

ROSALINA NUCUM, LUZ BERGUELLES, AIDA DIGA, AIDA FAJARDO, MIGUELA PATAWARAN, VICENTE GALICIA, MERLE ARCOS, AMOR STO. DOMINGO, REMEDIOS D. SAPIGAO, LUCY MONTENEGRO AND NORA SOLIS,...

G.R. Nos. 54377-79. December 10, 1991

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for certiorari seeking the nullification of the decision issued by the respondent Deputy Minister of Labor Amado G. Inciong dated October 16, 1979 modifying the order of the Regional Director dated January 5, 1979 awarding an aggregate amount of P47,493.05 to the eleven (11) complainants for underpayment of wages, non-payment of legal holidays, premium pay for special holidays and rest days, overtime pay, emergency allowance under Presidential Decree Nos. 525 and 1123, 13th month pay, service incentive leaves and maternity benefits and granting instead an aggregate amount of P17,463.00 to said eleven (11) complainants; and the order dated March 27, 1980 denying the motion for reconsideration for lack of merit.

The antecedent facts are as follows:

Petitioners Rosalina Nucum, Luz Berguelles, Aida Diga, Aida Fajardo, Miguela Patawaran, Vicente Galicia, Merle Arcos, Amor Sto. Domingo, Remedios D. Sapigao, Lucy Montenegro and Nora Solis are employees of private respondent as sales ladies, sewers, cutters, filing patterns, beaders and hand painters. Respondent Amado G. Inciong is impleaded in his official capacity as the Deputy Minister of the Ministry of Labor. While private respondent D.S. Point/ Fashion One is a single proprietorship owned and operated by Daniel Soria.

Petitioners filed with the Ministry of Labor, Regional Office Branch IV, Manila several complaints. The complaints allege that during the entire period of petitioners' employment, they were underpaid in their wages and were not paid their holiday pay, premium pay for special holidays and rest days, overtime pay, emergency cost of living allowance under Presidential Decrees 525 and 1123, 13th month pay, service incentive leaves and maternity benefits and that despite several attempts of the petitioners to settle their claims, private respondent refused to pay such claims.

By an order dated January 5, 1979, the Regional Director ordered the private respondent to pay complainants the aggregate amount of P47,493.05, the pertinent portions of which provide as follows:

“x x x

“Inspection and summary investigation conducted by this Office revealed that complainants were not duly compensated of the benefits due them as provided for in the Labor Code, as amended and other social legislations. The complainants thru counsel submitted their position paper to substantiate their claims which were not controverted by respondent. Despite sufficient time given to respondent to submit its position paper, it failed to do so. Respondent's failure to submit the same within the period given is tantamount to admission of

its liabilities to the complainants.

“WHEREFORE, premises considered, respondent is hereby ordered to pay complainants the aggregate amount of FORTY SEVEN THOUSAND FOUR HUNDRED NINETY THREE PESOS AND FIVE CENTAVOS (P47,493.05) computed as follows x x x.” (Rollo, pp. 23-24)

On January 15, 1979 private respondent filed a motion for reconsideration and /or appeal alleging that the order is contrary to law and arrived at whimsically in defiance of a fair and impartial hearing, thus constituting grave abuse of discretion. Hence, private respondent prayed that the order be set aside and be remanded for hearing on the merits either to a Conciliator or Labor Arbiter and/ or be dismissed for lack of merit.

On October 16, 1979 respondent Deputy Minister of Labor by authority of the Minister rendered a decision modifying the order of the Regional Director, to wit:

“x x x

“We have gone carefully over the records of this case, and we cannot agree with the Regional Director in awarding overtime pay, premium pay for special holidays and rest days, and payment of cost of living allowance under PD 1123 to herein complainants.

“Records show no proof whatsoever that herein complainants rendered overtime and worked during special holidays and their scheduled rest days. Claims for overtime pay and premium pay for holidays and rest days must be proven by substantial evidence for these are not incurred in the normal course of business.

“As to payment of PD 1123 we find respondent not liable. Records show that respondent is a duly registered NACIDA cottage industry and therefore exempt from payment of cost of living allowance under PD 1123.

“The complaints filed by Amor Sto. Domingo, Lucy Montenegro, Miguela Patawaran and Aida Diga must also be dismissed for lack of merit. These complainants were paid depending on the number of pants or dresses they would be able to finish. They are free to work outside provided that they would be able to finish the job assigned to them within a particular period. They are not required to report for work. They are not therefore independent contractors paid depending on their out put (sic).

“As to the complaint of Remedios Sapigao, we have to reconsider the same in so far as that covering the period starting January 1977. This is so because from said date she was an independant contractor paid by result.

“WHEREFORE, decision appealed from is hereby modified and respondent ordered to pay complainants the x x x.

“x x x

“GRAND TOTAL - P17,463.00.” (Rollo, pp. 73, 75)

From said decision, the petitioners filed a motion for reconsideration on October 26, 1979 on grounds of abuse of discretion amounting to lack of jurisdiction and on questions of facts and law.

Finding no merit to the motion for reconsideration filed by complainant, the respondent Deputy Minister denied the same and held that his previous decision stands. Furthermore he emphasized that no further motion of the same nature shall be entertained and ordered the immediate execution of the said decision.

Hence this petition raising two (2) grounds, to wit:

“First, the respondent Deputy Minister of Labor committed grave abuse of discretion which is tantamount to lack of jurisdiction and

“Second, the decision is contrary to law and jurisprudence.” (Rollo, p. 9)

However, this Court through a resolution dated October 28, 1980 issued by the First Division gave the petition limited due course as to the question of whether petitioners are entitled to emergency allowance under Presidential Decree No. 1123. Deputy Minister Inciong had ruled that respondent is exempt from the provisions of P.D. 1123 (re: payment of emergency living allowance) on the basis of the Certificate of Registration issued on September 25, 1967 by the then National Cottage Industries Development Authority (NACIDA) to Daniel Soria certifying that he is engaged in Needlecraft (manufacture of ready made dresses and children's wear). The then Rules implementing P.D. 1123 exempt among others, NACIDA -registered industries from the coverage of the Decree.

The controversy boils down to the sole issue of whether or not the petitioners are entitled to emergency cost of living allowance.

Petitioners maintain that the xerox copy of the certificate of registration dated September 25, 1967 purportedly showing that is a NACIDA-registered industry should not have been given credence by the respondent Deputy Minister because the same was submitted for the first time on appeal.

However, the private respondent stresses that the document was presented in a motion for reconsideration where petitioners were given ample opportunity to present evidence to the contrary or rebut the evidence presented, however, petitioners failed to do so.

Furthermore, petitioners allege that the certificate of registration concerns "needlecraft" (making of ready made dresses and children's wear) and not for a tailoring or dress shop. A close scrutiny of the rules implementing PD 1123 will show that the tailoring or dress shop is not one of those industries that may be exempt.

Private respondent argues that this allegation is against the express provision of paragraph 10 section 11 of Republic Act no. 3470 as amended which states that the term cottage industry shall include embroidery, dressmaking and tailoring industries.

Petitioners emphasize that granting that the license covers private respondent, the same was issued on September 25, 1967 for a period of five (5) years, hence, there being no showing that it was renewed the same therefore expired on September 25, 1972.

On this point private respondent strongly submits that the non-renewal of a license is not a ground to deny private respondent of the benefits granted by law. In addition private respondent stresses that the creation of small industries with certain privileges is intended primarily to promote small industries and to enable them to compete with big establishments.

Finally, petitioners contend that granting that the license covers private respondent and that it did not expire, such cannot exempt private respondent from complying with the provisions of PD 1123 which requires strict adherence to the requirements of policy no. 27.

In sum, petitioners insist that the respondent Deputy Minister committed grave abuse of discretion amounting to lack of jurisdiction in considering the evidence submitted for the first time on appeal and in finally ruling that private respondent is exempt from payment of the emergency cost of living allowance under PD 1123.

We find the petition meritorious.

A careful perusal of the applicable rules implementing Presidential Decree No. 1123 increasing the emergency allowance under Presidential Decree No. 525 provides that:

"Sec. 1. Coverage - These Rules shall apply to all employers except the following:

x x x x x x

“f) NACIDA-registered industries and duly registered cooperatives, employing not more than thirty (30) employees for a period of two (2) years from the effectivity of the Decree;

x x x x x.”

In order to be exempt from the coverage, private respondent must be considered a NACIDA-registered industry or a cottage industry as defined under Section 11 Republic Act No. 3470 as amended by Republic Act No. 5326. The pertinent portion of which provides as follows:

“The term ‘cottage industry’ as used in this Act shall mean an economic activity in a small scale carried on mainly in the home or in other places for profit and mainly done with the help of the members of the family with capitalization not exceeding fifteen thousand pesos. x x x. It shall include the following: x x x (11) embroidery, dressmaking and tailoring industries; x x x.”

A close scrutiny of the aforequoted section will show that private respondent may rightfully be considered a NACIDA-registered industry being a dressmaking and tailoring industry, despite the wrong designation made by the NACIDA in the issued certificate of registration as a needlecraft.

However, notwithstanding the fact that private respondent may fall under a NACIDA industry, the failure to renew and the subsequent expiration of its certificate of registration amounted to its non-entitlement of the benefits provided by PD no. 1123, specifically the exemption from payment of emergency allowance as emphasized in Section 12 RA No. 3470 as amended, to wit:

“Sec. 12. Any person, corporation, partnership, or association who desires to avail of the benefits and assistance under this Act may register with the Board, and any such registered person or firm who fails to comply with the rules and regulations issued by the Board shall not be entitled to the assistance and benefits of this law, including but not limited to those provided in Section ten of this Act.”

Hence, We adhere to petitioners’ contention that private respondent can no longer avail of the benefits provided by PD 1123 such as the exemption from payment of emergency allowance because of the non-renewal and subsequent expiration of its certificate of registration.

All premises considered, the Court is convinced that the respondent Deputy Minister committed grave abuse of discretion in ruling that private respondent is exempt from paying the emergency cost of living allowance.

ACCORDINGLY, the petition is GRANTED and the decision of the respondent Deputy Minister is hereby nullified on the matter of payment of emergency cost of living allowance under PD 1123 and the order of the Regional Director on the same is hereby reinstated.

SO ORDERED.

Narvasa, C.J., (Chairman), Cruz, Feliciano, and Grino-Aquino, JJ., concur.

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