TWELFTH DIVISION

[CA-G.R. SP No. 126070, May 21, 2014]

DYNAMIC INTERNATIONAL SERVICES CORPORATION, PETITIONER, VS. HON. MICHAEL G. AGUINALDO, IN HIS CAPACITY AS DEPUTY EXECUTIVE SECRETARY FOR LEGAL AFFAIRS OF THE OFFICE OF THE PRESIDENT, HON. DANILO P. CRUZ, IN HIS CAPACITY AS UNDERSECRETARY OF THE DEPARTMENT OF LABOR AND EMPLOYMENT, HON. ROSALINDA DIMAPILIS-BALDOZ, IN HER CAPACITY AS THEN PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATOR, AND WINEFREDO B. MURGUIA, ALFREDO B. ALVAREZ, JOSEPH M. LOPEZ AND GIL LEBRIA, RESPONDENTS.

D E C I S I O N

PAREDES, J.:

THE CASE

This is a Petition for Review under Rule 43 of the 1997 Rules of Civil Procedure assailing the: (1) Decision1 dated February 15, 2012 of the Office of the President in OP Case No. 08-C-084; and (2) the Resolution[2] dated July 16, 2012, denying *petitioner*s' motion for reconsideration.

THE ANTECEDENTS

The facts, as culled from the record, are as follows:

Winefredo B. Murguia *(Murguia)*, Alfredo B. Alvarez *(Alvarez)*, Joseph M. Lopez *(Lopez)* and Gil Lebria *(Lebria)*, collectively private respondents, separately applied for work with *petitioner* Dynamic International Services Corporation *(petitioner)*. Private respondents were later contracted[3] to work for Formosa Plastics Corporation, a Taiwan-based corporation. They were deployed on June 5, 2005. After their arrival at the job site, private respondents spearheaded a strike, considered illegal in Taiwan and, as such, they were repatriated. Upon repatriation, they sought the help of the Overseas Workers Welfare Administration *(OWWA)* for the settlement of their monetary claims against their employer and the *petitioner*.

Meanwhile, after receipt of a report from Welfare Officer Federico Biolena, a case was motu propio initiated by the Philippines Overseas Employment Agency *(POEA)* against the *petitioner* and another agency, Sanlee International Placement Co. (Sanlee), for violation of Section 2 (e), Rule I, Part VI of the 2002 POEA Rules and Regulations Governing the Recruitment and Employment of Land-Based Overseas Workers *(2002 POEA Rules and Regulations)*. The case was docketed as POEA Case No. RV 05-08-1049.

Another case was also instituted by private respondents against *petitioner* and Sanlee for violation of Sections 2 (b) and (d), Rule I, Part VI of the 2002 POEA Rules

and Regulations. This was docketed as POEA Case No. 05-09-1171.

In their sworn Affidavits, Murguia[4], Lopez[5] and Alvarez[6] alleged that they were charged P103,000.00, received by one Corazon San Juan *(San Juan)* at the *petitioner*'s office, as consideration for their deployment in Taiwan; Lebria[7] alleged that he was charged P124,000.00. At the scheduled hearing on November 22, 2005, Alvarez and Murguia appeared. At the hearing, they amended their statements: Alvarez now claimed that in May 2005, he actually paid to San Juan, only P100,000.00 as placement fee, but that P51,000.00 was returned to him albeit the sum indicated in the receipt was only P26,611.00; while Murguia clarified that he paid only P30,000.00. Petitioner contested these discrepancies. Also, *petitioner* maintained that it settled the claims of Murguia and Lopez by giving them financial assistance when the latter sought OWWA's assistance for the settlement of their monetary claims, whereby they executed individual Affidavits[8] of Quitclaim and Desistance. Lopez and Murguia claimed that they did not understand the affidavits which an OWWA officer made them sign. Thereafter, *petitioner* filed its Answer[9] and Consolidated Supplemental Answer[10].

On July 3, 2006, then POEA Administrator Baldoz issued an Order[11] finding *petitioner* liable for violating Sections 2 (b) and (d), Rule I, Part VI of the 2002 POEA Rules and Regulations, viz.:

> WHEREFORE, foregoing premises considered, We find and so hold respondent Dynamic International Services Corporation (*now, petitioner*) liable for violation of Section 2 (b) of Rule I, Part VI of the 2002 POEA Rules and Regulations, consequently, the penalty of CANCELLATION OF LICENSE is hereby IMPOSED.
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> As a consequence of the penalty of cancellation of license of *petitioner* Dynamic International Services Corporation, its officers are hereby disqualified from engaging in any recruitment activity.
>
> While it is true that the placement fees collected from Lopez and Alvarez were only in excess of P5,313.80, the rule does not give us any discretion in imposing the penalty of cancellation. Cancellation is an indivisible penalty that is imposable for grave offenses. And since excessive placement fee is a grave offense, the rules do not allow the application of any mitigating circumstance. This was the intention of the POEA Governing Board when it issued GB Resolution No. 01 last March 9, 2005, wherein it pronounced that "Mitigating or alternative circumstances shall not apply to serious offenses punishable by cancellation of license".
>
> Anent violation of Section 2 (d) of the same POEA Rules and Regulations, the penalty of fine of Forty Thousand Pesos (Php40,000.00) is likewise imposed on *petitioner* Dynamic International Services Corporation.
>
> Further, *petitioner* agency and respondent Oriental Assurance Corporation are hereby ordered to refund jointly and severally to Alfredo Alvarez the sum of P3,313.80, representing the remaining excess of the fee collected from him, partial refund having been made earlier in Taiwan.
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> The charge for violation of Section 2 (e) of Rule I, Part VI of the 2002 POEA Rules and Regulations against the *petitioner*, Dynamic International

Services Corporation, is hereby dismissed for lack of merit.

The charges for violation of Section 2 (b) and (e), of Rule I, Part VI of the 2002 POEA Rules and Regulations, against respondent[,] Sanlee International Placement Co. are likewise dismissed for lack of merit.

As regards the charges and claims of complainant, Vicente Parnada, We dismiss the same without prejudice.

SO ORDERED[12].

Petitioner appealed[13]. On November 27, 2006, the Secretary of Labor and Employment, through Undersecretary Danilo P. Cruz, denied[14] the appeal. Petitioner's Motion[15] for Reconsideration was also denied in the Order[16] dated December 21, 2007.

Petitioner appealed[17] to the Office of the President (OP). On February 15, 2012, the OP rendered the assailed Decision[18], dismissing the appeal[19].

Petitioner's Motion[20] for Reconsideration was likewise denied in the assailed Resolution[21] dated July 16, 2012; hence, this petition[22] for review.

Petitioner raises, for Our consideration, the following issues:

I

WHETHER OR NOT THE OP ACTED WITH GRAVE ABUSE OF DISCRETION IN DISMISSING THE APPEAL OF THE PETITIONER ON THE GROUND THAT THE SAME IS NOT THE PROPER REMEDY; and

II

WHETHER OR NOT THE OP ACTED WITH GRAVE ABUSE OF DISCRETION WHEN, BY DISMISSING THE APPEAL OF THE PETITIONER, IT SUSTAINED THE FINDING THAT PETITIONER IS LIABLE FOR VIOLATING SECTIONS 2 (B), (D) AND (E) (sic) RULE I, PART VI OF THE 2002 POEA RULES AND REGULATIONS GOVERNING THE RECRUITMENT AND EMPLOYMENT OF LANDBASED OVERSEAS WORKERS23.

THE COURT'S RULING

The petition is without merit.

Petitioner argues[24] that the OP committed grave abuse of discretion in dismissing its appeal on the ground that it is not the proper remedy because the appeal does not fall under PD No. 1391[25], the assailed decision not emanating from the National Labor Relations Commission. ***We disagree.***

The Supreme Court has ruled that "the remedy of an aggrieved party in a Decision or Resolution of the Secretary of the DOLE is to timely file a motion for reconsideration as a precondition for any further or subsequent remedy, and then seasonably file a special civil action for certiorari under Rule 65 of the 1997 Rules of Civil Procedure"[26]. Accordingly, any decision, resolution or ruling of the DOLE Secretary from which the Labor Code affords no remedy to the aggrieved party may

be reviewed through a petition for certiorari initiated only in the Court of Appeals in deference to the principle of the hierarchy of courts[27]. Decisions of the Labor Secretary are appealable to this Court via a petition for certiorari under Rule 65, was succintly discussed in the case of Barairo vs. Office of the President and MST Marine Services (Phils.), Inc.[28], thus:

> Following settled jurisprudence, **the proper remedy** to question the decisions or orders of the Secretary of Labor is **via a Petition for Certiorari under Rule 65, not via an appeal to the OP.** For appeals to the OP in labor cases have indeed been eliminated, except those involving national interest over which the President may assume jurisdiction. The rationale behind this development is mirrored in the OP's Resolution of June 26, 2009 the pertinent portion of which reads:
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> > . . . **[T]he assailed DOLE's Orders were both issued by Undersecretary Danilo P. Cruz under the authority of the DOLE Secretary who is the alter ego of the President.** Under the "Doctrine of Qualified Political Agency," a corollary rule to the control powers of the President, all executive and administrative organizations are adjuncts of the Executive Department, the heads of the various executive departments are assistants and agents of the Chief Executive, and, except in cases where the Chief Executive is required by Constitution or law to act in person or the exigencies of the situation demand that he act personally, the multifarious executive and administrative functions of the Chief Executive are performed by and through the executive departments, and **the acts of the Secretaries of such departments, performed and promulgated in the regular course of business are, unless disapproved or reprobated by the Chief Executive are presumptively the acts of the Chief Executive.**
>
> It cannot be gainsaid that *petitioner*'s case does not involve national interest. *(citations omitted; emphasis supplied)*

Further, Barairo ruled that since the appeal of the Secretary of Labor's decision to the Office of the President did not toll the running of the period, the assailed decision of the Secretary of Labor is deemed to have attained finality, thus:

> Although appeal is an essential part of our judicial process, it has been held, time and again, that the right thereto is not a natural right or a part of due process but is merely a statutory privilege. Thus, the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but also jurisdictional and **failure of a party to conform to the rules regarding appeal will render the judgment final and executory.** Once a decision attains finality, it becomes the law of the case irrespective of whether the decision is erroneous or not and no court - not even the Supreme Court - has the power to revise, review, change or alter the same. The basic rule of finality of judgment is grounded on the fundamental principle of public policy and sound practice that, at the risk of occasional error, the judgment of courts and

> the award of quasi-judicial agencies must become final at some definite date fixed by law[29]. *(Emphasis ours)*

In a similar manner, *petitioner*'s claim[30] that the OP should have assumed jurisdiction over the case as the same involves national interest does not persuade. Under the Labor Code of the Philippines[31], the President of the Philippines shall not be precluded from determining the industries that, **in his opinion**, are indispensable to the national interest, and from intervening at any time and assuming jurisdiction over any such labor dispute in order to settle or terminate the same[32]. Clearly, the determination of whether or not a labor issue constitutes one affecting national interest is vested with the President and such determination cannot be imposed upon him by the party to a dispute nor by this Court.

In any event, the petition still fails on its merits. In the case at bar, then POEA Administrator Baldoz and the Secretary of Labor, through Undersecretary Danilo P. Cruz, found *petitioner* liable for violating Section 2 (b) and (d), Rule I, Part VI of the 2002 POEA Rules and Regulations which provides:

xxx

> Section 2. Grounds for imposition of administrative sanctions:
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> xxx
>
> b.) Charging or accepting directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary, or making a worker pay any amount greater than that actually received by him as a loan or advance;
>
> xxx
>
> d.) Collecting any fee from a worker without issuing the appropriate receipt clearly showing the amount paid and the purpose for which payment was made; xxx

Petitioner questions[33] the findings of labor officials on the ground that there was no evidence on record to support their findings; and that such findings were supposedly based on the bare and self serving allegations and uncorroborated testimonies of the private respondents. ***We most assuredly disagree.***

Petitioner's denial of culpability cannot prevail as against the positive and categorical testimonies of private respondents. Former POEA Administrator Baldoz aptly ruled that:

> After due evaluation of the records at hand, We find substantial basis to hold respondent (*petitioner*), Dynamic International Services Corporation (Dynamic) liable for violation of Section 2 (b) and (d) of Rule I, Part VI of the 2002 POEA Rules and Regulations.
>
> The complainants' declarations, with respect to the placement fee charged to them by the *petitioner* were consistent, clear and certain. The complainants stated that Dynamic charged them to pay P103,000.00 as placement fee and to be able to fully pay the said amount they were made to sign a loan agreement to pay P7,500.00/month for 10 months