

EASTERN SHIPPING LINES, INC., PETITIONER, VS. PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION (POEA), MINISTER OF LABOR AND EMPLOYMENT, HEARING OFFICER ABDUL BASAR AND KATHLEEN D....*G.R. No. 76633. October 18, 1988*

Ponente: CRUZ, J.

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The private respondent in this case was awarded the sum of P192,000.00 by the Philippine Overseas Employment Administration (POEA) for the death of her husband. The decision is challenged by the petitioner on the principal ground that the POEA had no jurisdiction over the case as the husband was not an overseas worker.

Vitaliano Saco was Chief Officer of the M/V Eastern Polaris when he was killed in an accident in Tokyo, Japan, on March 15, 1985. His widow sued for damages under Executive Order No. 797 and Memorandum Circular No. 2 of the POEA. The petitioner, as owner of the vessel, argued that the complaint was cognizable not by the POEA but by the Social Security System and should have been filed against the State Insurance Fund. The POEA nevertheless assumed jurisdiction and after considering the position papers of the parties ruled in favor of the complainant. The award consisted of P180,000.00 as death benefits and P12,000.00 for burial expenses.

The petitioner immediately came to this Court, prompting the Solicitor General to move for dismissal on the ground of non-exhaustion of administrative remedies.

Ordinarily, the decisions of the POEA should first be appealed to the National Labor Relations Commission, on the theory *inter alia* that the agency should be given an opportunity to correct the errors, if any, of its subordinates. This case comes under one of the exceptions, however, as the questions the petitioner is raising are essentially questions of law.[1] Moreover, the private respondent herself has not objected to the petitioner's direct resort to this Court, observing that the usual procedure would delay the disposition of the case to her prejudice.

The Philippine Overseas Employment Administration was created under Executive Order No. 797, promulgated on May 1, 1982, to promote and monitor the overseas employment of Filipinos and to protect their rights. It replaced the National Seamen Board created earlier under Article 20 of the Labor Code in 1974. Under Section 4(a) of the said executive order, the POEA is vested with "original and exclusive jurisdiction over all cases, including money claims, involving employee-employer relations arising out of or by virtue of any law or contract involving Filipino contract workers, including seamen." These cases, according to the 1985 Rules and Regulations on Overseas Employment issued by the POEA, include "claims for death, disability and other benefits" arising out of such employment.[2]

The petitioner does not contend that Saco was not its employee or that the claim of his widow is not compensable. What it does urge is that he was not an overseas worker but a domestic employee and consequently his widow's claim should have been filed with the Social Security System, subject to appeal to the Employees Compensation

Commission.

We see no reason to disturb the factual finding of the POEA that Vitaliano Saco was an overseas employee of the petitioner at the time he met with the fatal accident in Japan in 1985.

Under the 1985 Rules and Regulations on Overseas Employment, overseas is defined as "employment of a worker outside the Philippines, including employment on board vessels plying international waters, covered by valid contract." [3] A contract worker is described as "any person working or who has worked overseas under a valid employment contract and shall include seamen" [4] or "any person working overseas or who has been employed by another which may be a local employer, foreign employer, principal or partner under a valid employment contract and shall include seamen." [5] These definitions clearly apply to Vitaliano Saco for it is not disputed that he died while under a contract of employment with the petitioner and alongside the petitioner's vessel, the M/V Eastern Polaris, while berthed in a foreign country. [6]

It is worth observing that the petitioner performed at least two acts which constitute implied or tacit recognition of the nature of Saco's employment at the time of his death in 1985. The first is its submission of its shipping articles to the POEA for processing, formalization and approval in the exercise of its regulatory power over overseas employment under Executive Order No. 797. [7] The second is its payment [8] of the contributions mandated by law and regulations to the Welfare Fund for Overseas Workers, which was created by P.D. No. 1694 "for the purpose of providing social and welfare services to Filipino overseas workers."

Significantly, the office administering this fund, in the receipt it prepared for the private respondent's signature, described the subject of the burial benefits as "overseas contract worker Vitaliano Saco." [9] While this receipt is certainly not controlling, it does indicate, in the light of the petitioner's own previous acts, that the petitioner and the Fund to which it had made contributions considered Saco to be an overseas employee.

The petitioner argues that the deceased employee should be likened to the employees of the Philippine Air Lines who, although working abroad in its international flights, are not considered overseas workers. If this be so, the petitioner should not have found it necessary to submit its shipping articles to the POEA for processing, formalization and approval or to contribute to the Welfare Fund which is available only to overseas workers. Moreover, the analogy is hardly appropriate as the employees of the PAL cannot under the definitions given be considered seamen nor are their appointments coursed through the POEA.

The award of P180,000.00 for death benefits and P12,000.00 for burial expenses was made by the POEA pursuant to its Memorandum Circular No. 2, which became effective on February 1, 1984. This circular prescribed a standard contract to be adopted by both foreign and domestic shipping companies in the hiring of Filipino seamen for overseas employment. A similar contract had earlier been required by the National Seamen Board and had been sustained in a number of cases by this Court. [10] The petitioner claims that it had never entered into such a contract with the deceased Saco, but that is hardly a serious argument. In the first place, it should have done so as required by the circular, which specifically declared that "all parties to the employment of any Filipino seamen on board any ocean-going vessel are advised to adopt and use this employment contract effective 01 February 1984 and to desist from using any other format of employment contract effective that date." In the second place, even if it had not done so, the provisions of the said circular are nevertheless deemed written into the contract with Saco as a postulate of the police power of the State. [11]

But the petitioner questions the validity of Memorandum Circular No. 2 itself as violative of the principle of non-delegation of legislative power. It contends that no authority had been given the POEA to promulgate the said regulation; and even with such authorization, the regulation represents an exercise of legislative discretion which, under the principle, is not subject to delegation.

The authority to issue the said regulation is clearly provided in Section 4(a) of Executive Order No. 797, reading as follows:

"x x x The governing Board of the Administration (POEA), as hereunder provided, shall promulgate the necessary rules and regulations to govern the exercise of the adjudicatory functions of the Administration (POEA)."

Similar authorization had been granted the National Seamen Board, which, as earlier observed, had itself prescribed a standard shipping contract substantially the same as the format adopted by the POEA.

The second challenge is more serious as it is true that legislative discretion as to the substantive contents of the law cannot be delegated. What can be delegated is the discretion to determine how the law may be enforced, not what the law shall be. The ascertainment of the latter subject is a prerogative of the legislature. This prerogative cannot be abdicated or surrendered by the legislature to the delegate. Thus, in *Ynot v. Intermediate Appellate Court*,^[12] which annulled Executive Order No. 626, this Court held:

"We also mark, on top of all this, the questionable manner of the disposition of the confiscated property as prescribed in the questioned executive order. It is there authorized that the seized property shall 'be distributed to charitable institutions and other similar institutions as the Chairman of the National Meat Inspection Commission may see fit, in the case of carabaos.' (Emphasis supplied.) The phrase 'may see fit' is an extremely generous and dangerous condition, if condition it is. It is laden with perilous opportunities for partiality and abuse, and even corruption. One searches in vain for the usual standard the reasonable guidelines, or better still, the limitations that the said officers must observe when they make their distribution. There is none. Their options are apparently boundless. Who shall be the fortunate beneficiaries of their generosity and by what criteria shall they be chosen? Only the officers named can supply the answer, they and they alone may choose the grantee as they see fit, and in their own exclusive discretion. Definitely, there is here a 'roving commission,' a wide and sweeping authority that is not 'canalized within banks that keep it from overflowing,' in short a clearly profligate and therefore invalid delegation of legislative powers."

There are two accepted tests to determine whether or not there is a valid delegation of legislative power, viz., the completeness test and the sufficient standard test. Under the first test, the law must be complete in all its terms and conditions when it leaves the legislature such that when it reaches the delegate the only thing he will have to do is enforce it.^[13] Under the sufficient standard test, there must be adequate guidelines or limitations in the law to map out the boundaries of the delegate's authority and prevent the delegation from running riot.^[14] Both tests are intended to prevent a total transference of legislative authority to the delegate, who is not allowed to step into the shoes of the legislature and exercise a power essentially legislative.

The principle of non-delegation of powers is applicable to all the three major powers of the Government but is especially important in the case of the legislative power because of the many instances when its delegation is permitted. The occasions are rare when executive or judicial powers have to be delegated by the authorities to which they legally pertain. In the case of the legislative power, however, such occasions have become more and more frequent, if not necessary. This had led to the observation that the delegation of legislative power has become the rule and its non-delegation the exception.

The reason is the increasing complexity of the task of government and the growing inability of the legislature to cope directly with the myriad problems demanding its attention. The growth of society has ramified its activities and created peculiar and sophisticated problems that the legislature cannot be expected reasonably to comprehend. Specialization even in legislation has become necessary. To many of the problems attendant upon present-day undertakings, the legislature may not have the competence to provide the required direct and efficacious, not to say, specific solutions. These solutions may, however, be expected from its delegates, who are supposed to be

experts in the particular fields assigned to them.

The reasons given above for the delegation of legislative powers in general are particularly applicable to administrative bodies. With the proliferation of specialized activities and their attendant peculiar problems, the national legislature has found it more and more necessary to entrust to administrative agencies the authority to issue rules to carry out the general provisions of the statute. This is called the "power of subordinate legislation."

With this power, administrative bodies may implement the broad policies laid down in a statute by "filling in" the details which the Congress may not have the opportunity or competence to provide. This is effected by their promulgation of what are known as supplementary regulations, such as the implementing rules issued by the Department of Labor on the new Labor Code. These regulations have the force and effect of law.

Memorandum Circular No. 2 is one such administrative regulation. The model contract prescribed thereby has been applied in a significant number of cases without challenge by the employer. The power of the POEA (and before it the National Seamen Board) in requiring the model contract is not unlimited as there is a sufficient standard guiding the delegate in the exercise of the said authority. That standard is discoverable in the executive order itself which, in creating the Philippine Overseas Employment Administration, mandated it to protect the rights of overseas Filipino workers to "fair and equitable employment practices."

Parenthetically, it is recalled that this Court has accepted as sufficient standards "public interest" in *People v. Rosenthal*,^[15] "justice and equity" in *Antamok Gold Fields v. CIR*,^[16] "public convenience and welfare" in *Calalang v. Williams*,^[17] and "simplicity, economy and efficiency" in *Cervantes v. Auditor General*,^[18] to mention only a few cases. In the United States, the "sense and experience of men" was accepted in *Mutual Film Corp. v. Industrial Commission*,^[19] and "national security" in *Hirabayashi v. United States*.^[20]

It is not denied that the private respondent has been receiving a monthly death benefit pension of P514.42 since March 1985 and that she was also paid a P1,000.00 funeral benefit by the Social Security System. In addition, as already observed, she also received a P5,000.00 burial gratuity from the Welfare Fund for Overseas Workers. These payments will not preclude allowance of the private respondent's claim against the petitioner because it is specifically reserved in the standard contract of employment for Filipino seamen under Memorandum Circular No. 2, Series of 1984, that -

"Section C. Compensation and Benefits. -

"1.

In case of death of the seamen during the term of his Contract, the employer shall pay his beneficiaries the amount of:

"a.

P220,000.00 for master and chief engineers

"b.

P180,000.00 for other officers, including radio operators and master electricians

"c.

P130,000.00 for ratings.

"2.

It is understood and agreed that the benefits mentioned above shall be separate and distinct from, and will be in addition to whatever benefits which the seaman is entitled to under Philippine laws. x x x.

"3.

x x x

"c.

If the remains of the seaman is buried in the Philippines, the owners shall pay the beneficiaries of the seaman an amount not exceeding P18,000.00 for burial expenses."

The underscored portion is merely a reiteration of Memorandum Circular No. 22, issued by the National Seamen Board on July 12, 1976, providing as follows:

"Income Benefits under this Rule Shall be Considered Additional Benefits. -

"All compensation benefits under Title II, Book Four of the Labor Code of the Philippines (Employees Compensation and State Insurance Fund) shall be granted, in addition to whatever benefits, gratuities or allowances that the seaman or his beneficiaries may be entitled to under the employment contract approved by the NSB. If applicable, all benefits under the Social Security Law and the Philippine Medicare Law shall be enjoyed by the seaman or his beneficiaries in accordance with such laws."

The above provisions are manifestations of the concern of the State for the working class, consistently with the social justice policy and the specific provisions in the Constitution calling for the protection of the working class and the promotion of its interest.

One last challenge of the petitioner must be dealt with to close this case. Its argument that it has been denied due process because the same POEA that issued Memorandum Circular No. 2 has also sustained and applied it is an uninformed criticism of administrative law itself. Administrative agencies are vested with two basic powers, the quasi-legislative and the quasi-judicial. The first enables them to promulgate implementing rules and regulations, and the second enables them to interpret and apply such regulations. Examples abound: the Bureau of Internal Revenue adjudicates on its own revenue regulations, the Central Bank on its own circulars, the Securities and Exchange Commission on its own rules, as so too do the Philippine Patent Office and the Videogram Regulatory Board and the Civil Aeronautics Administration and the Department of Natural Resources and so on ad infinitum on their respective administrative regulations. Such an arrangement has been accepted as a fact of life of modern governments and cannot be considered violative of due process as long as the cardinal rights laid down by Justice Laurel in the landmark case of *Ang Tibay v. Court of Industrial Relations*[21] are observed.

Whatever doubts may still remain regarding the rights of the parties in this case are resolved in favor of the private respondent, in line with the express mandate of the Labor Code and the principle that those with less in life should have more in law.

When the conflicting interests of labor and capital are weighed on the scales of social justice, the heavier

influence of the latter must be counterbalanced by the sympathy and compassion the law must accord the underprivileged worker. This is only fair if he is to be given the opportunity - and the right - to assert and defend his cause not as a subordinate but as a peer of management, with which he can negotiate on even plane. Labor is not a mere employee of capital but its active and equal partner.

WHEREFORE, the petition is DISMISSED, with costs against the petitioner. The temporary restraining order dated December 10, 1986 is hereby LIFTED. It is so ordered.

Narvasa, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Bagatsing v. Ramirez, 74 SCRA 306; Del Mar v. Phil. Veterans Administration, 51 SCRA 340; Aguilar v. Valencia, 40 SCRA 210; Begosa v. PVA, 32 SCRA 466; Tapales v. President and Board of Regents, 7 SCRA 553; Pascual v. Nueva Ecija Provincial Board, 106 Phil. 466; Mondano v. Silvosa, 97 Phil. 143.

[2] Sec. 1(d), Rule I, Book VI (1985 Rules).

[3] Sec. 1(x), Rule II, Book I (1985 Rules).

[4] Sec. 1(g), Rule II, Book I (1985 Rules).

[5] Sec. 1(g), Rule II, Book I (1984 Rules).

[6] Rollo, p. 171 (POEA Decision, p. 8).

[7] Ibid., pp. 169-170 (POEA Decision, pp. 6-7).

[8] Rollo, pp. 213-217.

[9] Annex "A" of Private Respondent's Comment (Rollo, p. 230).

[10] Bagong Filipinas Overseas Corp. v. NLRC, 135 SCRA 278; Vir-gen v. NLRC, 125 SCRA 577; Norse Management v. NSB, et al., 117 SCRA 486; Vir-gen v. NLRC, 115 SCRA 347.

[11] Stone v. Mississippi, 101 US 814.

[12] 148 SCRA 659.

[13] People v. Vera, 65 Phil. 56.

[14] Cervantes v. Auditor General, 91 Phil. 359; People v. Rosenthal, 68 Phil. 328.

[15] Supra.

[16] 70 Phil. 340.

[17] 70 Phil. 726.

[18] Supra.

[19] 236 U.S. 247.

[20] 320 U.S. 99.

[21] 69 Phil. 635.

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