

METROPOLITAN BANK AND TRUST COMPANY, INC., PETITIONER, VS. NATIONAL WAGES AND PRODUCTIVITY COMMISSION AND REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD – REGION II, RESPONDENTS.

G.R. No. 144322. February 06, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court seeking the reversal of the Decision[1] of the Court of Appeals (CA) dated July 19, 2000 in CA-G.R. SP No. 42240 which denied the petition for certiorari and prohibition of Metropolitan Bank and Trust Company, Inc. (petitioner).

The procedural antecedents and factual background of the case are as follows:

On October 17, 1995, the Regional Tripartite Wages and Productivity Board, Region II, Tuguegarao, Cagayan (RTWPB), by virtue of Republic Act No. 6727 (R.A. No. 6727), otherwise known as the Wage Rationalization Act,[2] issued Wage Order No. R02-03 (Wage Order), as follows:

Section 1. Upon effectivity of this Wage Order, all employees/workers in the private sector throughout Region II, regardless of the status of employment are granted an across-the-board increase of P15.00 daily.[3]

The Wage Order was published in a newspaper of general circulation on December 2, 1995[4] and took effect on January 1, 1996.[5] Its Implementing Rules[6] were approved on February 14, 1996.[7] Per Section 13 of the Wage Order, any party aggrieved by the Wage Order may file an appeal with the National Wages and Productivity Commission (NWPC) through the RTWPB within 10 calendar days from the publication of the Wage Order.

In a letter-inquiry to the NWPC dated May 7, 1996, the Bankers' Council for Personnel Management (BCPM), on behalf of its member-banks, requested for a ruling on the eligibility of establishments with head offices outside Region II to seek exemption from the coverage of the Wage Order since its member-banks are already paying more than the prevailing minimum wage rate in the National Capital Region (NCR), which is their principal place of business.[8]

In a letter-reply dated July 16, 1996, the NWPC stated that the member-banks of BCPM are covered by the Wage Order and do not fall under the exemptible categories listed under the Wage Order.[9]

In a letter-inquiry to the NWPC dated July 23, 1996, petitioner sought for interpretation of the applicability of said Wage Order.[10] The NWPC referred petitioner's inquiry to the RTWPB.

In a letter-reply dated August 12, 1996, the RTWPB clarified that the Wage Order covers all private establishments situated in Region II, regardless of the voluntary adoption by said establishments of the wage orders established in Metro Manila and irrespective of the amounts already paid by the petitioner.[11]

On October 15, 1996, the petitioner filed a Petition for Certiorari and Prohibition with the CA seeking nullification of the Wage Order on grounds that the RTWPB acted without authority when it issued the questioned Wage Order; that even assuming that the RTWPB was vested with the authority to prescribe an increase, it exceeded its authority when it did so without any ceiling or qualification; that the implementation of the Wage Order will cause the petitioner, and other similarly situated employers, to incur huge financial losses and suffer labor unrest.[12]

On March 24, 1997, the Office of the Solicitor General (OSG) filed a Manifestation and Motion in lieu of Comment affirming the petitioner's claim that the RTWPB acted beyond its authority in issuing the Wage Order prescribing an across-the-board increase to all workers and employees in Region II, effectively granting additional or other benefits not contemplated by R.A. No. 6727.[13]

In view of the OSG's manifestation, the CA directed respondents NWPC and RTWPB to file their comment.[14]

On September 22, 1997, respondents filed their Comment praying that the petition should be dismissed outright for petitioner's procedural lapses; that certiorari and prohibition are unavailing since petitioner failed to avail of the remedy of appeal prescribed by the Wage Order; that the Wage Order has long been in effect; and that the issuance of the Wage Order was performed in the exercise of a purely administrative function.[15]

On July 19, 2000, the CA rendered its Decision denying the petition. The appellate court held that a writ of prohibition can no longer be issued since implementation of the Wage Order had long become *fait accompli*, the Wage Order having taken effect on January 1, 1996 and its implementing rules approved on February 14, 1996; that a writ of certiorari is improper since the Wage Order was issued in the exercise of a purely administrative function, not judicial or quasi-judicial; that the letter-query did not present justiciable controversies ripe for consideration by the respondents in the exercise of their wage-fixing function, since no appeal from the Wage Order was filed; that petitioner never brought before the said bodies any formal and definite challenge to the Wage Order and it cannot pass off the letter-queries as actual applications for relief; that even if petitioner's procedural lapse is disregarded, a regional wage order prescribing a wage increase across-the-board applies to banks adopting a unified wage system and a disparity in wages between employees holding similar positions in different regions is not wage distortion.[16]

Hence, the present petition anchored on the following grounds:

4.1 THE COURT OF APPEALS ERRED IN REFUSING TO DECLARE WAGE ORDER NO. R02-03 NULL AND VOID AND OF NO LEGAL EFFECT.

4.1.1 THE BOARD, IN ISSUING WAGE ORDER NO. R02-03, EXCEEDED THE AUTHORITY DELEGATED TO IT BY CONGRESS.

4.1.2 WAGE ORDER NO. R02-03 IS AN UNREASONABLE INTRUSION INTO THE PROPERTY RIGHTS OF PETITIONER.

4.1.3 WAGE ORDER NO. R02-03 UNDERMINES THE VERY ESSENCE OF COLLECTIVE BARGAINING.

4.1.4 WAGE ORDER NO. R02-03 FAILS TO TAKE INTO ACCOUNT THE VERY RATIONALE FOR A UNIFIED WAGE STRUCTURE.

4.2 PETITIONER'S RECOURSE TO A WRIT OF CERTIORARI AND PROHIBITION WAS PROPER.[17]

Following the submission of the Comment[18] and Reply[19] thereto, the Court gave due course to the petition and required both parties to submit their respective memoranda.[20] In compliance therewith, petitioner and respondents submitted their respective memoranda.[21]

Petitioner poses two issues for resolution, to wit: (1) whether Wage Order No. R02-03 is void and of no legal effect; and (2) whether petitioner's recourse to a petition for certiorari and prohibition with the CA was proper.

Anent the first issue, petitioner maintains that the RTWPB, in issuing said Wage Order, exceeded the authority delegated to it under R.A. No. 6727, which is limited to determining and fixing the minimum wage rate within their respective territorial jurisdiction and with respect only to employees who do not earn the prescribed minimum wage rate; that the RTWPB is not authorized to grant a general across-the-board wage increase for non-minimum wage earners; that *Employers Confederation of the Philippines v. National Wages and Productivity Commission*[22] (hereafter referred to as "ECOP") is not authority to rule that respondents have been empowered to fix wages other than the minimum wage since said case dealt with an across-the-board increase with a salary ceiling, where the wage adjustment is applied to employees receiving a certain denominated salary ceiling; that the Wage Order is an unreasonable intrusion into its property rights; that the Wage Order undermines the essence of collective bargaining; that the Wage Order fails to take into account the rationale for a unified wage structure.

As to the second issue, petitioner submits that ultra vires acts of administrative agencies are correctible by way of a writ of certiorari and prohibition; that even assuming that it did not observe the proper remedial procedure in challenging the Wage Order, the remedy of certiorari and prohibition remains available to it by way of an exception, on grounds of justice and equity; that its failure to observe procedural rules could not have validated the manner by which the disputed Wage Order was issued.

Respondents counter that the present petition is fatally defective from inception since no appeal from the Wage Order was filed by petitioner; that the letter-query to the NWPC did not constitute the appeal contemplated by law; that the validity of the Wage Order was never raised before the respondents; that the implementation of the Wage Order had long become *fait accompli* for prohibition to prosper. Respondents insist that, even if petitioner's procedural lapses are disregarded, the Wage Order was issued pursuant to the mandate of R.A. No. 6727 and in accordance with the Court's pronouncements in the ECOP case;[23] that the Wage Order is not an intrusion on property rights since it was issued after the required public hearings; that the Wage Order does not undermine but in fact recognizes the right to collective bargaining; that the Wage Order did not result in wage distortion.

The Court shall first dispose of the procedural matter relating to the propriety of petitioner's recourse to the CA before proceeding with the substantive issue involving the validity of the Wage Order.

Certiorari as a special civil action is available only if the following essential requisites concur: (1) it must be directed against a tribunal, board, or officer exercising judicial or quasi-judicial functions; (2) the tribunal, board, or officer must have acted without or in excess of jurisdiction or with grave abuse of discretion amounting lack or excess of jurisdiction; and (3) there is no appeal nor any plain, speedy, and adequate remedy in the ordinary course of law.[24]

On the other hand, prohibition as a special civil action is available only if the following essential requisites concur: (1) it must be directed against a tribunal, corporation, board, officer, or person exercising functions, judicial, quasi-judicial, or ministerial; (2) the tribunal, corporation, board or person has acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting lack or excess of jurisdiction; and (3) there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law.[25]

A respondent is said to be exercising judicial function where he has the power to determine what the law is and what the legal rights of the parties are, and then undertakes to determine these questions and adjudicate upon the rights of the parties.[26] Quasi-judicial function is a term which applies to the action, discretion, etc., of public administrative officers or bodies, who are required to investigate facts or ascertain the existence of facts, hold hearings, and draw conclusions from them as a basis for their official action and to exercise discretion of a judicial

nature.[27] Ministerial function is one which an officer or tribunal performs in the context of a given set of facts, in a prescribed manner and without regard to the exercise of his own judgment upon the propriety or impropriety of the act done.[28]

In the issuance of the assailed Wage Order, respondent RTWPB did not act in any judicial, quasi-judicial capacity, or ministerial capacity. It was in the nature of subordinate legislation, promulgated by it in the exercise of delegated power under R.A. No. 6727. It was issued in the exercise of quasi-legislative power. Quasi-legislative or rule-making power is exercised by administrative agencies through the promulgation of rules and regulations within the confines of the granting statute and the doctrine of non-delegation of certain powers flowing from the separation of the great branches of the government.[29]

Moreover, the rule on the special civil actions of certiorari and prohibition equally mandate that these extra-ordinary remedies are available only when "there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law." A remedy is considered plain, speedy and adequate if it will promptly relieve the petitioner from the injurious effects of the judgment or rule, order or resolution of the lower court or agency.[30]

Section 13 of the assailed Wage Order explicitly provides that any party aggrieved by the Wage Order may file an appeal with the NWPC through the RTWPB within 10 days from the publication of the wage order.[31] The Wage Order was published in a newspaper of general circulation on December 2, 1995.[32]

In this case, petitioner did not avail of the remedy provided by law. No appeal to the NWPC was filed by the petitioner within 10 calendar days from publication of the Wage Order on December 2, 1995. Petitioner was silent until seven months later, when it filed a letter-inquiry on July 24, 1996 with the NWPC seeking a clarification on the application of the Wage Order. Evidently, the letter-inquiry is not an appeal.

It must also be noted that the NWPC only referred petitioner's letter-inquiry to the RTWPB. Petitioner did not appeal the letter-reply dated August 12, 1996 of the RTWPB to the NWPC. No direct action was taken by the NWPC on the issuance or implementation of the Wage Order. Petitioner failed to invoke the power of the NWPC to review regional wage levels set by the RTWPB to determine if these are in accordance with prescribed guidelines. Thus, not only was it improper to implead the NWPC as party-respondent in the petition before the CA and this Court, but also petitioner failed to avail of the primary jurisdiction of the NWPC under Article 121 of the Labor Code, to wit:

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

x x x x

(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;

x x x x

(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;

x x x x

(Emphasis supplied)

Under the doctrine of primary jurisdiction, courts cannot and will not resolve a controversy involving a question which is within the jurisdiction of an administrative tribunal, especially where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience and services of the administrative tribunal to determine technical and intricate matters of fact.[33]

Nevertheless, the Court will proceed to resolve the substantial issues in the present petition pursuant to the well-accepted principle that acceptance of a petition for certiorari or prohibition as well as the grant of due course thereto is addressed to the sound discretion of the court.[34] It is a well-entrenched principle that rules of procedure are not inflexible tools designed to hinder or delay, but to facilitate and promote the administration of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate, rather than promote substantial justice, must always be eschewed.[35]

As to respondents' submission that the implementation of the Wage Order can no longer be restrained since it has become *fait accompli*, the Wage Order having taken effect on January 1, 1996 and its implementing rules approved on February 14, 1996, suffice it to state that courts will decide a question otherwise moot if it is capable of repetition yet evading review.[36] Besides, a case becomes moot and academic only when there is no more actual controversy between the parties or no useful purpose can be served in passing upon the merits. Such circumstances do not obtain in the present case. The implementation of the Wage Order does not in any way render the case moot and academic, since the issue of the validity of the wage order subsists even after its implementation and which has to be determined and passed upon to resolve petitioner's rights and consequent obligations therein.

It is worthy to quote the Court's pronouncements in *Tan v. Commission on Elections*,[37] thus:

For this Honorable Court to yield to the respondents' urging that, as there has been *fait accompli*, then this Honorable Court should passively accept and accede to the prevailing situation is an unacceptable suggestion. Dismissal of the instant petition, as respondents so propose is a proposition fraught with mischief. Respondents' submission will create a dangerous precedent. Should this Honorable Court decline now to perform its duty of interpreting and indicating what the law is and should be, this might tempt again those who strut about in the corridors of power to recklessly and with ulterior motives commit illegal acts, either brazenly or stealthily, confident that this Honorable Court will abstain from entertaining future challenges to their acts if they manage to bring about a *fait accompli*. [38]

Having disposed of this procedural issue, the Court now comes to the substance of the petition.

R.A. No. 6727 declared it a policy of the State 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; to enhance employment generation in the countryside through industrial dispersal; and to allow business and industry reasonable returns on investment, expansion and growth.[39]

In line with its declared policy, R.A. No. 6727[40] created the NWPC,[41] vested with the power to prescribe rules and guidelines for the determination of appropriate minimum wage and productivity measures at the regional, provincial or industry levels;[42] and authorized the RTWPB to determine and fix the minimum wage rates applicable in their respective regions, provinces, or industries therein and issue the corresponding wage orders, subject to the guidelines issued by the NWPC.[43] Pursuant to its wage fixing authority, the RTWPB may issue wage orders which set the daily minimum wage rates,[44] based on the standards or criteria set by Article 124[45] of the Labor Code.

In *ECOP*,[46] the Court declared that there are two ways of fixing the minimum wage: the "floor-wage" method

and the "salary-ceiling" method. The "floor-wage" method involves the fixing of a determinate amount to be added to the prevailing statutory minimum wage rates. On the other hand, in the "salary-ceiling" method, the wage adjustment was to be applied to employees receiving a certain denominated salary ceiling. In other words, workers already being paid more than the existing minimum wage (up to a certain amount stated in the Wage Order) are also to be given a wage increase.[47]

To illustrate: under the "floor wage method", it would have been sufficient if the Wage Order simply set P15.00 as the amount to be added to the prevailing statutory minimum wage rates, while in the "salary-ceiling method", it would have been sufficient if the Wage Order states a specific salary, such as P250.00, and only those earning below it shall be entitled to the salary increase.

In the present case, the RTWPB did not determine or fix the minimum wage rate by the "floor-wage method" or the "salary-ceiling method" in issuing the Wage Order. The RTWPB did not set a wage level nor a range to which a wage adjustment or increase shall be added. Instead, it granted an across-the-board wage increase of P15.00 to all employees and workers of Region 2. In doing so, the RTWPB exceeded its authority by extending the coverage of the Wage Order to wage earners receiving more than the prevailing minimum wage rate, without a denominated salary ceiling. As correctly pointed out by the OSG, the Wage Order granted additional benefits not contemplated by R.A. No. 6727.

In no uncertain terms must it be stressed that the function of promulgating rules and regulations may be legitimately exercised only for the purpose of carrying out the provisions of a law. The power of administrative agencies is confined to implementing the law or putting it into effect. Corollary to this guideline is that administrative regulation cannot extend the law and amend a legislative enactment.[48] It is axiomatic that the clear letter of the law is controlling and cannot be amended by a mere administrative rule issued for its implementation.[49] Indeed, administrative or executive acts, orders, and regulations shall be valid only when they are not contrary to the laws or the Constitution.[50]

Where the legislature has delegated to an executive or administrative officers and boards authority to promulgate rules to carry out an express legislative purpose, the rules of administrative officers and boards, which have the effect of extending, or which conflict with the authority-granting statute, do not represent a valid exercise of the rule-making power but constitute an attempt by an administrative body to legislate.[51]

It has been said that when the application of an administrative issuance modifies existing laws or exceeds the intended scope, as in this case, the issuance becomes void, not only for being ultra vires, but also for being unreasonable.[52]

Thus, the Court finds that Section 1, Wage Order No. R02-03 is void insofar as it grants a wage increase to employees earning more than the minimum wage rate; and pursuant to the separability clause[53] of the Wage Order, Section 1 is declared valid with respect to employees earning the prevailing minimum wage rate.

Prior to the passage of the Wage Order, the daily minimum wage rates in Region II was set at P104.00 for the Province of Isabela, P103.00 for the Province of Cagayan, P101.00 for the Province of Nueva Vizcaya, and P100.00 for the Provinces of Quirino and Batanes.[54] Only employees earning the above-stated minimum wage rates are entitled to the P15.00 mandated increase under the Wage Order.

Although the concomitant effect of the nullity of the Wage Order to those employees who have received the mandated increase was not put in issue, this Court shall make a definite pronouncement thereon to finally put this case to rest. As ruled by the Court in *Latchme Motoomull v. Dela Paz*,[55] "the Court will always strive to settle the entire controversy in a single proceeding leaving no root or branch to bear the seeds of future litigation." [56]

Applying by analogy, the Court's recent pronouncement in *Philippine Ports Authority v. Commission on Audit*,^[57] thus:

In regard to the refund of the disallowed benefits, this Court holds that petitioners need not refund the benefits received by them based on our rulings in *Blaquera v. Alcala, De Jesus v. Commission on Audit and Kapisanan ng mga Manggagawa sa Government Service Insurance System (KMG) v. Commission on Audit*.

In *Blaquera*, the petitioners, who were officials and employees of several government departments and agencies, were paid incentive benefits pursuant to EO No. 292 and the Omnibus Rules Implementing Book V of EO No. 292. On January 3, 1993, then President Fidel V. Ramos issued Administrative Order (AO) No. 29 authorizing the grant of productivity incentive benefits for the year 1992 in the maximum amount of P1,000. Section 4 of AO No. 29 directed all departments, offices and agencies which authorized payment of CY 1992 Productivity Incentive Bonus in excess of P1,000 to immediately cause the refund of the excess. Respondent heads of the departments or agencies of the government concerned caused the deduction from petitioners' salaries or allowances of the amounts needed to cover the overpayments. Petitioners therein filed a petition for certiorari and prohibition before this Court to prevent respondents therein from making further deductions from their salaries or allowances. The Court ruled against the refund, thus:

Considering, however, that all the parties here acted in good faith, we cannot countenance the refund of subject incentive benefits for the year 1992, which amounts the petitioners have already received. Indeed, no indicia of bad faith can be detected under the attendant facts and circumstances. The officials and chiefs of offices concerned disbursed such incentive benefits in the honest belief that the amounts given were due to the recipients and the latter accepted the same with gratitude, confident that they richly deserve such benefits.

The said ruling in *Blaquera* was applied in *De Jesus*.

In *De Jesus*, COA disallowed the payment of allowances and bonuses consisting of representation and transportation allowance, rice allowance, productivity incentive bonus, anniversary bonus, year-end bonus and cash gifts to members of the interim Board of Directors of the Catbalogan Water District. This Court affirmed the disallowance because petitioners therein were not entitled to other compensation except for payment of per diem under PD No. 198. However, the Court ruled against the refund of the allowances and bonuses received by petitioners, thus:

This ruling in *Blaquera* applies to the instant case. Petitioners here received the additional allowances and bonuses in good faith under the honest belief that LWUA Board Resolution No. 313 authorized such payment. At the time petitioners received the additional allowances and bonuses, the Court had not yet decided *Baybay Water District*. Petitioners had no knowledge that such payment was without legal basis. Thus, being in good faith, petitioners need not refund the allowances and bonuses they received but disallowed by the COA.

Further, in *KMG*, this Court applied the ruling in *Blaquera* and *De Jesus* in holding that the Social Insurance Group (SIG) personnel of the Government Service Insurance System need not refund the hazard pay received by them although said benefit was correctly disallowed by COA. The Court ruled:

The Court however finds that the DOH and GSIS officials concerned who granted hazard pay under R.A. No. 7305 to the SIG personnel acted in good faith, in the honest belief that there was legal basis for such grant. The SIG personnel in turn accepted the hazard pay benefits likewise believing that they were entitled to such benefit. At that time, neither the concerned DOH and GSIS officials nor the SIG personnel knew that the grant of hazard pay to the latter is not sanctioned by law. Thus, following the rulings of the Court in *De Jesus v. Commission on Audit*, and *Blaquera v. Alcala*, the SIG personnel who previously received hazard pay under R.A. No. 7305 need not refund such benefits.

In the same vein, the rulings in *Blaquera*, *De Jesus* and *KMG* apply to this case. Petitioners received the hazard duty pay and birthday cash gift in good faith since the benefits were authorized by PPA Special Order No. 407-97

issued pursuant to PPA Memorandum Circular No. 34-95 implementing DBM National Compensation Circular No. 76, series of 1995, and PPA Memorandum Circular No. 22-97, respectively. Petitioners at that time had no knowledge that the payment of said benefits lacked legal basis. Being in good faith, petitioners need not refund the benefits they received.[58] (Emphasis supplied)

employees, other than minimum wage earners, who received the wage increase mandated by the Wage Order need not refund the wage increase received by them since they received the wage increase in good faith, in the honest belief that they are entitled to such wage increase and without any knowledge that there was no legal basis for the same.

Considering the foregoing, the Court need not delve on the other arguments raised by the parties.

WHEREFORE, the petition is PARTIALLY GRANTED. The Decision of the Court of Appeals dated July 19, 2000 in CA-G.R. SP No. 42240 is MODIFIED. Section 1 of Wage Order No. R02-03 issued on October 17, 1995 by the Regional Tripartite Wages and Productivity Board for Region II, Tuguegarao, Cagayan is declared VALID insofar as the mandated increase applies to employees earning the prevailing minimum wage rate at the time of the passage of the Wage Order and VOID with respect to its application to employees receiving more than the prevailing minimum wage rate at the time of the passage of the Wage Order.

No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Godardo A. Jacinto (now retired) and concurred in by Associate Justices Rodrigo V. Cosico and Remedios Salazar-Fernando; CA rollo, pp. 102-123.

[2] Entitled "An Act to Rationalize Wage Policy Determination by Establishing the Mechanism and Proper Standards Therefor, Amending for the Purpose Article 99 of, and Incorporating Articles 120, 121, 122, 123, 124, 126 and 127 into Presidential Decree No. 442, as amended, Otherwise Known as the Labor Code of the Philippines, Fixing New Wage Rates, Providing Wage Incentives for Industrial Dispersal to the Countryside, and for Other Purposes." Effective July 1, 1989.

[3] CA rollo, p. 31 (dorsal side).

[4] Id. at 8.

[5] Section 18, Wage Order No. R02-03; CA rollo, id. at 34 (dorsal side).

[6] Id. at 35.

[7] Id. at 40.

[8] Id. at 41.

[9] Id. at 42.

[10] Id. at 44.

[11] Id. at 47.

[12] Id. at 2.

[13] Id. at 68.

[14] Id. at 87.

[15] Id. at 88.

[16] Id. at 102.

[17] Rollo, pp. 20-21.

[18] Id. at 166.

[19] Id. at 211.

[20] Id. at 220.

[21] Id. at 231 and 266.

[22] G.R. No. 96169, September 24, 1991, 201 SCRA 759.

[23] Id.

[24] REVISED RULES OF COURT, Rule 65, Sec. 1.

[25] REVISED RULES OF COURT, Rule 65, Sec. 2.

[26] 1 FLORENZ D. REGALADO, REMEDIAL LAW COMPENDIUM 706 (1999) citing *Ruperto v. Torres*, L-8785, February 25, 1957, and *Municipal Council of Lemery v. Provincial Board of Batangas*, 56 Phil. 260, 268 (1931).

[27] *Bautista v. Commission on Elections*, 460 Phil. 459, 476 (2003); *United Residents of Dominican Hill, Inc. v. Commission on the Settlement of Land Problems*, G.R. No. 135945, March 7, 2001, 353 SCRA 782, 797; *Midland Insurance Corporation v. Intermediate Appellate Court*, 227 Phil. 413, 418 (1986); See also *Villarosa v. Commission on Elections*, 377 Phil. 497, 506-507 (1999).

[28] *De Guzman, Jr. v. Mendoza, A.M.* No. P-03-1693, March 17, 2005, 453 SCRA 565, 571; *Sismaet v. Sabas, A.M.* No. P-03-1680, May 27, 2004, 429 SCRA 241, 247-248; *Philippine Bank of Communications v. Torio*, 348 Phil. 74, 84 (1998).

[29] *Abella, Jr. v. Civil Service Commission*, G.R. No. 152574, November 17, 2004, 442 SCRA 507, 530; *Bellosillo, J., Separate Opinion, Commissioner of Internal Revenue v. Court of Appeals*, 329 Phil. 987, 1017 (1996).

[30] *Montes v. Court of Appeals*, G.R. No. 143797, May 4, 2006, 489 SCRA 432, 441; *Longino v. General*, G.R. No. 147956, February 16, 2005, 451 SCRA 423, 437; *National Irrigation Administration v. Court of Appeals*, 376 Phil. 362, 372 (1999).

[31] Section 13, Wage Order No. R02-03; CA rollo, p. 34. See also LABOR CODE, Art. 123.

[32] *Supra* note 4.

[33] *Villaflor v. Court of Appeals*, 345 Phil. 524, 559 (1997).

[34] *Tan v. Bausch & Lomb, Inc.*, G.R. No. 148420, December 15, 2005, 478 SCRA 115, 120; *Floren Hotel v. National Labor Relations Commission*, G.R. No. 155264, May 6, 2005, 458 SCRA 128, 141.

[35] *Jaworski v. Philippine Amusement and Gaming Corp.*, G.R. No. 144463, January 14, 2004, 419 SCRA 317,

323-324; *Serrano v. Galant Maritime Services, Inc.*, 455 Phil. 992, 999 (2003).

[36] *Pimentel, Jr. v. Ermita*, G.R. No. 164978, October 13, 2005, 472 SCRA 587, 593; *Longino v. General*, supra note 30; *Sanlakas v. Executive Secretary*, G.R. No. 159085, February 3, 2004, 421 SCRA 656, 664; *Tolentino v. Commission on Elections*, G.R. No. 148334, January 21, 2004, 420 SCRA 438, 451.

[37] 226 Phil. 624 (1986).

[38] *Id.* at 637-638; Reiterated in *City of Pasig v. Commission on Elections*, 372 Phil. 864, 871 (1999).

[39] REPUBLIC ACT NO. 6727 (1989), Sec. 2.

[40] REPUBLIC ACT NO. 6727 incorporated Articles 120, 121, 122, 123, 124, 126 and 127 into the Labor Code.

[41] LABOR CODE, Art.120.

[42] LABOR CODE, Art.121.

[43] LABOR CODE, Art.122.

[44] LABOR CODE, Art. 123. Wage Order. - Whenever conditions in the region so warrant, the Regional Board shall investigate and study all pertinent facts; and based on the standards and criteria herein prescribed, shall proceed to determine whether a Wage Order should be issued. Any such Wage Order shall take effect after fifteen (15) days from its complete publication in at least one (1) newspaper of general circulation in the region. (Emphasis supplied)

In the performance of its wage determining functions, the Regional Board shall conduct public hearings/consultations, giving notices to employees' and employers' groups, provincial, city and municipal officials and other interested parties.

Any party aggrieved by the Wage Order issued by the Regional Board may appeal such order to the Commission within ten (10) calendar days from the publication of such order. It shall be mandatory for the Commission to decide such appeal within sixty (60) calendar days from the filing thereof.

The filing of the appeal does not stay the order unless the person appealing such order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for the payment to the employees affected by the order of the corresponding increase, in the event such order is affirmed. (Emphasis supplied)

[45] LABOR CODE, Art.124. Standards/Criteria for Minimum Wage Fixing. - The regional minimum wages to be established by the Regional Board shall be as nearly adequate as is economically feasible to maintain the minimum standards of living necessary for the health, efficiency and general well-being of the employees within the framework of the national economic and social development program. In the determination of such regional minimum wages, the Regional Board shall, among other relevant factors, consider the following:

- (a) The demand for living wages;
- (b) Wage adjustment vis-à-vis the consumer price index;
- (c) The cost of living and changes or increases therein;
- (d) The needs of workers and their families;
- (e) The need to induce industries to invest in the countryside;

- (f) Improvements in standards of living;
- (g) The prevailing wage levels;
- (h) Fair return of the capital invested and capacity to pay of employers;
- (i) Effects on employment generation and family income; and
- (j) The equitable distribution of income and wealth along the imperatives of economic and social development.

The wages prescribed in accordance with the provisions of this Title shall be the standard prevailing minimum wages in every region. These wages shall include wages varying within industries, provinces or localities if in the judgment of the Regional Board conditions make such local differentiation proper and necessary to effectuate the purpose of this Title. (Emphasis supplied)

[46] Supra note 22, at 763.

[47] Norkis Free and Independent Workers Union v. Norkis Trading Company, Inc., G.R. No. 157098, June 30, 2005, 462 SCRA 485, 494.

[48] Land Bank of the Philippines v. Court of Appeals and Department of Agrarian Reform v. Court of Appeals, 319 Phil. 246, 257 (1995).

[49] Municipality of Parañaque v. V.M. Realty Corporation, 354 Phil. 684, 694-695 (1998).

[50] ART. 7, CIVIL CODE OF THE PHILIPPINES.

[51] United BF Homeowner's Association v. BF Homes, Inc., 369 Phil. 568, 580 (1999); People v. Maceren, G.R. No. L-32166, October 18, 1977, 79 SCRA 450, 462.

[52] Executive Secretary v. Southwing Heavy Industries, Inc., G.R. Nos. 164171, 164172 and 168741, February 20, 2006, 482 SCRA 673, 699.

[53] Section 16. All laws, orders, issuances, rules and regulations, or parts thereof inconsistent with the provisions of this Wage Order are hereby repealed, amended, or modified accordingly. If any provision or part of this Wage Order or the application thereof to any person or circumstance, is held invalid or unconstitutional, the remainder of this Wage Order or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby. (Emphasis supplied).

[54] CA rollo, p. 36.

[55] G.R. No. 45302, July 24, 1990, 187 SCRA 743.

[56] Id. at 754.

[57] G.R. No. 159200, February 16, 2006, 482 SCRA 490.

[58] Id. at 498-500.

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