

JOSE BARITUA, PETITIONER, VS. SECRETARY OF THE DEPARTMENT OF LABOR AND EMPLOYMENT, DEOGRACIAS IMPERIAL, RODOLFO ABUEDO, BENJAMIN MARANO, VIRGILIO AGUILA, MIGUEL RAMOS, AND MANUE...

G.R. No. 89362. November 29, 1991

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for certiorari which seeks to reverse and set aside the order dated August 3, 1989 by the Secretary of the Department of Labor and Employment/rendered through his Undersecretary Dionisio C. de la Serna in DOLE R05-LS-CASE NO. 00071-88-C entitled "In Re Deogracias Imperial, et al. v. J.B. Line/Jose Baritua" which dismissed petitioner's appeal and affirmed the Regional Director's order dated August 11, 1988.

The facts of the case are as follows:

On March 14, 1988, Deogracias Imperial, on behalf of the other complainants, sent a letter to the general manager Mr. Jose Baritua demanding payment for the unpaid night shift differential, service incentive leave pay, premium pay for rest day and overtime pay. As members of the ABC Labor Union, their demands were submitted first to the grievance committee. After failing to settle the issue amicably, both parties agreed to elevate the case to the Department of Labor and Employment (DOLE) for compulsory arbitration (Rollo, pp. 25; 36; 42).

Upon receipt of the letter dated March 14, 1988, the appellant Jose Baritua, through his personal manager Carlos Generoso, initiated a conference on complainants' alleged grievance on March 28, 1988 and April 23, 1988, during which the appellant disputed and contested the factual and legal basis of the complainants' money claim (Rollo, pp. 53-54).

On April 26, 1988, the complainants sent another letter to the Regional Director requesting that a routine inspection/investigation be conducted at the establishment of the appellant Jose Baritua. However, instead of conducting an inspection, the parties were called for a conference in view of the already pending labor standards case against Jose Baritua wherein a routine inspection was already conducted on June 25, 1987 (Rollo, p. 5).

During the conference, efforts were again exerted to settle the case amicably. Failing at this attempt, both parties were finally required to submit their respective position papers and other documentary evidence (Ibid.).

On June 16, 1988, the appellant Jose Baritua filed his position paper on the jurisdictional question, insisting that the Regional Director's Office is not the proper forum for this case but the Labor Arbiter's Office, and assuring that he will challenge and contest complainants' claim, as he already did during the grievance conciliation process (Rollo, pp. 29-30).

Petitioner Baritua, likewise, denied all the allegations of respondent employees and averred that Deogracias Imperial sent his demand letter to him only after the latter had discovered acts of fraud, dishonesty, serious

misconduct, willful breach of trust, etc. committed by Imperial and his co-respondents; that the individual private respondents work only a maximum of only four (4) hours a day night shift, and that they have about twenty (20) hours a day for their rest period, recreation and attendance to their family, religious and other special needs; that the filing of the letter-complaint was in breach of their agreement to elevate the case to the Department of Labor and Employment for compulsory arbitration; and that the private respondents' claim/cause of action is barred by prescription and laches, if not extinguished by payment (Ibid., p. 44).

On the other hand, private respondents, in their position paper, alleged that they have been working with the appellant Jose Baritua for the last ten (10) years as inspectors; that they rendered an average working time of twelve (12) hours a day, the excess of four (4) hours having been rendered during night time; that they are entitled to two (2) days vacation leave for every month, and four rest days a month, but they never enjoyed these privileges; and that they were never given their corresponding overtime and night shift differential throughout their employment period (Rollo, p. 5). Private respondents submitted documentary evidence to support their claim.

On August 11, 1988, the Regional Director issued an order, the decretal portion of which reads:

"IN VIEW OF THE FOREGOING, respondent is hereby ordered to pay the complainants thru this office the following amount: (1) Deogracias Imperial - P34,356.10; (2) Rodolfo Abuedo - P34,356.10; (3) Miguel Ramos - P34,356.10; (4) Benjamin Marano - P34,356.10; (5) Manuel Moreno - P34,356.10; (6) Virgilio Aguila - P34,356.10; a total of P206,136.60 representing underpayment for overtime pay, service incentive leave and night differential, with fifteen (15) days from receipt hereof, otherwise a writ of execution shall be issued to enforce the same.

"SO ORDERED." (Rollo, p. 40).

Dissatisfied, Jose Baritua brought the case on appeal to the Secretary of Labor, questioning inter alia, the Regional Director's jurisdiction to adjudicate the monetary claims of complainants. The respondent Secretary, through his Undersecretary Dionisio dela Serna, issued an order dated August 3, 1989, the dispositive portion of which reads:

"WHEREFORE, the appeal filed by respondent J.B. Line is hereby DISMISSED for lack of merit. The order dated August 11, 1988 of the Regional Director, Regional Office No. V is AFFIRMED.

"SO ORDERED." (Rollo, p. 10).

The pivotal issue in this case is whether or not the findings of the labor regulation officers may be deemed uncontested as to bring the case at bar within the competence of the Regional Director as the duly authorized representative of the Secretary of Labor, pursuant to Article 128 of the Labor Code as amended.

The petitioner Baritua contends that the power to adjudicate the money claims here involved is vested solely in the Labor Arbiter and that the respondent secretary gravely abused his discretion when he affirmed the Regional Director's jurisdiction over money claims on the basis of Art. 128 (b) of the Labor Code, as amended by E.O. 111. He avers that the rulings in the cases of *Zambales v. Minister of Labor* (146 SCRA 50), and *Ong, Sr. v. Parel* (156 SCRA 768) should have been applied instead.

However, this Court in a later case held that in view of the promulgation of Executive Order No. 111, the ruling in the earlier case of *Zambales Base Metals* has already been abandoned. Instead, in accordance with the rulings in *Briad Agro, L.M. Camua*, and *Maternity Children's Hospital*, the Regional Director exercises concurrent jurisdiction with the Labor Arbiter over money claims. (*Briad Agro Dev. Corp. v. Secretary of Labor and L.M. Camua Engineering Corp. v. Hon. Secretary of Labor*, 174 SCRA 524 [1989]; *Maternity Children's Hospital v. Secretary of Labor*, 174 SCRA 632 [1989]).

But on motion, the decision in Briad Agro Dev. Corp., G.R. No. 82805, was reconsidered and set aside by this Court in a Resolution promulgated on November 9, 1989, in view of the enactment of Republic Act No. 6715, approved on March 2, 1989, which amended Art. 129 and Art. 217 of the Labor Code.

It will be observed that what in fact conferred upon Regional Directors and other hearing officers of the Department of Labor (aside from the Labor Arbiters) adjudicative powers, i.e., the power to try and decide, or hear and determine any claim brought before them for recovery of wages, simple money claims, and other benefits, is Republic Act 6715, provided that the following requisites concur, to wit:

- 1) The claim is presented by an employee or person employed in domestic or household service, or househelper under the code;
- 2) The claimant, no longer being employed, does not seek reinstatement; and
- 3) The aggregate money claim of the employee or housekeeper does not exceed five thousand pesos (P5,000.00).

Unquestionably, aside from the fact that the aggregate claims of each of the workers involve an amount in excess of P5,000.00, the issues raised therein from both sides are best ventilated and resolved in a more formal and extensive proceeding before the Labor Arbiter.

PREMISES CONSIDERED, the assailed order of the Secretary of Labor dated August 3, 1989 is SET ASIDE and the case is hereby referred to the Labor Arbiter for proper proceedings.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, and Regalado, JJ., concur.

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