

RTG CONSTRUCTION, INC., PETITIONER, VS. BARTOLOME C. AMOGUIS, IN HIS CAPACITY AS REGIONAL DIRECTOR OF THE DEPARTMENT OF LABOR & EMPLOYMENT, DIONISIO C. DE LA SERNA, IN HIS CAPAC...

G.R. No. 85278. August 29, 1989

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

These petitions for certiorari by the petitioner, RTG Construction, Inc., were consolidated because the parties involved are the same. In G.R. No. 85278, the petitioner assails the jurisdiction of the Regional Director of the Department of Labor and Employment and the Undersecretary of Labor and Employment in LSED ROXI Case No. 83-86 to grant the money claims of the private respondent, Romeo Tarroza, for salary differential, emergency cost-of-living-allowance differential, holiday pay, 13th month pay and night shift differential on his complaint for violation of labor standards by his employer, the petitioner herein.

In G.R. No. 85918, the petitioner assails the order of the National Labor Relations Commission (NLRC), dismissing the company's appeal from the decision of the Labor Arbiter in Tarroza's complaint for illegal dismissal (RAB-11-09-00435-87), ordering the company to reinstate him to his former position without loss of seniority rights and with backwages from the date of his dismissal up to his actual reinstatement.

The petitioner is a Philippine corporation with main office in Quezon City. It is engaged in the construction of dikes, canals, and canal structures and was one of the contractors for various projects of the National Irrigation Agency in Davao del Norte. In 1984, Tarroza was employed as watchman in the petitioner's shop at Malagupising, Carmen, Davao del Norte.

On December 15, 1986, Tarroza and thirty-three (33) co-employees of his filed a complaint against the petitioner for alleged violation of labor standards for minimum wage, emergency cost-of-living allowance, holiday pay, night shift pay, and 13th month pay. It was docketed as LSED ROXI Case No. 83-86. Subsequently, his co-plaintiffs withdrew their charges against their employer, leaving Tarroza alone to pursue his complaint.

Acting on Tarroza's complaint, the Regional Director of the DOLE directed the Labor Standards and Welfare Office (LSWO) to conduct an inspection of the petitioner's premises and examine its books. After making such inspection, the LSWO recommended that a summary investigation of the petitioner be made by the Office of the Regional Director. According to the computation of the LSWO, the following sums were due Tarroza:

1. Salary Differential

P 12,957.00

2. E. L. A. Differential

2,519.40

3. Holiday Pay	
864.00	
4. 13th Month Pay	
229.66	
5. Night Shift Differential	
476.91	
Total	
17,046.97	

During the investigation by the Regional Director, the petitioner offered to pay P7,000 to Tarroza by way of compromise. Initially, Tarroza agreed to accept that amount but he later changed his mind and refused to compromise.

Upon a recomputation of his claims by the Regional Director, it was found that he was entitled to receive the total sum of P21,753.50 on his claims.

The petitioner appealed to DOLE, alleging that the Regional Director erred in not setting off against Tarroza's claims his liability to the company for tools and spare parts worth P36,450.00 which were allegedly lost while in his "custody" as watchman. The losses were discovered during an inventory of the contents of the warehouse on February 23, 1987, or some two months after Tarroza and his co-employees had complained about the company's violations of labor standards.

The Undersecretary of Labor ruled that there is no law making Tarroza liable for the loss of the tools and spare parts inside the petitioner's shop and that, moreover, Tarroza was not given a reasonable opportunity to refute the company's claim for deductions from his salaries and benefits. The company's appeal was dismissed for lack of merit on May 2, 1988 (Annex L). It elevated the matter to this Court where it was docketed as G.R. No. 85278.

During the pendency of the labor standards case, the company issued an order transferring Tarroza to its shop in Tagunay, Carmen, Davao del Norte, but Tarroza refused to comply with the order, so he was dismissed from the service in May 1987.

On September 14, 1987, Tarroza filed before the Labor Arbiter of the NLRC a complaint for illegal dismissal with a prayer for reinstatement and backwages (Case No. RAB-11-09-004350-87, entitled "Romeo Tarroza vs. RTG Construction, Inc.").

On January 21, 1988, a decision was rendered by the Labor Arbiter declaring his dismissal illegal and ordering the petitioner to reinstate him to his former position without loss of seniority rights and with full backwages from the date of his dismissal up to his actual reinstatement (Annex I).

The petitioner appealed to the NLRC which, on May 27, 1988, dismissed the appeal "for being filed out of time." (Annex M.) The NLRC affirmed the decision of the Labor Arbiter (Annex F). After the petitioner's motion for reconsideration of the NLRC's resolution was denied (Annex N), it filed this second petition for certiorari, G.R. No. 85918.

The first petition for certiorari (G.R. No. 85278) alleges that:

"I - THE REGIONAL DIRECTOR ACTED WITHOUT OR IN EXCESS OF HIS JURISDICTION OR WITH

GRAVE ABUSE OF DISCRETION IN ADJUDICATING MONEY CLAIMS TO PRIVATE RESPONDENT, WHICH FALL WITHIN THE JURISDICTION OF THE LABOR ARBITER; AND

"II - THE REGIONAL DIRECTOR DEPRIVED PETITIONER OF PROCEDURAL DUE PROCESS WHEN IT WAS NOT ALLOWED TO SUBMIT THE PAYROLLS AND OTHER EVIDENCE TO CONTROVERT THE SELF-SERVING CLAIMS OF PRIVATE RESPONDENT." (p. 11, Rollo.)

In G.R. No. 85918, the petitioner alleges that the NLRC gravely abused its discretion in ordering the reinstatement of Tarroza with full backwages.

Both petitions have no merit.

The petition in G.R. No. 85278 assails the jurisdiction of DOLE and of its Regional Director to pass upon Tarroza's claims for salary differentials, holiday pay, 13th month pay and night shift differential. It is alleged that the original and exclusive jurisdiction to adjudicate money claims pertains to the Labor Arbiter under Article 217 of the Labor Code, as amended by PD 1691 effective May 1, 1980.

That argument is not well taken for ever since PD No. 850 was issued on December 16, 1975, giving the Regional Directors not only visitorial, but enforcement powers as well, labor standards cases have been removed from the arbitration arm (under Article 217) and transferred to the enforcement system of the Ministry of Labor (Maternity Children's Hospital vs. Secretary of Labor, G.R. No. 78909, June 30, 1989).

In Maternity Children's Hospital vs. Secretary of Labor, supra this Court pointed out that the enforcement/adjudication authority of the Regional Director over uncontested money claims in cases where an employer-employee relationship still exists, was confirmed and reiterated in Executive Order No. 111, dated November 26, 1986, amending Article 128 (b) of the Labor Code, as follows:

"(b) The provisions of Article 217 of this Code to the contrary notwithstanding and in cases where the relationship of employer-employee still exist, the Minister of Labor and Employment or his duly authorized representatives shall have the power to order and administer, after due notice and hearing, compliance with the labor standards provisions of this Code and other labor legislation based on the findings of labor regulation officers or industrial safety engineers - made in the course of inspection, and to issue writs of execution to the appropriate authority for enforcement of their orders, except in cases where the employer contests the findings of the labor regulation officer and raises issues which cannot be resolved without considering evidentiary matters that are not verifiable in the normal course of inspection." (pp. 15-16, Rollo; underscoring supplied.)

In view of Executive Order No. 111, the jurisdiction of the Regional Director of the DOLE over Tarroza's claims in LSED ROXI Case No. 83-86 is unassailable.

Petitioner's allegation that it was denied due process because it was not allowed to present its payrolls to refute Tarroza's claims for differentials, is not correct. The NLRC found that:

"x x x respondent was given more than ample time to present its payrolls and other documentary evidence to disprove the claims of the complainants, but it failed to do so. Respondent's unsubstantiated claim that the payrolls were already forwarded to its Central Office in Manila is no defense. Respondent should remember that in labor standards cases, the burden of proof rests on the employer to show that it has not committed any violation. In this respect, the payrolls are the best evidence to show proof of compliance with the mandate of the law. But, respondent chose not to present it. Hence, we find no reason to deny complainant's claims in the absence of contrary proof from respondent." (p. 56, Rollo of G.R. No. 85278.)

The employer-employee relationship having been severed by his dismissal from the company, Tarroza's claim for reinstatement with backwages was properly filed before the Labor Arbiter of the NLRC pursuant to Article 217 of the Labor Code.

There was no overlapping of jurisdictions between the Regional Director and the Labor Arbiter over Tarroza's claims because his claims under the labor standards laws (LSED ROXI Case No. 83-86) covered only the differentials due him from the date of his employment in the company up to the date of his dismissal in May 1986, while his claim for reinstatement with backwages (Case No. RAB-11-09-00435-87) covers the period after his dismissal until he is reinstated. It should be clarified, however, that his backwages shall not exceed three (3) years. (People's Industrial & Commercial Employees & Workers Org. vs. People's Industrial & Commercial Corp., 112 SCRA 440; Lepanto Consolidated Mining Co. vs. Encarnacion, 136 SCRA 256; Mercury Drug Co., Inc. vs. CIR, 56 SCRA 694.)

WHEREFORE, the petition for certiorari is dismissed. As above modified, the decisions of the DOLE and NLRC are affirmed. Costs against the petitioner in both instances.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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