

## **THIRD DIVISION**

**[ G.R. No. 127422, April 17, 2001 ]**

**LMG CHEMICALS CORPORATION, LMG CHEMICALS CORPORATION, PETITIONER, VS. THE SECRETARY OF THE DEPARTMENT OF LABOR AND EMPLOYMENT, THE HON. LEONARDO A. QUISUMBING, AND CHEMICAL WORKER'S UNION, RESPONDENTS.**

### **D E C I S I O N**

**SANDOVAL-GUTIERREZ, J.:**

Before us is a petition for certiorari with prayer for a temporary restraining order and a writ of preliminary injunction under Rule 65 of the 1997 Rules of Civil Procedure, as amended, seeking to nullify the orders dated October 7, 1996 and December 17, 1996, issued by the then Secretary of Labor and Employment, Hon. Leonardo A. Quisumbing,<sup>[1]</sup> in OS-AJ-05-10(1)-96, "IN RE: LABOR DISPUTE AT LMG CHEMICALS CORPORATION"

The facts as culled from the records are:

LMG Chemicals Corporation, (petitioner) is a domestic corporation engaged in the manufacture and sale of various kinds of chemical substances, including aluminum sulfate which is essential in purifying water, and technical grade sulfuric acid used in thermal power plants. Petitioner has three divisions, namely: the Organic Division, Inorganic Division and the Pinamucan Bulk Carriers. There are two unions within petitioner's Inorganic Division. One union represents the daily paid employees and the other union represents the monthly paid employees. Chemical Workers Union, respondent, is a duly registered labor organization acting as the collective bargaining agent of all the daily paid employees of petitioner's Inorganic Division.

Sometime in December 1995, the petitioner and the respondent started negotiation for a new Collective Bargaining Agreement (CBA) as their old CBA was about to expire. They were able to agree on the political provisions of the new CBA, but no agreement was reached on the issue of wage increase. The economic issues were not also settled.

The positions of the parties with respect to wage issue were:

**"Petitioner Company**

**P40 per day on the first year**

**P40 per day on the second year**

**P40 per day on the third year**

**Respondent Union**

**P350 per day on the first 18 months, and  
P150 per day for the next 18 months"**

In the course of the negotiations, respondent union pruned down the originally proposed wage increase quoted above to P215 per day, broken down as follows:

**"P142 for the first 18 months  
P73 for the second 18 months"**

With the CBA negotiations at a deadlock, on March 6, 1996, respondent union filed a Notice of Strike with the National Conciliation and Mediation Board, National Capital Region. Despite several conferences and efforts of the designated conciliator-mediator, the parties failed to reach an amicable settlement.

On April 16, 1996, respondent union staged a strike. In an attempt to end the strike early, petitioner, on April 24, 1996, made an improved offer of P135 per day, spread over the period of three years, as follows:

**"P55 per day on the first year;  
P45 per day on the second year;  
P35 per day on the third year."**

On May 9, 1996, another conciliation meeting was held between the parties. In that meeting, petitioner reiterated its improved offer of P135 per day which was again rejected by the respondent union.

On May 20, 1996, the Secretary of Labor and Employment, finding the instant labor dispute impressed with national interest, assumed jurisdiction over the same.

In compliance with the directive of the Labor Secretary, the parties submitted their respective position papers both dated June 21, 1996.

In its position paper, petitioner made a turn-around, stating that it could no longer afford to grant its previous offer due to serious financial losses during the early months of 1996. It then made the following offer:

Zero increase in the first year;

P30 per day increase in the second year; and  
P20 per day increase in the third year.

In its reply to petitioner's position paper, respondent union claimed it had a positive performance in terms of income during the covered period.

On October 7, 1996, the Secretary of Labor and Employment issued the first assailed order, pertinent portions of which read:

**"xxx. In the light of the Company's last offer and the Union's last position, We decree that the Company's offer of P135 per day wage increase be further increased to P140 per (day), which shall be incorporated in the new CBA, as follows:**

**P90 per day for the first 18 months, and**

**P50 per day for the next 18 months.**

**After all, the Company had granted its supervisory employees an increase of P4,500 per month or P166 per day, more or less, if the period reckoned is 27 working days.**

**In regard to the division of the three-year period into two sub-periods of 18 months each, this office take cognizance of the same practice under the old CBA.**

## **2. Other economic demands**

**Considering the financial condition of the Company, all other economic demands except those provided in No. 3 below are rejected. The provisions in the old CBA as well as those contained in the Company's Employee's Primer of Benefits as of Aug. 1, 1994 shall be retained and incorporated in the new CBA.**

## **3. Effectivity of the new CBA**

**Article 253-A of the Labor Code, as amended, provides that when no new CBA is signed during a period of six months from the expiry date of the old CBA, the retroactivity period shall be according to the parties' agreement. Inasmuch as the parties could not agree on this issue and since this Office has assumed jurisdiction, then this matter now lies at the discretion of the Secretary of Labor and Employment. Thus the new Collective Bargaining Agreement which the parties will sign pursuant to this Order shall retroact to January 1, 1996.**

**x x x**

**ACCORDINGLY, this Office now directs the parties to incorporate these dispositions in their new Collective bargaining Agreement effective January 1, 1996 to December 31, 1998."**

Forthwith, petitioner filed a motion for reconsideration but was denied by the Secretary in his order dated December 16, 1996.

Petitioner now contends that in issuing the said orders, respondent Secretary gravely abused his discretion, thus:

"THE HONORABLE SECRETARY OF LABOR COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN DISREGARDING THE EVIDENCE OF PETITIONER'S FINANCIAL LOSSES AND IN GRANTING A P140.00 WAGE INCREASE TO THE RESPONDENT UNION.

## II

THE HONORABLE SECRETARY OF LABOR COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN DECREERING THAT THE NEW COLLECTIVE BARGAINING AGREEMENT TO BE SIGNED BY THE PARTIES SHALL RETROACT TO JANUARY 1, 1996."

Anent the first ground, petitioner asserts that the decreed amount of P140 wage increase has no basis in fact and in law. Petitioner insists that public respondent Secretary whimsically presumed that the company can survive despite the losses being suffered by its Inorganic Division and its additional losses caused by the strike held by respondent union. Petitioner further contends that respondent Secretary disregarded its evidence showing that for the first part of 1996, its Inorganic Division suffered serious losses amounting to P15.651 million. Hence, by awarding wage increase without any basis, respondent Secretary gravely abused his discretion and violated petitioner's right to due process.

We are not persuaded.

As aptly stated by the Solicitor General in his comment on the petition dated July 1, 1997, respondent Secretary considered all the evidence and arguments adduced by both parties. In ordering the wage increase, the Secretary ratiocinated as follows:

"xxx

**In the Company's Supplemental Comment, it says that it has three divisions, namely: the Organic Division, Inorganic Division and the Pinamucan Bulk Carriers. The Union in this instant dispute represent the daily wage earners in the Inorganic Division. The respective income of the three divisions is shown in Annex B to the Company's Supplemental Comment. The Organic Division posted an income of P369,754,000 in 1995. The Inorganic Division realized an income of P261,288,000 in the same period. The tail ender is the Pinamucan Bulk Carriers Division with annual income of P11,803,000 for the same period. Total Company income for the period was P642,845,000.**

**It is a sound business practice that a Company's income from all sources are collated to determine its true financial condition. Regardless of whether one division or another losses or gains in its yearly operation is not material in reckoning a Company's financial status. In fact, the loss in one is usually offset by the**