

FIRST DIVISION

[G.R. No. 150326, March 12, 2014]

**THE NATIONAL WAGES AND PRODUCTIVITY COMMISSION
(NWPC) AND THE REGIONAL TRIPARTITE WAGES AND
PRODUCTIVITY BOARD (RTWPB)- NCR, PETITIONERS, VS. THE
ALLIANCE OF PROGRESSIVE LABOR (APL) AND THE TUNAY NA
NAGKAKAISANG MANGGAGAWA SA ROYAL (TNMR-APL)
RESPONDENTS.**

DECISION

BERSAMIN, J.:

This case concerns the authority of the National Wages and Productivity Commission (NWPC) and the Regional Tripartite Wages and Productivity Board (RTWPB) created under Republic Act No. 6727,^[1] otherwise known as the *Wage Rationalization Act*, to issue wage orders, and to receive, process and act on applications for exemption from the prescribed wage rates.

The Case

Petitioners NWPC and RTWPB of the National Capital Region (NCR) appeal the decision promulgated on June 15, 2001,^[2] whereby the Court of Appeals (CA) reversed the decisions rendered by the NWPC on February 28, 2000^[3] and July 17, 2000^[4], and declared as null and void Section 2(A) and Section 9(2) of Wage Order No. NCR-07.

Antecedents

On June 9, 1989, Republic Act No. 6727 was enacted into law. In order to rationalize wages throughout the Philippines, Republic Act No. 6727 created the NWPC and the RTWPBs of the different regions.

Article 121 of the *Labor Code*, as amended by Section 3 of Republic Act No. 6727, empowered the NWPC to formulate policies and guidelines on wages, incomes and productivity improvement at the enterprise, industry and national levels; to prescribe rules and guidelines for the determination of appropriate minimum wage and productivity measures at the regional, provincial or industry levels; and to review regional wage levels set by the RTWPBs to determine whether the levels were in accordance with the prescribed guidelines and national development plans, among others. On the other hand, Article 122(b) of the *Labor Code*, also amended by Section 3 of Republic Act No. 6727, tasked the RTWPBs to determine and fix minimum wage rates applicable in their region, provinces or industries therein; and to issue the corresponding wage orders, subject to the guidelines issued by the NWPC. The RTWPBs were also mandated to receive, process and act on applications for exemption from the prescribed wage rates as may be provided by law or any

wage order.^[5]

Consequently, the RTWPB-NCR issued Wage Order No. NCR-07 on October 14, 1999 imposing an increase of P25.50/day on the wages of all private sector workers and employees in the NCR and pegging the minimum wage rate in the NCR at P223.50/day.^[6] However, Section 2 and Section 9 of Wage Order No. NCR-07 exempted certain sectors and industries from its coverage, to wit:

Section 2. The adjustment in this Order does not cover the following:

A. [W]orkers in the following sectors which were granted corresponding wage increases on January 1, 1999 as prescribed by Wage Order No. NCR-06:

- a.1. Agriculture workers
 - Plantation P12.00
 - Non-plantation P18.50
- a.2. Cottage/handicraft industry P16.00
- a.3. Private hospitals with bed capacity of 100 or less P12.00
- a.4. Retail/Service establishments
 - Employing 11-15 workers P12.00
 - Employing not more than 10 workers P19.00

B. Workers in small establishments employing less than ten (10) workers.

x x x x

Section 9. Upon application with and as determined by the Board, based on documentation and other requirements in accordance with applicable rules and regulations issued by the Commission, the following may be exempt from the applicability of this Order:

1. Distressed establishments as defined in the NPWC Guidelines No. 01, series of 1996;
2. Exporters including indirect exporters with at least 50% export sales and with forward contracts with their foreign buyers/principals entered into on or twelve (12) months before the date of publication of this Order may be exempt during the lifetime of said contract but not to exceed twelve (12) months from the effectivity of this Order.

Feeling aggrieved by their non-coverage by the wage adjustment, the Alliance of Progressive Labor (APL) and the Tunay na Nagkakaisang Manggagawa sa Royal (TNMR) filed an appeal with the NWPC assailing Section 2(A) and Section 9(2) of Wage Order No. NCR-07. They contended that neither the NWPC nor the RTWPB-

NCR had the authority to expand the non-coverage and exemptible categories under the wage order; hence, the assailed sections of the wage order should be voided. The appeal was docketed as NWPC Case No. W.O.- 99-001.

Ruling of the NWPC

In its decision dated February 28, 2000,^[7] the NWPC upheld the validity of Section 2(A) and Section 9(2) of Wage Order No. NCR-07. It observed that the RTWPB's power to determine exemptible categories was adjunct to its wage fixing function conferred by Article 122(e) of the *Labor Code*, as amended by Republic Act No. 6727; that such authority of the RTWPB was also recognized in NWPC Guidelines No. 01, Series of 1996; that APL and TNMR did not adduce evidence to show any arbitrariness on the part of the RTWPB-NCR when it included in Wage Order No. NCR-07 the disputed exclusionary provisions; and that the RTWPB-NCR was able to submit strong and justifiable reasons for the inclusion of the exemptible categories in Wage Order No. NCR-07.

With regard to the excluded sectors provided for in Section 2(A) of Wage Order No. NCR-07, the NWPC took cognizance of the precarious situation in the Philippines in 1997 because of the Asian economic turmoil that had prompted the RTWPB-NCR to issue Wage Order No. NCR-06 to prescribe a staggered amount of wage increases for the agricultural workers, cottage/handicraft industry, private hospitals with bed capacity of 100 or less, and retail/service establishments employing 15 or less workers. It noted that the effects of that economic turmoil were still felt in the NCR when Wage Order No. NCR-07 was issued considering that the unemployment rate was 15.4% in July 1999; that the RTWPB-NCR thought it wise to defer the implementation of the new wage increase until a future date; and that the non-inclusion of some sectors from the coverage of the Wage Order No. NCR-07 was only temporary in character.

As regards the exemption granted to the exporting firms, the NWPC considered the nature of the business wherein the exporters would normally enter into forwarding contracts with their principals. It held that the recent adjustment imposed by Wage Order No. NCR-07 could not have been anticipated by the parties at the time they agreed on the price of their forward contract; that the implementation of the wage adjustment would surely result, therefore, into either financial loss or at the very least a marked reduction of profits on the part of the exporters; and that the exemption given to exporting firms was not automatic because the RTWPB-NCR had the discretion to ascertain if the exporter had complied with the requirements, and the exemption given was only for a period of one year.^[8]

Accordingly, the NWPC denied the appeal of APL and TNMR for its lack of merit. It also denied TNMR's motion for reconsideration through its resolution of July 17, 2000.^[9]

Ruling of the CA

The APL and TNMR assailed the decisions of the NWPC on *certiorari* in the CA (C.A.-G.R. SP No. 60833), attributing grave abuse of discretion to the NWPC in upholding Section 2(A) and Section 9(2) of Wage Order No. NCR-07, and contending that the power of the RTWPB-NCR to determine exemptible categories was not an adjunct to

its wage fixing function.

On June 15, 2001, the CA granted the petition for *certiorari*,^[10] holding that the powers and functions of the NWPC and RTWPB-NCR as set forth in Republic Act No. 6727 did not include the power to grant additional exemptions from the adjusted minimum wage; that an administrative rule or regulation must be in harmony with the enabling law; and that the statutory grant of power could not be extended by implication beyond what was necessary for their just and reasonable execution. It disposed as follows:

WHEREFORE, the petition is GRANTED and the Decisions of the respondent Commission dated February 28, 2000 and July 17, 2000 are hereby SET ASIDE.

Sections 2A and 9(2) of the Wage Order No. NCR-07 are hereby declared NULL and VOID.

SO ORDERED.^[11]

The NWPC and RTWPB-NCR moved to reconsider the decision, but the CA denied their motion in the resolution promulgated on September 11, 2001,^[12] ruling that notwithstanding the pronouncement in *Nasipit Lumber Company, Inc. v. National Wages and Productivity Commission*^[13] to the effect that the NWPC had the power not only to prescribe guidelines to govern wage orders but also to issue exemptions therefrom, Section 2(A) and Section 9(2) of Wage Order No. NCR-07 were invalid due to lack of approval by the NWPC.

Hence, this appeal by petition for review on *certiorari* by the NWPC and RTWPB-NCR.

Issues

The NWPC and RTWPB-NCR submit for resolution that:

I

SECTION 3 OF REPUBLIC ACT NO. 6727 MAY BE CONSTRUED TO AUTHORIZE THE NWPC AND RTWPB TO PROVIDE FOR ADDITIONAL EXEMPTIONS IN THE MINIMUM WAGE ADJUSTMENTS SUCH AS IN WAGE ORDER NO. NCR-07.

II

THE APPROVAL GIVEN BY THE NWPC WHICH WAS CONTAINED IN ITS DECISIONS DATED FEBRUARY 28, 2000 AND JULY 17, 2000 COMPLIES WITH THE REQUIREMENT OF REVIEW/APPROVAL REQUIRED UNDER SECTION 2 OF THE REVISED GUIDELINES ON EXEMPTIONS FROM WAGE ORDER.^[14]

Restated, the issues are: (a) whether or not the RTWPB-NCR had the authority to provide additional exemptions from the minimum wage adjustments embodied in Wage Order No. NCR-07; and (b) whether or not Wage Order No. NCR-07 complied

with the requirements set by NWPC Guidelines No. 01, Series of 1996.

Ruling

The petition for review on *certiorari* is meritorious.

Indisputably, the NWPC had the authority to prescribe the rules and guidelines for the determination of the minimum wage and productivity measures, and the RTWPB-NCR had the power to issue wage orders.

Pursuant to its statutorily defined functions, the NWPC promulgated NWPC Guidelines No. 001-95 (*Revised Rules of Procedure on Minimum Wage Fixing*) to govern the proceedings in the NWPC and the RTWPBs in the fixing of minimum wage rates by region, province and industry. Section 1 of Rule VIII of NWPC Guidelines No. 001-95 recognized the power of the RTWPBs to issue exemptions from the application of the wage orders subject to the guidelines issued by the NWPC, *viz*:

SECTION 1. APPLICATION FOR EXEMPTION.

Whenever a wage order provides for exemption, applications for exemption shall be filed with the appropriate Board which shall process these applications, subject to the guidelines issued by the Commission.

The NWPC also issued NWPC Guidelines No. 01, Series of 1996, to fix the rules on the exemption from compliance with the wage increases prescribed by the RTWPBs. Section 2 of the Guidelines No. 01 reads:

SECTION 2. CATEGORIES OF EXEMPTIBLE ESTABLISHMENTS

Exemption of establishments from compliance with the wage increases and cost of living allowances prescribed by the Boards may be granted in order to (1) assist establishments experiencing temporary difficulties due to losses maintain the financial viability of their businesses and continued employment of their workers; (2) encourage the establishment of new businesses and the creation of more jobs, particularly in areas outside the National Capital Region and Export Processing Zones, in line with the policy on industry dispersal; and (3) ease the burden of micro establishments, particularly in the retail and service sector, that have a limited capacity to pay.

Pursuant to the above, the following categories of establishments may be exempted upon application with and as determined by the Board, in accordance with applicable criteria on exemption as provided in this Guidelines; provided further that such categories are expressly specified in the Order.

1. Distressed establishments
2. New business enterprises (NBEs)
3. Retail/Service establishments employing not more than ten (10) workers