

**ABBOTT LABORATORIES PHILIPPINES, INC., PETITIONER, VS.
ABBOTT LABORATORIES EMPLOYEES UNION, MR. CRESENCIANO
TRAJANO, IN HIS CAPACITY AS ACTING SECRETARY OF THE
DEPARTMENT OF LAB...**

G.R. No. 131374. January 26, 2000

Ponente: DAVIDE JR., C.J.

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DAVIDE JR., C.J.:

This special civil action for certiorari and mandamus assails the action of the then Acting Secretary of Labor and Employment Cresenciano. B. Trajano contained in its letter dated 19 September 1997,[1] informing petitioner Abbott Laboratories Philippines, Inc. (hereafter ABBOTT), thru its counsel that the Office of the Secretary of Labor cannot act on ABBOTT's appeal from the decision of 31 March 1997[2] and the Order of 9 July 1997[3] of the Bureau of Labor Relations, for lack of appellate jurisdiction.

ABBOTT is a corporation engaged in the manufacture and distribution of pharmaceutical drugs. On 22 February 1996,[4] the Abbott Laboratories Employees Union (hereafter ALEU) represented by its president, Alvin B. Buerano, filed an application for union registration in the Department of Labor and Employment. ALEU alleged in the application that it is a labor organization with members consisting of 30 rank-and-file employees in the manufacturing unit of ABBOTT and that there was no certified bargaining agent in the unit it sought to represent, namely, the manufacturing unit.

On 28 February 1996,[5] ALEU's application was approved by the Bureau of Labor Relations, which in due course issued Certificate of Registration No. NCR-UR-2-1638-96. Consequently, ALEU became a legitimate labor organization.

On 2 April 1996,[6] ABBOTT filed a petition for cancellation of the Certificate of Registration No. NCR-UR-2-1638-96 in the Regional Office of the Bureau of Labor Relations. This case was docketed as Case No. OD-M-9604-006. ABBOTT assailed the certificate of registration since ALEU's application was not signed by at least 20% of the total 286 rank-and-file employees of the entire employer unit; and that it omitted to submit copies of its books of account.

On 21 June 1996,[7] the Regional Director of the Bureau of Labor Relations decreed the cancellation of ALEU's registration certificate No. NCR-UR-II-1585-95.[8] In its decision, the Regional Director adopted the 13 June 1996[9] findings and recommendations of the Med-Arbiter. It ruled that the union has failed to show that the rank-and-file employees in the manufacturing unit of ABBOTT were bound by a common interest to justify the formation of a bargaining unit separate from those belonging to the sales and office staff units. There was, therefore, sufficient reason to assume that the entire membership of the rank-and-file consisting of 286 employees or the "employer unit" make up the appropriate bargaining unit. However, it was clear on the record that the union's application for registration was supported by 30 signatures of its members or barely constituting 10% of the entire rank-and-file employees of ABBOTT. Thus the Regional Director found that for ALEU's failure to

satisfy the requirements of union registration under Article 234 of the Labor Code; the cancellation of its certificate of registration was in order.

Forthwith, on 19 August 1996,[10] ALEU appealed said cancellation to the Office of the Secretary of Labor and Employment, which referred the same to the Director of the Bureau of Labor Relations. The said appeal was docketed as Case No. BLR-A-10-25-96.

On 31 March 1997,[11] the Bureau of Labor Relations rendered judgment reversing the 21 June 1996 decision of the Regional Director, thus:

WHEREFORE, the appeal is GRANTED and the decision of the Regional Director dated 21 June 1996 is hereby REVERSED. Abbott Laboratories Employees Union shall remain in the roster of legitimate labor organizations, with all the rights, privileges and obligations appurtenant thereto.[12]

It gave the following reasons to justify the reversal: (1) Article 234 of the Labor Code does not require an applicant union to show proof of the "desirability of more than one bargaining unit within an employer unit," and the absence of such proof is not a ground for the cancellation of a union's registration pursuant to Article 239 of Book V, Rule II of the implementing rules of the Labor Code; (2) the issue pertaining to the appropriateness of a bargaining unit cannot be raised in a cancellation proceeding but may be threshed out in the exclusion-inclusion process during a certification election; and (3) the "one-bargaining unit, one-employer unit policy" must not be interpreted in a manner that shall derogate the right of the employees to self-organization and freedom of association as guaranteed by Article III, Section 8 of the 1987 Constitution and Article II of the International Labor Organization's Convention No.87.

Its motion to reconsider the 31 March 1997 decision of the Bureau of Labor Relations having been denied for lack of merit in the Order[13] of 9 July 1997, ABBOTT appealed to the Secretary of Labor and Employment. However, in its letter dated 19 September 1997,[14] addressed to ABBOTT's counsel, the Secretary of Labor and Employment refused to act on ABBOTT's appeal on the ground that it has no jurisdiction to review the decision of the Bureau of Labor Relations on iappeals in cancellation cases emanating from the Regional Offices. The decision of the Bureau of Labor Relations therein is final and executory under Section 4, Rule III, Book V of the Rules and Regulations Implementing the Labor Code, as amended by Department Order No. 09, s. of 1997. Finally, the Secretary stated:

It has always been the policy of this Office that pleadings denominated as appeal thereto over decisions of the BLR in cancellation cases coming from the Regional Offices are referred back to the BLR, so that the same may be treated as motions for reconsideration and disposed of accordingly. However, since your office has already filed a motion for reconsideration with the BLR which has been denied in its Order dated 09 July 1997, your recourse should have been a special civil action for certiorari with the Supreme Court.

In view of the foregoing, please be informed that the Office of the Secretary cannot act upon your Appeal, except to cause the BLR to include it in the records of the case.

Hence, this petition. ABBOTT premised its argument on the authority of the Secretary of Labor and Employment to review the decision of the Bureau of Labor Relations and at the same time raised the issue on the validity of ALEU's certificate of registration.

We find no merit in this petition.

At the outset, it is worthly to note that the present petition assails only the letter of the then Secretary of Labor & Employment refusing to take cognizance of ABBOTT's appeal for lack of appellate jurisdiction. Hence, in the resolution of the present petition, it is just appropriate to limit the issue on the power of the Secretary of Labor and

Employment to review the decisions of the Bureau of Labor Relations rendered in the exercise of its appellate jurisdiction over decisions of the Regional Director in cases involving cancellations of certificates of registration of labor unions. The issue anent the validity of ALEU's certificate of registration is subject of the Bureau of Labor Relations decision dated 31 March 1997. However, said decision is not being assailed in the present petition; hence, we are not at liberty to review the same.

Contrary to ABBOTT's contention, there has been no grave abuse of discretion on the part of the Secretary of Labor and Employment. Its refusal to take cognizance of ALEU's appeal from the decision of the Bureau of Labor Relations is in accordance with the provisions of Rule VIII, Book V of the Omnibus Rules Implementing the Labor Code as amended by Department Order No. 09.[15] The rule governing petitions for cancellation of registration of any legitimate labor organization or worker association, as it now stands, provides:

SECTION 1. Venue of Action --If the respondent to the petition is a local/chapter, affiliate, or a workers' association with operations limited to one region, the petition shall be filed with the Regional Office having jurisdiction over the place where the respondent principally operates. Petitions filed against federations, national or industry unions, trade union centers, or workers' associations operating in more than one regional jurisdiction, shall be filed with the Bureau.

SECTION 3. Cancellation of registration; nature and grounds. -- Subject to the requirements of notice and due process, the registration of any legitimate labor organization or worker's association may be cancelled by the Bureau or the Regional Office upon the filing of an independent petition for cancellation based on any of the following grounds:

(a)

Failure to comply with any of the requirements prescribed under Articles 234, 237 and 238 of the Code;

(b)

Violation of any of the provisions of Article 239 of the Code;

(b)

Commission of any of the acts enumerated under Article 241 of the Code; provided, that no petition for cancellation based on this ground may be granted unless supported by at least thirty percent (30%) of all the members of the respondent labor organization or workers' association.

Section 4. Action on the petition; appeals -- The Regional or Bureau Director, as the case may be, shall have thirty (30) days from submission of the case for resolution within which to resolve the petition. The decision of the Regional or Bureau Director may be appealed to the Bureau or the Secretary, as the case may be, within ten (10) days from receipt thereof by the aggrieved party on the ground of grave abuse of discretion or any violation of these Rules.

The Bureau or the Secretary shall have fifteen (15) days from receipt of the records of the case within which to decide the appeal. The decision of the Bureau or the Secretary shall be final and executory.

Clearly, the Secretary of Labor and Employment has no jurisdiction to entertain the appeal of ABBOTT. The appellate jurisdiction of the Secretary of Labor and Employment is limited only to a review of cancellation proceedings decided by the Bureau of Labor Relations in the exercise of its exclusive and original jurisdiction. The Secretary of Labor and Employment has no jurisdiction over decisions of the Bureau of Labor Relations rendered in the exercise of its appellate power to review the decision of the Regional Director in a petition to cancel the union's certificate of registration, said decisions being final and inappealable.[16] We sustain the analysis and interpretation of the OSG on this matter, to wit:

From the foregoing, the Office of the Secretary correctly maintained that it cannot take cognizance of petitioner's appeal from the decision of BLR Director Bitonio. Sections 7 to 9[17] (of the Implementing Rules of the Labor Code) thus provide for two situations:

(1)

The first situation involves a petition for cancellation of union registration which is filed with a Regional Office. A decision of a Regional Office cancelling a union's certificate of registration may be appealed to the BLR whose decision on the matter shall be final and inappealable.

(2)

The second situation involves a petition for cancellation of certificate of union registration which is filed directly with the BLR. A decision of the BLR cancelling a union's certificate of registration may be appealed to the Secretary of Labor whose decision on the matter shall be final and inappealable.

Respondent Acting Labor Secretary's ruling --that the BLR's decision upholding the validity of respondent union's certificate of registration is final and inappealable --is thus in accordance with aforequoted Omnibus Rules because the petition for cancellation of union registration was filed by petitioner with a Regional Office, specifically, with the Regional Office of the BLR, National Capital Region (vide pp.1-2, Annex 2, Petition). The cancellation proceedings initiated by petitioner before the Regional Office is covered by the first situation contemplated by Sections 7 to 9 of the Omnibus Rules. Hence, an appeal from the decision of the Regional Office may be brought to the BLR whose decision on the matter is final and inappealable.

In the instant case, upon the cancellation of respondent union's registration by the Regional Office, respondent union incorrectly appealed said decision to the Office of the Secretary. Nevertheless, this situation was immediately rectified when the Office of the Secretary *motu proprio* referred the appeal to the BLR. However, upon reversal by the BLR of the decision of the Regional Office cancelling registration, petitioner should have immediately elevated the BLR decision to the Supreme Court in a special civil action for certiorari under Rule 65 of the Rules of Court.

Under Sections 3 and 4, Rule VIII of Book V of the Rules and Regulations implementing the Labor Code, as amended by Department Order No. 09, petitions for cancellation of union registration may be filed with a Regional office, or directly, with the Bureau of Labor Relations. Appeals from the decision of a Regional Director may be filed with the BLR Director whose decision shall be final and executory. On the other hand, appeals from the decisions of the BLR may be filed with the Secretary of Labor whose decision shall be final and executory .

Thus, under Sections 7 to 9 of the Omnibus Rules and under Sections 3 and 4 of the Implementing Rules (as amended by Department Order No. 09), the finality of the BLR decision is dependent on whether or not the petition for cancellation was filed with the BLR directly. Under said Rules, if the petition for cancellation is directly filed with the BLR, its decision cancelling union registration is not yet final and executory as it may still be appealed to the Office of the Secretary. However, if the petition for cancellation was filed with the Regional Office, the decision of the BLR resolving an appeal of the decision of said Regional Office is final and executory.[18]

It is clear then that the Secretary of Labor and Employment did not commit grave abuse of discretion in not acting on ABBOTT's appeal. The decisions of the Bureau of Labor Relations on cases brought before it on appeal from the Regional Director are final and executory. Hence, the remedy of the aggrieved party is to seasonably avail of the special civil action of certiorari under Rule 65 of the Rules of Court.[19]

Even if we relaxed the rule and consider the present petition as a petition for certiorari not only of the letter of the Secretary of Labor and Employment but also of the decision of the Bureau of the Labor Relations which overruled

the order of cancellation of ALEU's certificate of registration, the same would still be dismissable for being time-barred. Under Sec. 4 of Rule 65 of the 1997 Revised Rules of Court the special civil action for certiorari should be instituted within a period of sixty (60) days from notice of the judgment, order or resolution sought to be assailed. ABBOTT received the decision of the Bureau of Labor Relations on 14 April 1997 and the order denying its motion for reconsideration of the said decision on 16 July 1997. The present petition was only filed on 28 November 1997, after the laps of more than four months. Thus, for failure to avail of the correct remedy within the period provided by law, the decision of the Bureau of Labor Relations has become final and executory.

WHEREFORE, the Petition is DENIED. The challenged order in BLR-A-10-25-96 of the Secretary of Labor and Employment embodied in its 19 September letter is hereby AFFIRMED.

SO ORDERED.

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

[1] Annex "1" of Petition; Rollo, 39; Original Record, vol. I (hereafter I OR), 344.

[2] Annex "2" of Petition; Ibid., 40-50; Ibid., 235-225.

[3] Annex "3" of Petition; Id, 51-53; Id, 337 -335.

[4] I OR, 56-51.

[5] 31 March 1997 Decision in BLR-A 10-25-96, Rollo, 40.

[6] Id, 69-59.

[7] I OR, 131-123. Per Regional Director Romeo A. Young.

[8] What was actually sought to be cancelled was Registration Certificate No. NCR-UR-2-1638-96. Apparently, the Regional Director in NCR-OD-M-9604-006 unwittingly erred in ordering the cancellation of Registration Certificate No. NCR-UR-11-1585-95 since this refer to the certificate of registration ssued to ALEU on 4 November 1995 which later became the subject matter of Case No. NCR-OD-M-9512-038 entitled "Ma. Luisa Mariazeta, et al. v. Abbott Laboratories (Phils.) Employees Union." The Registration Certificate No. NCR-UR-11-1585-95 was cancelled in view of the decision dated 28 February 1996 of the Bureau of Labor Relations, which became final since the ALEU did not appeal therefrom. See Petition for cancellation of union registration, I OR, 69-61.

[9] Id., 120-110. Per Med-Arbiter Renato D. Parungo.

[10] I OR, 198-177.

[11] Id., 235-225. Per Director Benedicto Ernesto R. Bitonio, Jr.

[12] Id., 225.

[13] IOR, 337-335.

[14] Id., 344.

[15] Department Order No. 09 Series of 1997, which took effect on 21 June 1997, amends and renumbers numerous provisions of Book V of the Rules Implementing the Labor Code.

[16] Even under the old rule, decisions of the Bureau of Labor Relations and the Secretary are final and inappealable. Section 9, Rule II, Book V of the Omnibus Rule provides that: The labor organization may, unless the law provides otherwise, within fifteen (15) calendar days from receipt of the decision cancelling or revoking its certificate of registration, file an appeal to the Bureau, or in case of cancellation by the Bureau, to the Secretary, on any of the following grounds:

- a) grave abuse of discretion; and
- b) gross incompetence.

The Bureau/Secretary shall have fifteen (15) calendar days from receipt of the records of the case within which to decide the appeal. The decision shall be final and inappealable.

[17] Now Rule VIII, Implementing Rules of Book V, specifically sections 1, 3 and 4.

[18] Rollo, 144-146; 279-281.

[19] *Bordeos, et al. v. NLRC, et al.*, 262 SCRA 424 (1996); See also *St. Martin Funeral Homes v. NLRC, et al.*, 295 SCRA 494 (1998)

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