

ELECTROMAT MANUFACTURING AND RECORDING CORPORATION, PETITIONER, VS. HON. CIRIACO LAGUNZAD, IN HIS CAPACITY AS REGIONAL DIRECTOR, NATIONAL CAPITAL REGION, DEPARTMENT OF LABOR AND...

G.R. No. 172699. July 27, 2011

Ponente: BRION, J.

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BRION, J.:

We resolve the present petition for review on certiorari [1] assailing the decision [2] and the resolution [3] of the Court of Appeals (CA) dated February 3, 2006 and May 11, 2006, respectively, rendered in CA G.R. SP No. 83847.

The Antecedents

The private respondent Nagkakaisang Samahan ng Manggagawa ng Electromat-Wasto (union), a charter affiliate of the Workers Advocates for Struggle, Transformation and Organization (WASTO), applied for registration with the Bureau of Labor Relations (BLR). Supporting the application were the following documents: (1) copies of its ratified constitution and by-laws (CBL); (2) minutes of the CBL's adoption and ratification; (3) minutes of the organizational meetings; (4) names and addresses of the union officers; (5) list of union members; (6) list of rank-and-file employees in the company; (7) certification of non-existence of a collective bargaining agreement (CBA) in the company; (8) resolution of affiliation with WASTO, a labor federation; (9) WASTO's resolution of acceptance; (10) Charter Certificate; and (11) Verification under oath.

The BLR thereafter issued the union a Certification of Creation of Local Chapter (equivalent to the certificate of registration of an independent union), pursuant to Department Order No. (D.O.) 40-03. [4]

On October 1, 2003, the petitioner Electromat Manufacturing and Recording Corporation (company) filed a petition for cancellation of the union's registration certificate, for the union's failure to comply with Article 234 of the Labor Code. It argued that D.O. 40-03 is an unconstitutional diminution of the Labor Code's union registration requirements under Article 234.

On November 27, 2003, Acting Director Ciriaco A. Lagunzad of the Department of Labor and Employment (DOLE)-National Capital Region dismissed the petition. [5]

In the appeal by the company, BLR Director Hans Leo J. Cacdac affirmed the dismissal. [6] The company thereafter sought relief from the CA through a petition for certiorari, contending that the BLR committed grave abuse of discretion in affirming the union's registration despite its non-compliance with the requirements for registration under Article 234 of the Labor Code. It assailed the validity of D.O. 40-03 which amended the rules of Book V (Labor Relations) of the Labor Code. It posited that the BLR should have strictly adhered to the union registration requirements under the Labor Code, instead of relying on D.O. 40-03 which it considered as an invalid amendment of the law since it reduced the requirements under Article 234 of the Labor Code. It

maintained that the BLR should not have granted the union's registration through the issuance of a Certification of Creation of Local Chapter since the union submitted only the Charter Certificate issued to it by WASTO.

The CA Decision

In its decision rendered on February 3, 2006, [7] the CA Tenth Division dismissed the petition and affirmed the assailed BLR ruling. It brushed aside the company's objection to D.O. 40-03, and its submission that D.O. 40-03 removed the safety measures against the commission of fraud in the registration of unions. It noted that "there are sufficient safeguards found in other provisions of the Labor Code to prevent the same." [8] In any event, it pointed out that D.O. 40-03 was issued by the DOLE pursuant to its rule-making power under the law. [9]

The company moved for reconsideration, arguing that the union's registration certificate was invalid as there was no showing that WASTO, the labor federation to which the union is affiliated, had at least ten (10) locals or chapters as required by D.O. 40-03. The CA denied the motion, [10] holding that no such requirement is found under the rules. Hence, the present petition.

The Case for the Petitioner

The company seeks a reversal of the CA rulings, through its submissions (the petition [11] and the memorandum [12]), on the ground that the CA seriously erred and gravely abused its discretion in affirming the registration of the union in accordance with D.O. 40-03. Specifically, it assails as unconstitutional Section 2(E), Rule III of D.O. 40-03 which provides:

The report of creation of a chartered local shall be accompanied by a charter certificate issued by the federation or national union indicating the creation or establishment of the chartered local.

The company points out that D.O. 40-03 delisted some of the requirements under Article 234 of the Labor Code for the registration of a local chapter. Article 234 states:

ART. 234. Requirements of Registration. [13] Any applicant labor organization, association or group of unions or workers shall acquire legal personality and shall be entitled to the rights and privileges granted by law to legitimate labor organizations upon issuance of the certificate of registration based on the following requirements:

(a)

Fifty pesos (P50.00) registration fee;

(b)

The names of its officers, their addresses, the principal address of the labor organization, the minutes of the organizational meetings and the list of the workers who participated in such meetings;

(c)

The names of all its members comprising at least twenty percent (20%) of all the employees in the bargaining unit where it seeks to operate;

(d)

If the applicant union has been in existence for one or more years, copies of its annual financial reports; and

(e)

Four (4) copies of the constitution and by-laws of the applicant union, minutes of its adoption or ratification,

and the list of the members who participated in it.

The company contends that the enumeration of the requirements for union registration under the law is exclusive and should not be diminished, and that the same requirements should apply to all labor unions whether they be independent labor organizations, federations or local chapters. It adds that in making a different rule for local chapters, D.O. 40-03 expanded or amended Article 234 of the Labor Code, resulting in an invalid exercise by the DOLE of its delegated rule-making power. It thus posits that the union's certificate of registration which was issued "in violation of the letters of Article 234 of the Labor Code" [14] is void and of no effect, and that the CA committed grave abuse of discretion when it affirmed the union's existence.

The Case for the Union

In a Resolution dated January 16, 2008, [15] the Court directed union board member Alex Espejo, in lieu of union President Roberto Beltran whose present address could not be verified, to furnish the Court a copy of the union comment/opposition to the company's motion for reconsideration dated February 22, 2006 in CA G.R. SP No. 83847, which the union adopted as its comment on the present petition. [16]

Through this comment/opposition, [17] the union submits that the company failed to show that the CA committed reversible error in upholding the registration certificate issued to it by the BLR. Citing *Castillo v. National Labor Relations Commission*, [18] it stressed that the issuance of the certificate by the DOLE agencies was supported by substantial evidence, which should be entitled to great respect and even finality.

The Court's Ruling

We resolve the core issue of whether D.O. 40-03 is a valid exercise of the rule-making power of the DOLE.

We rule in the affirmative. Earlier in *Progressive Development Corporation v. Secretary, Department of Labor and Employment*, [19] the Court encountered a similar question on the validity of the old Section 3, Rule II, Book V of the Rules Implementing the Labor Code [20] which stated:

Union affiliation; direct membership with a national union. - The affiliate of a labor federation or national union may be a local or chapter thereof or an independently registered union.

a) The labor federation or national union concerned shall issue a charter certificate indicating the creation or establishment of a local or chapter, copy of which shall be submitted to the Bureau of Labor Relations within thirty (30) days from issuance of such charter certificate.

x x x x

e) The local or chapter of a labor federation or national union shall have and maintain a constitution and by-laws, set of officers and books of accounts. For reporting purposes, the procedure governing the reporting of independently registered unions, federations or national unions shall be observed.

Interpreting these provisions of the old rules, the Court said that by force of law, [21] the local or chapter of a labor federation or national union becomes a legitimate labor organization upon compliance with Section 3, Rule II, Book V of the Rules Implementing the Labor Code, the only requirement being the submission of the charter certificate to the BLR. Further, the Court noted that Section 3 omitted several requirements which are otherwise required for union registration, as follows:

1)

The requirement that the application for registration must be signed by at least 20% of the employees in the appropriate bargaining unit;

2)

The submission of officers' addresses, principal address of the labor organization, the minutes of organization meetings and the list of the workers who participated in such meetings;

3)

The submission of the minutes of the adoption or ratification of the constitution and by-laws and the list of the members who participated in it. [22]

Notwithstanding these omissions, the Court upheld the government's implementing policy expressed in the old rules when it declared in *Progressive Development* -

Undoubtedly, the intent of the law in imposing lesser requirements in the case of a branch or local of a registered federation or national union is to encourage the affiliation of a local union with a federation or national union in order to increase the local union's bargaining powers respecting terms and conditions of labor. [23]

It was this same Section 3 of the old rules that D.O. 40-03 fine-tuned when the DOLE amended the rules on Book V of the Labor Code, thereby modifying the government's implementing policy on the registration of locals or chapters of labor federations or national unions. The company now assails this particular amendment as an invalid exercise of the DOLE's rule-making power.

We disagree. As in the case of D.O. 9 (which introduced the above-cited Section 3 of the old rules) in *Progressive Development*, D.O. 40-03 represents an expression of the government's implementing policy on trade unionism. It builds upon the old rules by further simplifying the requirements for the establishment of locals or chapters. As in D.O. 9, we see nothing contrary to the law or the Constitution in the adoption by the Secretary of Labor and Employment of D.O. 40-03 as this department order is consistent with the intent of the government to encourage the affiliation of a local union with a federation or national union to enhance the local's bargaining power. If changes were made at all, these were those made to recognize the distinctions made in the law itself between federations and their local chapters, and independent unions; local chapters seemingly have lesser requirements because they and their members are deemed to be direct members of the federation to which they are affiliated, which federations are the ones subject to the strict registration requirements of the law.

In any case, the local union in the present case has more than satisfied the requirements the petitioner complains about; specifically, the union has submitted: (1) copies of the ratified CBL; (2) the minutes of the CBL's adoption and ratification; (3) the minutes of the organizational meetings; (4) the names and addresses of the union officers; (5) the list of union members; (6) the list of rank-and-file employees in the company; (7) a certification of non-existence of a CBA in the company; (8) the resolution of affiliation with WASTO and the latter's acceptance; and (9) their Charter Certificate. These submissions were properly verified as required by the rules. In sum, the petitioner has no factual basis for questioning the union's registration, as even the requirements for registration as an independent local have been substantially complied with.

We, thus, find no compelling justification to nullify D.O. 40-03. Significantly, the Court declared in another case: [24]

Pagpalain cannot also allege that Department Order No. 9 is violative of public policy. x x x [T]he sole function of our courts is to apply or interpret the laws. It does not formulate public policy, which is the province of the legislative and executive branches of government. It cannot, thus, be said that the principles laid down by the Court in *Progressive* and *Protection Technology* constitute public policy on the matter. They do, however, constitute the Court's interpretation of public policy, as formulated by the executive department through its promulgation of rules implementing the Labor Code. However, this public policy has itself been

changed by the executive department, through the amendments introduced in Book V of the Omnibus Rules by Department Order No. 9. It is not for us to question this change in policy, it being a well-established principle beyond question that it is not within the province of the courts to pass judgments upon the policy of legislative or executive action.

This statement is as true then as it is now.

In light of the foregoing, we find no merit in the appeal.

WHEREFORE, premises considered, we DENY the petition for lack of merit. The assailed decision and resolution of the Court of Appeals are AFFIRMED. Costs against the petitioner Electromat Manufacturing and Recording Corporation.

SO ORDERED.

Carpio, (Chairperson), Leonardo-De Castro,[*] Peralta,**] and Perez, JJ., concur.

[*] Designated as Acting Member of the Second Division per Special Order No. 1006 dated June 10, 2011.

[**] Designated as Acting Member in lieu of Associate Justice Maria Lourdes P. A. Sereno per Special Order No. 1040 dated July 6, 2011.

[1] Rollo, pp. 22-59; filed pursuant to Rule 45 of the Rules of Court.

[2] Id. at 12-19; penned by Associate Justice Rosmari D. Carandang, and concurred in by Associate Justices Andres B. Reyes, Jr. and Monina Arevalo-Zeñarosa.

[3] Id. at 9-10.

[4] Series of 2003, Amending the Implementing Rules of Book V of the Labor Code.

[5] Rollo, p. 142.

[6] Id. at 175-180; Decision dated March 8, 2004.

[7] Supra note 2.

[8] Id. at 17, last paragraph.

[9] LABOR CODE, Article 5.

[10] Supra note 3.

[11] Supra note 1.

[12] Rollo, pp. 336-364.

[13] Before its amendment by Republic Act No. 9481 which lapsed into law on May 25, 2007.

[14] Rollo, p. 348; Memorandum, p. 13, par. 2.

[15] Id. at 279.

[16] Id. at 281-A; Resolution dated August 4, 2008.

[17] Id. at 285-286.

[18] 367 Phil. 605 (1999).

[19] G.R. No. 96425, February 4, 1992, 205 SCRA 802.

[20] As amended by D.O. 9, Series of 1997.

[21] LABOR CODE, Article 212(h); definition of "legitimate labor organization."

[22] Progressive Development Corporation v. Secretary, Department of Labor and Employment, supra note 19, at 811.

[23] Ibid.

[24] Pagpalain Haulers, Inc. v. Trajano, 369 Phil. 617, 628 (1999).

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