

JOINT MINISTRY OF HEALTH-MINISTRY OF LABOR AND EMPLOYMENT ACCREDITATION COMMITTEE FOR MEDICAL CLINICS, PETITIONER, VS. COURT OF APPEALS AND ERMITA MEDICAL CENTER, RESPONDENTS.

G.R. No. 78254. April 25, 1991

Ponente: CRUZ, J.

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CRUZ, J.:

Challenged in this petition for review is the decision of the Court of Appeals dated April 20, 1987, declaring null and void the decision of the Joint Ministry of Health-Ministry of Labor and Employment Accreditation Committee revoking the accreditation of the Ermita Medical Center, Inc. as a medical clinic for overseas employment and the conduct of medical examinations.[1]

The Committee was formed to establish, regulate and upgrade the standards of medical service and/or examination of workers for overseas employment and to ensure that only occupationally qualified and physically and medically fit workers participate in the overseas employment program.[2]

The revocation was made pursuant to the Rules and Regulations promulgated by the Committee on June 1, 1983, covering all duly licensed and registered hospitals, medical clinics and laboratories desirous of offering their services to private employment agencies, recruitment entities and manning agencies in the medical examination of workers being hired for overseas employment.[3]

Accredited medical clinics were classified into (a) regularly accredited medical clinics, which were allowed to conduct medical examinations of applicants for overseas employment for all private recruitment firms or agencies, and (b) in-house clinics, which were allowed to conduct medical examinations of applicants for overseas employment for such companies only to which they are in-house medical clinics.[4]

Ermita Medical Center was issued a certificate of accreditation as an in-house medical clinic to service only Builders and Heavy Equipment Services Corporation (BHESCO), but this was revoked by the Committee on the ground that the Center was conducting medical examinations of other companies. Reinstated on April 11, 1984, after a motion for reconsideration, the accreditation was again revoked on November 9, 1984, on the basis of evidence submitted by the Accredited Medical Clinics for Overseas Workers, Inc. of the respondent's violation of the Rules and Regulations.

The Center sent a letter of appeal to the Health and Labor Ministers, but apparently no action was taken thereon. On January 4, 1985, it filed a petition for certiorari with the Court of Appeals questioning the authority of the Committee to issue the Rules and Regulations and, assuming their validity, to revoke its accreditation as an in-house medical clinic.

In its decision, the respondent court sustained the Rules and Regulations as a valid exercise of the police power intended "to ensure that only medically and physically fit workers will be sent overseas" and "to prevent Filipino

workers from being stranded abroad upon being found to be physically unfit by their overseas employers." It also affirmed that the Committee was validly authorized to issue the Rules and Regulations under Section 79(B) of the Revised Administrative Code providing that:

Sec. 79(B) Power to regulate. — The Department Head shall have power to promulgate, whenever he may see fit to do so, all rules, regulations, orders, circulars, memorandums and other instructions, not contrary to law, x x x for the strict enforcement and proper execution of the laws relative to matters under the jurisdiction of said Department. x x x

However, it held that the Committee had no competence to revoke the accreditation given to the Center because all it was empowered to do under the Rules and Regulations was to "recommend to appropriate authorities the proper sanctions to be taken" in case of violation of the said Rules and Regulations. Accordingly, the respondent court set aside the revocation by the Committee of the accreditation previously issued to the Center.

In the petition at bar, the Solicitor General maintains that the Rules and Regulations were indeed enacted under the police power pursuant to the above-stated objectives and by virtue of properly delegated authority, as the respondent court itself had found. However, he disagrees with the ruling that the Committee could not impose the sanction of revocation but could only recommend the same.

The Solicitor General insists that as an administrative body, the Committee was empowered to impose remedial or civil sanctions as distinguished from penal sanctions, which require specific legislative authority. Withdrawal of the accreditation, like revocation of a license, is an administrative sanction the Committee could directly impose. He also denies that the Committee unjustly revoked the accreditation of the Center while favoring others apparently similarly situated.

The private respondent does not argue too vigorously on the police power issue and practically concedes it. However, it submits that the Committee had no authority to make the classification between clinics with full accreditation and those with limited accreditation, as this could be done only by the Joint Ministries of Health and Labor. The Center also questions the Committee for giving full accreditation to seven clinics even after the cut-off date while denying it a similar status notwithstanding its tender of the required P30,000.00 cash bond.

In a Supplemental Comment, the respondent called the attention of the Court to a letter from the Director of the National Printing Office [5] reading as follows:

August 10, 1988

NICASIO TUMULAK
Suite 6-D, 6[th] Floor,
G.E. Antonino Bldg.
T.M. Kalaw Street, Ermita

Sir:

This refers to your letter of August 4, 1988 which was received by this Office on August 5, 1988 requesting a Certification as to whether the Omnibus Rules implementing the Labor Code issued on February 16, 1976 by then Labor Minister Blas F. Ople and the Joint Ministry of Health-Ministry of Labor and Employment Rules and Regulations for the Accreditation of Medical Clinics and the Conduct of Medical Examination for Overseas Employment issued on June 1, 1983 have been published in the Official Gazette.

Records show that the said afore-mentioned inquiries were not submitted to this Office for publication in the Official Gazette.

Very truly yours,

(SGD.) LUIS M. AVECILLA

Director

In his Reply, the Solicitor General, while meeting the other arguments of the private respondent, made no mention of the above-quoted letter.

On March 15, 1989, the Court gave due course to the petition and required the parties to submit simultaneous memoranda. The petitioner filed a manifestation adopting as its memorandum its petition dated September 29, 1987, in which, it said, it had "fully discussed the issues sought to be resolved."

On January 15, 1991, the private respondent filed a Motion to Dismiss and/or for Early Resolution, to which the petitioner filed on February 7, 1991, an Opposition and/or Comment. There was no refutation again of the argument of the private respondent that the Rules and Regulations were not enforceable because they had never been published.

In *Tañada v. Tuvera*,^[6] this Court declared:

We hold therefore that all statutes, including those of local application and private laws, shall be published as a condition for their effectivity, which shall begin fifteen days after publication unless a different effectivity date is fixed by the legislature.

Covered by this rule are presidential decrees and executive orders promulgated by the President in the exercise of legislative powers whenever the same are validly delegated by the legislature or, at present, directly conferred by the Constitution. Administrative rules and regulations must also be published if their purpose is to enforce or implement existing law pursuant also to a valid delegation.

Interpretative regulations and those merely internal in nature, that is, regulating only the personnel of the administrative agency and not the public, need not be published. Neither is publication required of the so-called letters of instructions issued by administrative superiors concerning the rules or guidelines to be followed by their subordinates in the performance of their duties.

The evidence before us shows that the Rules and Regulations issued by the Committee have never been published. In the absence of any refutation of this evidence, the Court must conclude that the said Rules and Regulations have indeed not come into force and so cannot be used as a basis for the resolution of the herein petition.

While it is true that issues not raised in the courts below cannot generally be raised on appeal, the principle obviously cannot apply to cases like the one at bar where the claim is based on rules and regulations that have not yet become effective. It is settled that courts can enforce rights and redress wrongs only in accordance with laws existing and in force at the time the cause of action arose. In the controversy before us, the Rules and Regulations now under examination by the Court, and earlier by the respondent court, had not yet been published and so were not yet operating when the accreditation of the Center was revoked. Indeed, they have not been published to date and so continue to be without any force and effect whatsoever. We therefore cannot interpret and apply them as part of our laws.

The Court notes that in the private respondent's Motion to Dismiss and/or for Early Resolution, it is contended as follows:

Apart from the foregoing consideration, the Secretary of Health, Dr. Alfredo Bengzon, on February 22, 1990 has come up with Administrative Order No. 85-A, series of 1990, entitled Revised "Rules and Regulations covering accreditation of Medical Clinics and Hospitals and the Conduct of Medical Examination for Overseas Workers and Seafarers" which have substantially corrected and/or amended the original defects of the old rules as pointed out by the Court of Appeals in its decision in C.A. G.R. SP No. 05075 promulgated on April 20, 1987 in favor of

respondent Ermita Medical Center. This significant development has rendered the present case moot and academic, the new rules not being in issue.

The Solicitor General is correct in observing that these new rules are not applicable to the present controversy, having been issued in 1990, long after this case arose in 1985. At any rate, it might be useful to verify if these new rules have already been published as now required by Executive Order No. 200, which was issued in compliance with the strict doctrine laid down in the Tañada case.

WHEREFORE, the petition is DENIED for lack of statutory basis. The challenged decision is SET ASIDE for the same reason. It is so ordered.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] J.P. Torres, Jr., J., ponente, with Luciano and Herrera, JJ., concurring.

[2] Original Record, p. 27.

[3] Ibid., pp. 27-33.

[4] Id., pp. 67-68.

[5] Rollo, p. 102.

[6] 146 SCRA 446.

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