

**COCOFED (KALAMANSIG) AND/OR CRISPIN ROSETE, PETITIONER,
VS. HON. CRESENCIANO B. TRAJANO, UNDERSECRETARY OF THE
DEPARTMENT OF LABOR AND EMPLOYMENT AND HON. MELENCIO
Q. BALANAG, D...**

G.R. No. 98277. February 15, 1995

Ponente: ROMERO, J.

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ROMERO, J.:

Philippine Coconut Producers Federation operates petitioner COCOFED (Kalamansig), a coconut plantation utilized as a demonstration farm for replanting and/or training area for coconut farmers, located in Kalamansig, Sultan Kudarat.

On November 15, 1988, a complaint inspection was conducted by the Department of Labor and Employment, Region XII, Cotabato City in response to complaints filed by two of petitioner's employees, Alex Edicto and Delia Pahuwayan. The inspection revealed that petitioner was guilty of underpayment of wages, emergency cost of living allowance (ECOLA) and 13[th] month pay. Accordingly, notice of inspection results were issued requiring petitioner to effect restitution or correction within five (5) days from notice.

Summary investigations were conducted. During one of these hearings, petitioner offered to increase the complainants' wages to P45.00 per day but the latter refused. Hence, the parties agreed to submit their respective position papers and other documents necessary for the resolution of the case.

Petitioner submitted its position paper claiming that it should be classified as an establishment with less than 30 employees and with a paid-up capital of P500,000.00 or less as evidenced by the assessment of the municipal treasurer. Moreover, complainants worked for less than eight hours, a minimum of four and a maximum of six. Hence, petitioner was justified in paying an amount less than the statutory minimum wage.

Complainants manifested that since 1984, they were not receiving the statutory minimum wage. They also averred that petitioner should not be categorized as an establishment with paid-up capital of P500,000.00 or less inasmuch as it erroneously based its claim on the value of its declared real property and not its paid-up capital.

On November 13, 1989, petitioner filed a motion to conduct a time and motion study to determine the fair and reasonable wage rates to be paid to complainants.

On March 22, 1990, Director Melencio Q. Balanag of the DOLE Regional Office in Cotabato City, issued a Compliance Order [1] ruling:

"On the manifestation made by the respondent that workers were paid by results and the former has complied with the minimum wage, we have noticed in the payrolls for the period January 1985 to February 1988 submitted by the former during summary investigation that said workers were not paid all the time on a piece rate basis during paydays for three (3) years. Further, they showed that the latter were paid on a weekly basis through a weekly payroll prepared indicating therein the workers paid by results, the daily paid workers and a

monthly paid worker. It is noteworthy to mention that the respondent has no permanent mode of payment to all its workers as evidenced by the payrolls and other documents submitted during the hearing. This is contradictory to their allegations that they are paying their workers on a piece rate basis since 1985. Moreover, said documents confirmed the manifestation by the counsel of complainants that the workers paid on a daily and monthly basis are receiving below the statutory minimum wage.

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WHEREFORE, premises considered, respondent COCOFED (Kalamansig) and/or manager with address at Kalamansig, Sultan Kudarat, is ordered to pay the Twenty One (21) workers their entitlements for underpayment of wages, underpayment of ECOLA, and underpayment of 13th month pay in the total amount of ONE HUNDRED TWENTY THREE THOUSAND FOUR HUNDRED SIXTEEN AND 14/100 (P123,416.14), Philippine Currency, respectively indicated in Annex 'A' hereof within ten (10) days from receipt hereof." [2]

Petitioner filed a motion for reconsideration claiming that serious errors were committed in the findings of fact which would cause it grave and irreparable damage or injury. This was denied for lack of merit in an Order [3] dated June 29, 1990 which, in part, said:

"x x x A three (3) year actual payrolls from March 1985 to February 1989 showing the daily actual payment made by the respondent to involved workers are substantial evidence against the mere memorandum issued by the respondents on the matter. Further, such payrolls submitted by respondents are not mere summaries of daily efforts of workers but these are daily records showing workers actual daily rate." [4]

On July 30, 1990, petitioner appealed to the Secretary of Labor and Employment. This was denied in the Order [5] dated April 15, 1991 of public respondent, Undersecretary Cresenciano B. Trajano, holding that:

"On the basis of the payrolls submitted by the respondent, we find that Regional Director was correct in ruling that the complainants are daily paid workers. While respondent claims that in 1985 these workers were paid on piece rate basis still the payrolls show that from March 1985 to February 1989, the complainants were paid on a daily basis. Granting that these workers were indeed converted to piece-rate workers, said conversion is an outright violation of the Labor Code. An employer cannot unilaterally decrease the salary being given to the employees pursuant to Art. 100 of the Labor Code. What it has voluntarily given cannot be unilaterally withdrawn. Besides, the implementing rules are explicit to the effect that nothing therein shall justify an employer from withdrawing or reducing benefits or supplements provided in existing individual or collective agreement or employer practice or policy. (Oceanic Phamacal Employees Union v. Hon. A. Inciong, G.R. No. L-50568, November 7, 1979)

Lastly, we find that respondent's claim that it falls within the category of establishments with paid-up capital of P500,000.00 remains a bare allegation without a scintilla of evidence to stand on. Obviously, the same is bereft of merit.

WHEREFORE, the appeal filed by the respondent is hereby DENIED for lack of merit. The Orders of the Director, Regional Office No. XII, dated June 29, 1990 and March 22, 1990 are AFFIRMED." [6]

Hence, this petition.

On May 13, 1991, the Court issued a Temporary Restraining Order enjoining respondents from implementing the Order dated April 15, 1991, March 22, 1990, and June 29, 1990 in RO XII Case No. SK-C1-02088-06. The Court further required petitioner to file a bond in the amount of P10,000.00. [7]

Petitioner alleges that public respondents committed grave abuse of discretion in not categorizing it as an establishment with less than 30 employees and with a paid up capital of P500,000.00 or less and in not finding

that complainants are piece rate workers or paid by results.

We find no grave abuse of discretion on the part of public respondents.

Petitioner alleges that it is an establishment with less than 30 employees and a paid-up capital of P500,000.00 or less. There is no question that it employs only twenty-one employees. Petitioner argues that to have a paid-up capital of P500,000.00, it should have a subscribed capital of at least P2,000,000.00 and authorized capital stock of P8,000,000.00. Petitioner's total capital asset based on an assessment from the Municipal Treasurer of Kalamansig and the receipts of payment of its realty taxes is only P1,365,430.00. If categorized as such, petitioner should pay the following wages:

Per W.O. No. 6

Effective

1 Nov.

1 May

1 Oct.

1 Jan.

1984

1987

1987

1988

b. Agriculture

Plantation

32.00

35.00

38.50

44.00

instead of the following rates used by public respondents:

Per W.O. No. 6

Effective

1 Nov.

1 May

1 Oct.

1984

1987

1987

b. Agriculture

Plantation

32.00

38.50

44.00[8]

We are unable to agree with petitioner's submission. As correctly pointed out by the Office of the Solicitor General:

"The allegation of petitioner that it has capital assets of P1,365,430.00 to support its position that it has a paid-up capitalization of less than P500,000.00 is totally without basis. It is a basic accounting principle that the assets of a corporation do not necessarily reflect its capitalization. In fact, in times of financial difficulty, the assets of a corporation may be completely dissipated although its paid-up capitalization may remain intact. The best evidence of its paid-up capitalization would be its articles of incorporation together with the Treasurer's Affidavit which petitioner seems to have conveniently overlooked. Consequently, respondent Undersecretary correctly found said claim to be 'a bare allegation without a scintilla of evidence to stand on.'" [9]

Petitioner likewise alleges that its employees are paid by result or are piece rate workers who work for less than eight hours, that is, a minimum of four and a maximum of six. Thus, they should be paid a proportionate amount of the applicable statutory minimum wage, thus: [10]

Effective

1 Nov.

1 May

1 Oct.

1 Jan.

1984

1987

1987

1988

b. Agriculture

Plantation

32.00

35.00

38.50

44.00

For 4 hours

16.00

17.50

19.35

22.00

For 6 hours

24.00

26.26

28.92

33.00[11]

Petitioner would have us overturn the factual finding of public respondents that its employees are daily paid workers. This we are unable to do for the payrolls submitted by it support the latters' position. Findings of administrative agencies which have acquired expertise because their jurisdiction is confined to specific matters are generally accorded not only respect but even finality. [12] Moreover, there is absolutely nothing in the records which show that petitioner's employees worked for less than eight hours. Finally, there would have been no need for petitioner to make an offer increasing the wage to P45.00 per day if complainants were indeed piece rate workers, as it claimed and if their wages were not underpaid, as found by public respondents.

WHEREFORE, the petition is DISMISSED and the Temporary Restraining Order issued on May 13, 1991 is LIFTED.

SO ORDERED.

Feliciano, (Chairman), Melo, Vitug, and Francisco, JJ., concur.

[1] Annex "C"; Rollo , pp. 27-31.

[2] Ibid., p. 29.

[3] Annex "E", Rollo , pp. 39-40.

[4] Ibid., p. 40.

[5] Annex "G", Rollo , pp. 59-63.

[6] Ibid., p. 62-63.

[7] Rollo , pp. 66-69.

[8] Rules Implementing Executive Order No. 178, Chapter III, Sec. 1.

[9] Rollo , pp. 124-125.

[10] Section 3. Workers Paid by Results. All workers paid by results shall receive not less than the applicable statutory minimum wage rates prescribed herein per eight (8) hours work a day, or a proportion thereof for work less than eight (8) hours.

[11] Rollo , p. 97.

[12] Needle Queen Corp. v. Nicolas, G.R. Nos. 60741-43, December 22, 1989, 180 SCRA 568.

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