labor acted with grave abuse of discretion in dismissing petitioner's appeal on the ground that petitioner failed to post the required cash or surety bond, we rule in the negative.

Article 128 of the Labor Code likewise explicitly provides that in case an order issued by the duly authorized representative of the Secretary of Labor and Employment involves a monetary award, an appeal by the employer may be perfected only upon posting of a cash or surety bond in an amount equivalent to the monetary award in the order appealed from.

As correctly noted by the Office of the Solicitor General, since the Order appealed from involves a monetary award, an appeal by petitioner may be perfected only upon posting of a cash or surety bond issued by a reputable bonding company duly accredited by respondent Secretary of Labor in the amount equivalent to the monetary award in the Order appealed from.[17]

It is undisputed that petitioner herein did not post a cash or surety bond when it filed its appeal with the Office of respondent Secretary of Labor. Consequently, petitioner failed to perfect its appeal on time and the Order of respondent Regional Director became final and executory.

Thus, the Secretary of Labor and Employment thru Undersecretary Cresenciano B. Trajano correctly dismissed petitioner's appeal.

WHEREFORE, in view of the foregoing, the instant petition is hereby DENIED for lack of merit.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Pardo, and Ynares-Santiago, JJ., concur.

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[1] Rollo, p. 7.

[2] Wage Order No. NCR-03 provides in part:

x x x

Section 1 - All private sector workers and employees in the National Capital Region receiving one hundred fifty-four pesos (P154.00) and below a day shall receive a wage increase of twenty-seven pesos (P27.00) per day payable as follows:

Amount of Increase	Date of Effectivity
P17.00	Fifteen days after publication of this Wage Order.
P10.00	April 1, 1994

x x x

[3] Rollo, pp. 7 & 8.

[4] Rollo, pp. 74-75; see also p. 28 of the same.

[5] Id., at 75.

[6] Id., at 32.

[7] Id., at 77.

[8] Id., at 25.

[9] Id., at 10-11.

[10] Id., at 13.

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[11] Id., at 13-14.

[12] Id., at 18.

[13] Id., at 18-19

[14] Art. 129. Recovery of wages, simple money claims and other benefits. - Upon complaint of any interested party, the regional director of the Department of Labor and Employment or any of the duly authorized hearing officers of the Department is empowered, through summary proceeding and after due notice, to hear and decide any matter involving the recovery of wages and other benefits, including legal interest, owng to an employee or person employed in domestic or household service or househelper under this Code, arising from employer-employee relations: Provided, That such complaint does not include a claim for reinstatement: Provided further, that the aggregate money claims of each employee or househelper does not exceed five thousand pesos (P5,000.00).

[15] x x x
Art. 217. Jurisdiction of Labor Arbiters and the Commission. - (a) Except as otherwise provided under this Code the Labor Arbiters shall have original and exclusive jurisdiction to hear and decide, within thirty (30) calendar days after the submission of the case by the parties for decision without extension, even in the absence of stenographic notes, the following cases involving all workers, whether agricultural or non-agricultural:

> x x x
>
> 6. Except claims for Employees Compensation, Social Security, Medicare and maternity benefits, all other claims, arising from employer-employee relations including those of persons in domestic or household service, involving an amount exceeding five thousand pesos (P5,000.00) regardless of whether accompanied with a claim for reinstatement.
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> x x x

[16] Lord and Lady Salon, represented by Teresita Santos vs. Hon. Romeo A. Young, Regional Director, Department of Labor and Employment and Ateldo Barroga, G.R. No. 123258, November 11, 1996.

[17] Rollo, p. 82.

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