

**FIRST ASIAN TRANSPORT & SHIPPING AGENCY, INC.,
PETITIONER, VS. HON. BLAS F. OPLE, HON. VICENTE LEOGARDO,
HON. BRILLANTE OCHOCO, HON. GREGORIO S. OCA, HON.
ABRAHAM CAMPO, HON. BI...**

G.R. No. 65545. July 09, 1986

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The petitioner questions the resolution of the then National Seamen Board ordering the payment to the respondent seamen of the unexpired portion of their contracts, two months allotments and attorney's fees for having been promulgated without jurisdiction. It also assails the order of the National Labor Relations Commission denying its motion for reconsideration of said resolution on the grounds that only two copies had been filed by the petitioner instead of ten (10) and that it failed to pay the appeal fee.

In 1977, petitioner First Asian Transport and Shipping Agency, Inc., hired the following respondents as crew of the vessel M/V "Fukutoku Maru" belonging to Los Navigantes del Pacifico Panama, S.A.: Elias Ramos, Cesar Protesta, Mauro Tolentino, Manilo Vego, Jesus Cruz Dy, Christopher Villanuac, Policarpio Lagrosa, Jovito Arquisola, Hilarion Manlangit, Bayani Lopez, Artemio Nombre, Rogelio Bautista, Germiniano Villegas, Franklin Tamayo, Macario Alfonso, Renato Marcial, Manuel Gerodias, and Manuel Padilla.

Appended to the contract of each of the above respondents was an affidavit in which the seamen promised not to join the International Transport Workers Federation (ITF) and not to enlist the assistance of that organization without the prior approval of the Philippine National Seamen Board (NSB).

In January, 1978, the M/V "Fukutoku Maru" docked at the Port of Melbourne in Australia to unload cargo. While work on the vessel was in progress, an ITF official came on board and interviewed the master and the crew. On discovering that the crew's wages fell below the ITF rates, the ITF official demanded that the master and the ship's representatives adjust those wages. Meanwhile, the crew had to stop work.

After some discussions, the ship's representatives gave in to the demand for wage adjustments and the members of the crew were immediately paid their wage differentials. On January 24, 1978, after the payments were made, respondents Bayani Lopez, Elias Ramos and Manuel Padilla disembarked from the vessel. Following the unloading of the ship's cargo, "Fukutoku Maru" sailed out of Australia.

As soon as the ship dropped anchor in Spain, the vessel's owner dismissed the respondent seamen and repatriated them to the Philippines. They soon faced an action instituted by the petitioner and the ship's owners before the NSB for recovery of the sums paid in Melbourne and damages. However, the complaint against respondents Renato Marcial, Macario Alfonso, Germiniano Villegas, Rogelio Bautista and Franklin Tamayo were dismissed by the Board upon motion of the petitioner and the ship's owners, hence, the latter prosecuted their complaints against the remaining thirteen (13) respondents.

After the hearings, the NSB Executive Director rendered a decision on February 7, 1980, upholding the complaint of the petitioner and the ship's owners and ordering the respondent seamen to return the wages paid them in Australia insofar as these exceeded the wages stipulated in their contracts. The respondent seamen were also suspended from the NSB registry of seamen for two years.

The respondent seamen appealed on March 27, 1980 to the NSB Board. On April 24, 1981, the NSB Board issued a resolution reversing the Executive Director's decision and upholding the validity of the agreement reached in Australia concerning the adjustment to ITF rates of the seamen's wages and ordered the petitioner and the ship owners to pay the respondent seamen the balance of their wages corresponding to the unexpired portion of their employment contracts.

However, for some unknown reasons, the copies of the NSB Board resolution intended to be served on the parties remained attached to the record and were not sent out. The case was overtaken by NSB's abolition on May 1, 1982. From that date, the functions of the NSB, including the adjudication of disputes were absorbed by the Philippine Overseas Employment Administration (POEA).

The POEA discovered the unmailed copies of the NSB Board resolution of April 24, 1981, and sent the same out to the parties on February 25, 1983.

The petitioner went to the POEA to inquire as to which office it may appeal as far as the resolution of the NSB was concerned.

The petitioner was advised by the POEA to file a motion for reconsideration with the POEA Adjudication Office so that the said office could act on the matters.

The petitioner filed a motion for reconsideration on March 10, 1983 with a copy furnished to the respondents' counsel. No opposition was filed by said respondents.

The POEA Director Elmer Juridico summoned the parties to two hearings - on March 16 and 25, 1983 respectively. In both of these hearings, neither respondents nor their counsel appeared. Thereafter, no further hearings were held.

On November 2, 1983, the petitioners received by mail a "Resolution" dated October 12, 1983, not by the POEA but by the National Labor Relations Commission (NLRC) denying petitioners' motion for reconsideration (which was treated as an appeal) on the ground that only two (2) copies of the motion were filed instead of ten (10) copies as required by the NLRC rules and that no appeal fee had been duly paid, thereby failing to perfect said appeal within the reglementary period in accordance with NLRC requirements prescribed therefor.

From the resolution, the petitioner raised the following assignments of errors to this Court:

- RESPONDENT NSB PROPER IS WITHOUT JURISDICTION TO RENDER, AFTER ITS APPELLATE FUNCTION AND JURISDICTION HAD ALREADY BEEN REMOVED, ITS RESOLUTION REVERSING THE NSB DECISION.

- RESPONDENT NSB PROPER COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK, OR IN EXCESS, OF ITS JURISDICTION WHEN IT RENDERED ITS RESOLUTION REVERSING THE NSB DECISION DESPITE THE MOTIONS TO DISMISS THE APPEAL AND/OR SETTLEMENT OF THE CASE BY THE PARTIES.

- RESPONDENT POEA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT DID NOT ACT OF, BUT INSTEAD SURRENDERED TO RESPONDENT COMMISSIONERS, PETITIONER'S MOTION FOR RECONSIDERATION WITHOUT OFFICIALLY

NOTIFYING PETITIONER TANTAMOUNT TO LACK OF DUE PROCESS.

- RESPONDENT COMMISSIONERS ARE WITHOUT JURISDICTION TO CONSIDER PETITIONER'S MOTION FOR RECONSIDERATION AS AN APPEAL AND VIOLATIVE OF THE PETITIONER'S RIGHT TO DUE PROCESS BY DISMISSING IT ON MERE TECHNICALITY WITHOUT LEGAL BASIS.

The petitioner contends in the first assignment of error that the NSB proper already lost its jurisdiction when it reversed the decision of the NSB Executive Director because while the private respondents' appeal was still pending, Presidential Decree No. 1691 abolished the appellate jurisdiction of the NSB proper and transferred the same to the NLRC. Therefore, the decision of the Board proper was null and void for having been rendered without jurisdiction.

This contention is without merit.

Presidential Decree No. 1691 provides, in part, ?

"Article 20. National Seamen Board. -

xxx xxx xxx

"(b) The Board shall have original and exclusive jurisdiction over all matters or cases including money claims, involving employer-employee relations, arising out of or by virtue of any law or contracts involving Filipino seamen for overseas employment. The decision of the Board shall be appealable to the National Labor Relations Commission upon the same grounds provided in Article 223 hereof. The decisions of the National Labor Relations Commission shall be final and inappealable."

It is clear from the above provision that it is the decision of the NSB as a board which is appealable to the NLRC and not the decision of the NSB Executive Director. As the Solicitor General correctly pointed out:

"Eventually, petitioner confuses the decision of the NSB Executive Director with the decision of the NSB Board itself. The rules of procedure of the NSB provided for two levels of adjudication. Cases were initially decided by the NSB Executive Director thru designated hearing officers (Rules V, VI, and VII) but any party aggrieved by that decision was allowed to appeal to the NSB Board (Rule VIII). Before the enactment of PD 1691 on May 1, 1980, the decisions of the NSB Board were final and executory. (Article 20[b], Labor Code) With PD 1691, however, all decisions of the Board became subject to review by the NLRC.

"PD 1691 did not do away with the two levels of adjudication within the NSB. These are (1) the initial decision of the Executive Director and (2) the review by the NSB Board. PD 1691 merely added another level of appeal, the review by the NLRC of the Board's decision. Petitioner can not insist that the Executive Director's decision in its favor was directly reviewable by the NLRC. PD 1691 stresses that the appeal to the NLRC be from the decision of the NSB Board."

As regards the second assignment of error, we find merit in the petitioner's contention that the NSB Board proper exceeded its jurisdiction when it rendered a favorable decision insofar as Rogelio Bautista, Franklin Tamayo, Macario Alfonso, Germiniano Villegas and Renato Marcial were concerned because as early as the filing of the petitioner's complaint with the NSB Executive Director, the above respondents were already dropped from the complaint and thus never became parties to the case. They cannot, therefore, benefit from the judgment which was subsequently rendered by the NSB Board as the latter did not acquire jurisdiction over their persons. As we have ruled in the case of *Madrideo v. Court of Appeals* (137 SCRA 797, 801):

"The Llorente Group, as appellee can only maintain the judgment of the trial court, they cannot ask that the judgment be modified or reversed. There was no valid justifiable issue in the *Alcala* appeal between the Llorente Group and the Spouses Maturgo who were not parties in the appeal. Respondent Court acted without

jurisdiction in making a ruling in favor of the Llorente Group and against the Spouses Maturgo in deciding the Alcala Group appeal."

In the case at bar, five of the respondents were neither appellants nor appellees in the case. The records are bereft of any evidence that they tried to appeal for how could they when, as stated earlier, their names were withdrawn from the complaint and such withdrawal was with the approval of the NSB Board? In fact, respondent Renato Marcial executed a "Compromise Agreement" with petitioner which was duly approved by the Board. Thus, the contention of the Solicitor General's office that the motions to withdraw and the compromise agreement were void for being illegal and tainted with fraud cannot be given credence. The NSB Board resolution cannot bind the above respondents. In the case of *Paredes v. Court of Appeals* (132 SCRA 501, 508), we ruled:

"We do not find any injustice caused petitioners-appellees by the enforcement of the Trial Court's judgment. They were signatories to the Amicable Settlement submitted to said Court on March 12, 1966. They are bound by the judgment rendered thereafter approving the same. x x x."

With regard to the third and fourth assignments of errors, we agree with the petitioner that there were errors of procedure when the POEA referred its motion for reconsideration to the NLRC without formal notice to the petitioner and later, when the NLRC decided said motion on a mere technicality.

While it is true that administrative agencies exercising quasi-judicial functions are free from rigidities of procedure, it is equally well-settled in this jurisdiction that avoidance of such technicalities of law or procedure in ascertaining objectively the facts in each case should not, however, cause a denial of due process. (*Bacus v. Ople*, 132 SCRA 690, 703; citing *PMIU v. Court of Industrial Relations*, 60 SCRA 287).

In the case at bar, petitioner was not even aware that its motion was already referred to the NLRC and was being treated by the latter as an appeal.

However, instead of remanding the case to the NLRC, for further proceedings, the interests of justice would be better served if we pass upon the merits of the case in this petition since the records are sufficient for a judgment to be rendered. Occasionally, we have resorted to this procedure so as to facilitate the speedy disposition of cases. As we have held in *Siguenza v. Court of Appeals*, (137 SCRA 570, 576-577):

"In the interest of justice and the speedy disposition of cases, we have also deemed it proper to decide this case on the merits as a remand to the lower court for approval of the appeal, its subsequent elevation to the appellate court and probably another resort to this Court would only entail undue burden on the parties and needless delays only to obtain the same judgment that could very well be laid down through this petition. x x x"

This approach is even more valid in labor cases in the light of the Constitution's provisions on social justice and protection to labor (Article II, Sections 6 and 9).

On the merits of the case, the petitioner assails the resolution of the NSB Board which held that the records are wanting to prove that the respondents instigated or conspired with the ITF in coercing the master of the vessel and ship owners to conform with ITF rates and that the agreement signed by the ship authorities and ITF representative was participated in by said respondents. Petitioner further contends that respondents breached their employment contracts with petitioners when they conspired with the ITF to increase their salaries in accordance with the ITF rates.

The only finding in the questioned resolution upon which the petitioner bases its conclusion that respondents were guilty of conspiring with the ITF in coercing for higher rates is found in the following paragraph, to wit:

"When the vessel docked at the port of Melbourne, Australia, sometime in January, 1978 to unload, an ITF representative boarded the vessel. Finding that the crew members were not being paid according to ITF rates,

the ITF representative demanded from the master of the vessel that the crew workers be paid according to ITF rates. In the meantime, the crew stopped working."

The fact that the crew stopped working does not in any sense make them guilty of conspiring with the ITF. When the ITF representative boarded the vessel, it was not because the respondents sought his assistance. It was a purely voluntary act on the part of the ITF representative that he boarded said vessel, interviewed the master and the crew and demanded an increase of respondents' wages according to the ITF rates. All these transpired without the respondents conspiring with the ITF, much less employing any form of coercion, threat or intimidation on the master of the vessel and the ship owners. The petitioner cannot impute these acts against the respondents. The ITF was doing the same thing on many other vessels manned by nationals from underdeveloped countries. It is the ITF action of refusing to unload cargo which stops work on the vessel and not any unilateral action on the part of the crew. The crew can still sail away if ordered to do so by the ship management. In the case of *Philgrecian Maritime Services and Trans-Ocean Steamship Agency, Inc. v. National Labor Relations Commission, et al.* (G.R. No. 65284, October 14, 1985), we similarly held that the respondent seamen were not guilty of employing threats against the ship captain. We ruled:

"The records of this case are bereft of any proof or evidence that the private respondents employed threat or intimidation through the ITF in order to force the petitioners to grant their demands. In fact, both the POEA and the NLRC found that the respondents had not solicited the assistance of the ITF regarding their claims for salary differentials. According to the public respondents, it was the master of the vessel who brought the matter to the attention of ITF in Australia on the occasion of the latter's intervention on behalf of a crew member from the Honduras who was asking to be allowed to return home. This finding may seem illogical but the fact remains that the private respondents did not solicit the assistance of ITF regarding their claims for salary differentials. The claims were made before the vessel arrived in Australia and before the seamen had any opportunity to meet the ITF representative. Captain Chotis called for the respondents in the course of his discussions with Australian ITF officers regarding a Honduran seaman who wanted to cut short his trip. If the ITF representatives decided to ask the vessel's captain about any other problems with the crew, the private respondents had nothing to do with it. There was no duress or unlawful and improper pressure. The petitioners cannot use ITF intervention to justify their allegation that the private respondents employed threats against the ship captain."

We, therefore, uphold the questioned resolution of the NSB Board and affirm its order for petitioner to pay the respondents the unexpired portion of their contracts and to pay the respondents' allotments for January and February 1978. However, the five (5) respondents mentioned earlier who were dropped from the complaint should not be included in the said order. Respondents Bayani Lopez, Elias Ramos, and Manuel Padilla who voluntarily disembarked from the vessel in Melbourne, Australia on January 24, 1978 should receive only their allotments for January, 1978 and not that for the succeeding month.

WHEREFORE, the questioned resolution dated April 24, 1981 is hereby **AFFIRMED** with the slight **MODIFICATION** specified above as far as some of the respondents are concerned. The temporary restraining order issued by this Court on November 17, 1983 is hereby **LIFTED**.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Paras, JJ., concur.

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