

PHILIPPINE-OVERSEAS DRILLING AND OIL DEVELOPMENT CORPORATION, PETITIONER, VS. THE HON. MINISTRY OF LABOR, HON. FRANCISCO L. ESTRELLA, REGIONAL DIRECTOR, REGION IV, MINISTRY OF L...

G.R. No. 55703. November 27, 1986

Ponente: FERIA, J.

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FERIA, J.:

This is a special civil action for certiorari under Rule 65 of the Revised Rules of Court seeking to declare the nullity on the ground of lack of jurisdiction of the Order dated August 7, 1980 directing petitioner to pay private respondent Mariano M. Melendres, Jr. "one (1) month pay for every year of service or the sum of SIXTY SEVEN THOUSAND FOUR HUNDRED (P67,400.00) PESOS, as termination benefit as per company policy" and of the corresponding writ of execution dated November 28, 1980, both issued by respondent Director Francisco L. Estrella, National Capital Region, Ministry of Labor.

Briefly, the antecedent facts are as follows.

Petitioner is a domestic corporation engaged in petroleum exploration and exploitation.

On August 29, 1979, private respondent Mariano M. Melendres, Jr., hereinafter referred to as private respondent, tendered his irrevocable resignation as Chief Geologist of petitioner effective one month from said date. He had been employed by petitioner in June, 1969.

On November 20, 1979, private respondent wrote petitioner inquiring whether any action had been taken on his resignation and claiming separation pay and other benefits which petitioner extended to other employees who had earlier resigned.

On December 7, 1979, petitioner, without replying to the letter dated November 20, 1979 of private respondent, filed with the office of the Director of Bureau of Labor Relations, National Capital Region, Ministry of Labor, pursuant to Article 278(b) of the Labor Code, as amended, and Rule XIV, Book V of the Implementing Rules and Regulations, a verified application for clearance to terminate the employment of private respondent effective September 29, 1979 due to the latter's resignation. A copy thereof was received by private respondent on December 12, 1979.

December 18, 1979, private respondent filed with the aforementioned office a verified complaint/opposition to clearance application charging petitioner with unfair labor practice and undue discrimination in refusing to grant him separation pay.

The complaint/opposition to clearance application was docketed in said office as Case No. NCR-STF-12-7820-79 entitled "Mariano M. Melendres, Jr. vs. Philippine-Overseas Drilling And Oil Development Corporation" and was heard by respondent Director Francisco L. Estrella, hereinafter referred to as respondent Director.

On August 7, 1980, respondent Director issued an Order which reads:

"This is a complaint for unfair labor practice and opposition to clearance application to terminate.

"Despite the parties' agreement to submit position papers, respondent failed to do so. Hence, this case is submitted for resolution on the basis of the entire record.

"It appears that complainant was a Chief Geologist of the respondent since 1969 up to December 18, 1979, earning a monthly salary of P6,740.00. Admittedly, the complainant filed his resignation letter on August 29, 1979 effective September 30, 1979. For failure of respondent to act upon his resignation, complainant wrote a letter on November 20, 1979 requesting for the payment of his retirement and/or separation benefits similarly granted to employees per company's standing policy. Much to complainant's dismay, he received instead a report of resignation from the respondent on December 7, 1979, indicating his resignation on September 29, 1979.

"Careful examination of the record disclosed that complainant is legally entitled to separation benefits of pay pursuant to company policy. The documented evidence marked as Annexes 'A', 'B', 'C', 'D', 'D-1', 'D-2', 'D-3', 'D-4', 'D-5' and 'D-6' reflect payment of benefits to employees who were similarly situated. Non-grant of the same benefit to complainant inferentially be interpreted as unfair discrimination or ULP. Logically, the award of this benefit as per company policy is warranted.

"WHEREFORE, respondent is hereby directed to pay the complainant one (1) month pay for every year of service or the sum of SIXTY SEVEN THOUSAND FOUR HUNDRED (P67,400.00) PESOS, as termination benefit as per company policy."

Notice of the afore-quoted Order dated August 7, 1980 was received by the petitioner on August 13, 1980.

On November 18, 1980, or more than three months after receipt by petitioner of notice of the afore-quoted Order dated August 7, 1980, private respondent moved for the issuance of a writ of execution on the ground that no motion for reconsideration or appeal from said Order had been filed.

On November 28, 1980, respondent Director issued the corresponding writ of execution directing the sheriff of the National Capital Region, Ministry of Labor, to collect from petitioner the sum of P67,400.00 representing the termination benefit to be paid to private respondent.

On December 10, 1980, petitioner filed with the office of respondent Director a "Motion for Reconsideration and/or Appeal to the Secretary (now Minister) of Labor". According the Memorandum filed by the Solicitor General in behalf of public respondents, "this (date of filing) is clearly shown by the stamp of receipt appearing on page one thereof". Petitioner has not denied this statement. It is significant to note that although petitioner, in its Reply to Comments of Public and Private Respondents, attached thereto a xerox copy of the last page of its said motion showing that it was allegedly verified on August 22, 1980, it did not attach a xerox copy of the first page thereof which would have shown the date when the motion was filed.

In a 1st Indorsement dated December 16, 1980, Special Assistant Necitas A. Oblepias-Jeres, acting for respondent Director, forwarded to the Minister of Labor the entire record of Case No. NCR-STF-12-7820-79 "with the information that respondent (petitioner herein) filed an appeal". However, no action was taken thereon.

On the same date, December 16, 1980, petitioner filed with this Court the instant petition. On January 7, 1981, a temporary restraining order was issued enjoining respondents from enforcing the aforementioned writ of execution until further orders from the Court.

The petition is anchored on two grounds: (1) that the regular courts of justice and not the Bureau of Labor Relations of the Ministry of Labor had jurisdiction over the subject matter of Case No. NCR-STF-12-7820-79;

and, (2) that even assuming *arguendo* that the Bureau of Labor Relations had jurisdiction over the case, nevertheless, respondent Director acted erroneously in granting separation benefit or pay to private respondent, because the latter voluntarily resigned and there was no company policy of petitioner granting separation benefit or pay to its employees who voluntarily resigned.

The petition must fail.

Before discussing the merits of the grounds raised by petitioner, attention should be called to the delay in filing the petition. As stated earlier, notice of the afore-quoted Order dated August 7, 1980 was received by the petitioner on August 13, 1980.

It was only on December 10, 1980, almost four months after notice of the Order dated August 7, 1980, and after the issuance of the writ of execution dated November 28, 1980, that petitioner filed the instant petition. While it is true that in the special civil action of certiorari, no time frame is required except that it be filed within a reasonable time (*Contreras vs. Villaraza*, 99 SCRA 329; *Toledo vs. Pardo*, 118 SCRA 566), it cannot be said that the petition in the case at bar was filed within a reasonable time.

On the merits of the first ground, we rule that respondent Director had jurisdiction over the case in question.

It is a fundamental rule that the facts alleged in the complaint or petition and the law in force at the time of the commencement of the action determine the jurisdiction of a court or tribunal. (*Lim Bing It vs. Ibañez*, 92 Phil. 799; *Rodriguez vs. Pecson*, 92 Phil. 172; *Salao vs. Crisos-tomo*, 138 SCRA 17; *Tolentino vs. Social Security Commission*, 138 SCRA 428)

A reading of the complaint/opposition to clearance application filed on December 18, 1979 with the office of respondent Director would show that private respondent charged petitioner with undue discrimination in refusing to pay him separation pay. And although private respondent did not seek reinstatement, he demanded payment of his separation pay on the basis of company policy. Evidently, the dispute between petitioner and private respondent was one arising from employer-employee relations. (*Sentinel Insurance Company, Inc. vs. Bautista*, February 20, 1984, 127 SCRA 623, 628)

The law on jurisdiction over all disputes arising from employer-employee relations in all workplaces on December 18, 1979 was the Labor Code of the Philippines, the pertinent provisions of which are quoted hereunder:

"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, and all disputes, grievances or problems arising from or affecting labor-management relations in all workplaces whether agricultural or non-agricultural, except those arising from the implementation or interpretation of collective bargaining agreements which shall be the subject of grievance procedures and/or voluntary arbitration.

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"Art. 228. Indorsement of cases to Labor Arbiters. --- (a) Except as provided in para-graph (b) of this Article, the Labor Arbiter shall entertain only cases indorsed to him for compulsory arbitration by the Bureau or by the Regional Director of the Department of Labor. All parties to a case shall be furnished by the Bureau or by the Regional Director with a written notice of such indorsement or non-indorsement. The indorsement or non-indorsement of the Regional Director may be appealed to the Bureau within ten working days from receipt of the notice.

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"Art. 217. Jurisdiction of Labor Arbiters and the National Labor Relations Commission. --- -(a) The Labor

Arbiters shall have exclusive jurisdiction to hear and decide the following cases involving all workers, whether agricultural or non-agricultural:

- (1) Unfair labor practice cases;
- (2) Unresolved issues in collective bargaining, including those that involve wages, hours of work and other terms and conditions of employment; and
- (3) All other cases arising from employer-employee relations duly endorsed by the Regional Directors to accordance with the provisions of this Code; Provided, that the Regional Directors shall not endorse and Labor Arbiters shall not entertain claims for moral or other forms of damages." (As amended by P.D. 1367, effective May 1, 1978)

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Presidential Decree No. 1367, which took effect on May 1, 1978, amended Article 217 of the Labor Code and divested the Labor Arbiters and the National Labor Relations Commission of jurisdiction to award moral and other forms of damages. But the Decree did not divest said tribunals of jurisdiction to award claims for backwages and separation pay duly endorsed to them by the Regional Directors. (*Ebon vs. De Guzman*, March 25, 1982, 113 SCRA 52, 56)

Clearly, respondent Director had jurisdiction over the case at the time of its commencement on December 18, 1979.

The issuance on May 1, 1980 of Presidential Decree No. 1691 vesting upon the Labor Arbiters original and exclusive jurisdiction to hear and decide all money claims of workers and all other claims arising from employer-employee relations, including separation pay and damages (*Sagmit vs. Sibulo*, November 21, 1984, 133 SCRA 359, 362-363), did not affect the jurisdiction of respondent Director to issue on August 7, 1980 the afore-quoted Order. It has been ruled that where a court or tribunal has already obtained and is exercising jurisdiction over a controversy, its jurisdiction to proceed to the final determination of the case is not affected by new legislation vesting such jurisdiction on another tribunal, the exception being where the statute expressly provides or is construed to the effect that it is intended to apply to actions pending before its enactment. (*Bengzon vs. Inciong*, 91 SCRA 248; *Ramos vs. Our Lady of Peace School*, December 26, 1984, 133 SCRA 741, 747) Such was not the intent, express or implied, of P.D. No. 1691.

Moreover, petitioner never filed either a motion to dismiss or an answer to the complaint/opposition to clearance application. As a matter of fact, despite the agreement of the parties to submit their respective position papers, petitioner never did so. Petitioner did not raise the question of jurisdiction in its "Motion for Reconsideration and/or Appeal to the Secretary of Labor". It assailed the jurisdiction of respondent Director for the first time in this petition.

Petitioner is now barred by estoppel from raising the issue of jurisdiction, regardless of its merits. In the case of *Tijam vs. Sibonghanoy*, April 15, 1968, 23 SCRA 29, the Court laid down the rule of estoppel to raise the question of jurisdiction. This rule was reiterated in numerous cases enumerated in the decision in the case of *Solicitor General vs. Coloma* promulgated on July 7, 1986. In the case of *Akay Printing Press vs. Minister of Labor and Employment*, the Court ruled as follows:

"When the illegal dismissal case was pending before the MOLE Regional Director, petitioner did not raise the issue of jurisdiction either during the hearing or in its subsequent motion for reconsideration. Its defense was a stout denial of the dismissal of private respondents, who were averred instead to have abandoned their work. After the adverse decision of the Regional Director and upon the elevation of the case on appeal to the

Ministry of Labor and Employment, still no jurisdictional challenge was made. It was only when petitioner moved to reconsider the MOLE decision of affirmance that it assailed the jurisdiction of the Regional Director. But then, it was too late. Estoppel had barred him from raising the issue, regardless of its merits." (December 6, 1985, 140 SCRA 381, 384)

On the merits of the second ground, we rule that respondent Director did not act with grave abuse of discretion in granting separation pay to private respondent.

Neither can it be said that respondent Director acted whimsically or capriciously in the exercise of judgment, which action would have constituted grave abuse of discretion correctible by certiorari.

In the case at bar, there is a more compelling reason for rejecting the contention of petitioner. As the Court has ruled: "Well-established is the principle that findings of administrative agencies which have acquired expertise because their jurisdiction is confined to specific matters are generally accorded not only respect but even finality. Judicial review by this Court on labor cases do not go so far as to evaluate the sufficiency of the evidence upon which the Deputy Minister and the Regional Director based their determinations but are limited to issues of jurisdiction or grave abuse of discretion." (Rosario Brothers, Inc. vs. Ople, July 31, 1984, 131 SCRA 72, 80; Special Events & Central Shipping Office Workers vs. San Miguel Corporation, May 30, 1983, 122 SCRA 557, 568-569)

Be that as it may, the finding of respondent Director, that there was a company policy to grant separation benefit or pay equivalent to one (1) month pay for every year of service to employees who were similarly situated as private respondent, is supported by substantial evidence which means "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion". (Ang Tibay vs. CIR, 69 Phil. 635; Cañete vs. Workmen's Compensation Commission, May 8, 1985, 136 SCRA 302, 308). Documents to this effect were presented by private respondent at the hearing on January 24, 1980 as Annexes "D" thru "D-7" of his position paper.

Having found that there was a company policy to that effect, respondent Director correctly held that private respondent was legally entitled to a separation benefit or pay equivalent to one (1) month pay for every year of service, notwithstanding the fact that he had voluntarily resigned. He applied a basic principle permeating the Labor Code and its Implementing Rules and Regulations. (Tiangco vs. Leogardo, Jr., May 16, 1983, 122 SCRA 267, 272-273; Marcopper Mining Corporation vs. Ople, June 11, 1981, 105 SCRA 75, 83; Oceanic Pharmacal Employees Union [FFW] vs. Inciong, November 7, 1979, 94 SCRA 270, 275). After having served petitioner for ten years, private respondent deserved his separation benefit or pay.

WHEREFORE, premises considered, the petition is DISMISSED for lack of merit. The temporary restraining order is LIFTED and SET ASIDE. No costs.

SO ORDERED.

Fernan, Alampay, Gutierrez, Jr., and Paras, JJ., concur.

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