

**MAGDALENA M. FERMIN, PETITIONER, VS. THE SECRETARY OF LABOR AND EMPLOYMENT, HENRY M. PAREL, IN HIS CAPACITY AS REGIONAL DIRECTOR, DEPARTMENT OF LABOR AND EMPLOYMENT, REGION VI, ...**

*G.R. No. 83105. October 21, 1992*

Ponente: DAVIDE, JR., J.

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**DAVIDE, JR., J.:**

The crucial issue raised by petitioner in this case has already been settled and laid to rest in Our Decision of 26 April 1990[1] and Resolution of 5 June 1991[2] in *Servando's Incorporated vs. The Secretary of Labor and Employment, et al.*

Petitioner seeks to set aside the 6 April 1988 Order of respondent Secretary of Labor[3] in Case No. FI-310-86 affirming the orders of public respondent Henry Parel dated 2 March 1987 and 7 August 1987 which, respectively, directed petitioner to pay the eighty-six (86) complainants in said case the sum of Eight Hundred Eighty Seven Thousand Seven Hundred Nineteen Pesos and Fifty Two Centavos (P887,719.52) representing their monetary claims covering a three-year period, and denied the motion to reconsider the same.

The claims are set forth in a complaint for non-payment/underpayment of wages, living allowances, 13th month pay and service incentive leave pay. As stated in the Order of 2 March 1987, each of the 86 complainants was entitled to the aggregate amount of P10,322.35. Such figure was arrived at solely on the basis of the affidavits submitted by the complainants following an inspection conducted on 11 November 1986 by the labor standards and welfare officers of Regional Office No. VI of the Department of Labor and Employment (DOLE.) because the payrolls and daily time records were not allegedly presented by herein petitioner, as respondent therein; petitioner had claimed that she should first be permitted to consult with her legal counsel.[4]

Petitioner's motion to reconsider the said 2 March 1987 Order is grounded on (a) the lack of jurisdiction on the part of the Regional Director since under Article 217 of the Labor Code of the Philippines, and as enunciated in *Zambales Base Metals, Inc. vs. Minister of Labor*,[5] only the Labor Arbiters have jurisdiction over money claims of employees; under Article 128 of the said Code, the regional director is vested merely with visitorial powers, and (b) the contention that granting for the sake of argument that the Department of Labor and Employment has jurisdiction over the claims in question, the order would still be void because she was not given an opportunity to be heard, thereby being deprived of due process.

While the first ground is impressed with merit, it is not because of the ruling in *Zambales* but rather, Our conclusion in *Servando's*. Although the former was indeed the controlling doctrine at the time the claims were initiated, the same was already ineffective by the time the Order of 2 March 1987 was issued in view of the enactment of Executive Order No. 111 on 24 December 1986. This Executive Order was construed in *Briad Agro Development Corp. vs. dela Serna and Camas Engineering Corp. vs. Secretary of Labor*[6] as recognizing the concurrent jurisdiction of the Secretary of Labor (or Regional Director) and the Labor Arbiters to decide on

employees' money claims; this interpretation was, however, modified in the Resolution of 9 November 1989[7] in view of the enactment of R.A. No. 6715 which upheld the Regional Directors' power to adjudicate employees' money claims subject to the conditions set forth in Section 2 thereof. In the said Decision, We further declared that being a curative statute,[8] Executive Order No. 111 has retroactive effect.

In Our 26 April 1990 Decision in *Servando's*,[9] We ruled:

"The power then of the Regional Director (under the present state of the law) to adjudicate employees' money claims is subject to the concurrence of all the requisites provided under Sec. 2 of RA 6715, to wit: (1) the claim is presented by an employee or person employed in domestic or household service, or househelper; (2) the claim arises from employer-employee relations; (3) the claimant does not seek reinstatement; and (4) the aggregate money claim of each employee or househelper does not exceed P5,000.00.

Going over the records of this case, we note that the aggregate claims of each of the fifty four (54) employees of herein petitioner are over and above the amount of P5,000.00. Under the circumstances, the power to adjudicate such claims belongs to the Labor Arbiter who has the exclusive jurisdiction over employees' claims where the aggregate amount of the claim for each employee exceeds P5,000.00."

Amplifying further on the matter, We held in the Resolution 5 June 1991[10] that:

"A careful consideration of the above-quoted three (3) provisions[11] of the Labor Code leads the Court to reiterate its ruling that the exclusive jurisdiction to hear and decide employees' claims arising from employer-employee relations, exceeding the aggregate amount of P5,000.00 for each employee, is vested in the Labor Arbiter (Article 217 (a)(6). This exclusive jurisdiction of the Labor Arbiter is confirmed by the provisions of Article 129 which excludes from the jurisdiction of the Regional Director or any hearing officer of the Department of Labor the power to hear and decide claims of employees arising from employer-employee relations exceeding the amount of P5,000.00 for each employee.

To construe the visitatorial power of the Secretary of Labor to order and enforce compliance with labor laws as including the power to hear and decide cases involving employees' claims for wages, arising from employer-employee relations, even if the amount of said claims exceed (sic) P5,000.00 for each employee, would, in our considered opinion, emasculate and render meaningless, if not useless, the provisions of Article 217 (a)(6) and Article 129 of the Labor Code which, as above-pointed out, confer exclusive jurisdiction on the Labor Arbiter to hear and decide such employees' claims (exceeding P5,000.00 for each employee). To sustain the respondents' position would, in effect sanction a situation where all employees claims, regardless of amount, can be heard and determined by the Secretary of Labor under his visitatorial power. This does not, however appear to be the legislative intent.

We further hold that to harmonize the above-quoted three (a) provisions of the Labor Code, the Secretary of Labor should be held as possessed of his plenary visitatorial powers to order the inspection of all establishment where labor is employed, to look into all possible violations of labor laws and regulations but the power to hear and decide employees' claims exceeding P5,000.00 for each employee should be left to the Labor Arbiter as the exclusive repository of the power to hear and decide such claims. In other words, the inspection conducted by the Secretary of Labor, through labor regulation officers or industrial safety engineers, may yield findings of violations of labor standards under labor laws; the Secretary of Labor may order compliance with said labor standards, if necessary, through appropriate writs of execution but when the findings disclose an employee claim of over P5,000.00, the matter should be referred to the Labor Arbiter in recognition of his exclusive jurisdiction over such claims.

Nor is this position devoid of sound reason or purpose, because -?

1. The proceedings before the Secretary of Labor (or his agents) exercising his visitatorial powers is summary in nature. On the other hand, proceedings before the Labor Arbiters are more formal and in accord with rules of

evidence. When the employee's claim is less than P5,000.00, a summary procedure for its settlement can be justified, but not when a claim is more or less substantial, from the standpoint of both employee and management, for which reason, an employee's claim exceeding P5,000.00 is placed within the exclusive jurisdiction of the Labor Arbiter to hear and decide.

2. Article 129 of the Labor Code expressly provides that 'upon complaint of any interested party,' the Regional Director (and, consequently, the Secretary of Labor to whom appeals from the Regional Director are taken) is empowered to hear and decide simple money claims, i.e., those that do not exceed P5,000.00 for each employee, employing for this purpose a summary procedure. If Article 128 (b) of the Labor Code were to be construed as empowering the Secretary of Labor, under his visitatorial power, to hear and decide all types of employee's claims, including those exceeding P5,000.00 for each employee, employing for this purpose a summary procedure, then, Article 129 (limiting the Regional Director's jurisdiction to a claim not exceeding P5,000.00) becomes a useless surplusage in the Labor Code.

3. Besides, it would seem that as the law (Article 129) limits the jurisdiction of the Regional Director (and, therefore, the Secretary of Labor on appeal from the Regional Director) to 'complaints of any interested party' seeking an amount of not more than P5,000.00, for each employee, it cannot be that, because of the absence of any complaint from any interested party, the Secretary of Labor under his visitatorial power, is motu proprio empowered to hear and decide employee's claim of more than P5,000.00 for each employee.

In addition to all the foregoing, the Court cannot overlook the fact that petitioner contests the findings of the labor regulation officer, upon which, the respondents based their questioned orders. Nor can it be argued with persuasion that the issues raised by petitioner are not evidentiary in nature and unverifiable in the course of inspection. Moreover, the total amount of the respondents' award against petitioner, is P964,952.50 (with the award for each of the fifty four (54) employees involved not being less than P5,000.00). The total award of P964,952.50 is a tidy sum sufficient to knock-off any viable enterprise. What is worse is that all this is done through summary proceedings.

The elementary demands of due process upon which the express exception to the visitatorial powers of the Secretary of Labor is obviously anchored would require something more than a summary disposition. x x x."

Considering that the aggregate claims of each of the complainants in Case No. Case FI-310-86 exceed P5,000.00, respondent Regional Director had no jurisdiction over the case. In view of this, the other issue raise shall no longer be discussed.

WHEREFORE, the instant petition is GRANTED. The Order of respondent Secretary of Labor and Employment of 6 April 1988 and the Orders of respondent Regional Director of 2 March 1987 and 12 August 1987 in Case No. FI-310-86 are hereby SET ASIDE.

To avoid further delay in the disposition of private respondents' claims, the Secretary of Labor is hereby directed to forward the record of Case No. FI-310-86 to the Labor Arbiter of the National Labor Relations Commission at its Regional Office in Region VI who shall then take appropriate proceedings thereon as if the case had been filed thereat. The pendency of the case before this Court and before the offices of the public respondents shall be deemed to have tolled the prescriptive period for the enforcement of the claims.

No pronouncement as to costs.

**SO ORDERED.**

Gutierrez, Jr., (Chairman), Bidin, Romero, and Melo, JJ., concur.

**[1] 184 SCRA 664 [1990].**

**[2] 198 SCRA 156 [1991].**

[3] Rollo, 31-32.

[4] Rollo, 17.

**[5] 146 SCRA 50 [1986].**

**[6] 174 SCRA 524 [1989].**

**[7] 179 SCRA 269 [1989].**

[8] Resolution at page 15; citing *Garcia vs. Martinez*, 90 SCRA 331 [1979]; *Calderon vs. Court of Appeals*, 100 SCRA 459 [1980].

[9] *Supra.*, footnote no. 1, at 670.

[10] *Supra.*, footnote no. 2, at 160-162.

[11] Referring to Articles 217 (a) (6), 129, and 128 (b).

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