

FIRST DIVISION

[G.R. No. 122006, November 24, 1999]

ALLIED INVESTIGATION BUREAU, INC., PETITIONER, VS. HON. SECRETARY OF LABOR & EMPLOYMENT, ACTING THROUGH UNDERSECRETARY CRESENCIANO B. TRAJANO, RESPONDENTS.

DECISION

KAPUNAN, J.:

For consideration of this Court is a petition for certiorari under Rule 65 of the Rules of Court with prayer for the issuance of a temporary restraining order/writ of preliminary injunction seeking to nullify and set aside 1) the Order, dated May 9, 1995, of Regional Director Romeo A. Young in Case No. NCROO-9501-RI-042-SPL; and 2) the Order, dated September 19, 1995 of the Secretary of Labor and Employment through Undersecretary Cresenciano B. Trajano.

Petitioner Allied Investigation Bureau, Inc. is a security agency. On January 11, 1994, it entered into a security contract with Novelty Philippines, Inc. (NPI, for brevity) whereby it obligated itself to provide security services to the latter.^[1]

On January 17, 1995, private respondents Melvin T. Pelayo and Samuel Sucanel, two of the security guards assigned by petitioner to NPI, filed a complaint with the Office of respondent Regional Director Romeo A. Young charging petitioner with non-compliance with Wage Order No. NCR-03,^[2] which increased the minimum daily pay of workers by P17.00, or from P118.00 to P135.00 effective December 16, 1993; and further, by P10.00, or from P135.00 to P145.00 daily beginning April 1, 1994. Private respondents, likewise, sought the recovery of wage differentials.^[3]

On February 9 and 14, 1995, the Office of Regional Director Young conducted inspection visits at petitioner's establishment. Senior Labor Enforcement Officer Eduvigis A. Acero issued a Notice of Inspection Results, the pertinent portion of which reads:

"FINDINGS AS A RESULT OF INSPECTION CONDUCTED:

- Non-implementation under W.O. # NCR-03 from Dec. 16, 1993 to Dec. 15, 1994 to security guards assigned at Novelty Phils., Inc. However, their prime client has been granted an exemption by the Wage Board under W.O. # NCR-03 with Case No. NCRO-W.O. # 3-E (9) dated June 7, 1994. Please see attached xerox copy.
- Non-remittance of SSS Premiums
- Excessive deduction or Bayanihan System (P20.00) every pay day instead of P5.00 only.

INSTRUCTIONS TO EMPLOYER:

You are required to effect restitution and/or correction of the foregoing at the company or plant level within five (5) calendar days hereof.

Any question on the above findings should be submitted to this office within five (5) working days from notice hereof, otherwise order of compliance shall be issued.

x x x.^[4]

Said report was explained to and received by petitioner's Human Resources Director, Eufracio G. Quiambao III on February 14, 1995.^[5]

Thereafter, in order to facilitate amicable settlement between the parties, a series of conferences and hearings were scheduled by the Office of the Regional Director. However, despite due notice, petitioner failed to appear in any of said hearings.

On May 9, 1995, respondent Regional Director issued an Order, the dispositive portion of which reads:

WHEREFORE, premises considered and considering further that the above computed wage differentials form part of the legal remunerations of the complainants, respondent - ALLIED INVESTIGATION BUREAU, INC., is hereby ordered to pay to the ninety-two employees the total amount of EIGHT HUNDRED SEVEN THOUSAND FIVE HUNDRED SEVENTY PESOS AND THIRTY-SIX CENTAVOS (P807,570.36) to be distributed to the individual employees in accordance with the schedule mentioned above, within ten (10) days from receipt hereof. Otherwise, Writ of execution shall issue to enforce this Order.

The issue on the non-remittance of SSS premiums is hereby indorsed to the Social Security System, the same being within its jurisdiction to properly pass upon.

SO ORDERED.^[6]

Petitioner appealed the above Order to respondent Secretary of Labor and Employment, without however, posting a cash or surety bond equivalent to the monetary award in the said Order appealed from.^[7]

On September 19, 1995, the Secretary of Labor, thru Undersecretary Cresenciano B. Trajano issued an Order^[8] dismissing petitioner's appeal for failure to perfect said appeal.

Hence, the instant petition for certiorari with prayer for the issuance of a temporary restraining order/writ of preliminary injunction wherein petitioner raises the following issues:

- a. Whether or not respondent Regional Director acted without jurisdiction in adjudicating the private respondents' money claims

where the aggregate money claim of each of them exceeds P5,000.00.

- b. Whether or not respondent Secretary of Labor & Employment, acting through Undersecretary Cresenciano B. Trajano, acted with grave abuse of discretion in dismissing herein petitioner's appeal attacking the jurisdiction of respondent Regional Director in adjudicating subject money claims of private respondents.^[9]

Petitioner argues that the power to adjudicate money claims belongs to the Labor Arbiter who has exclusive jurisdiction over employees' claims where the aggregate amount of the claims of each employee exceeds P5,000.00.^[10]

Petitioners cites Articles 129 and 217 of the Labor Code of the Philippines which provide, respectively, that the power of the Regional Director to adjudicate employees' money claims is subject to the condition that the aggregate money claims of each employee does not exceed P5,000.00;^[11] and, that the Labor Arbiter has jurisdiction over all other claims arising from employer-employee relations, including those of persons in domestic or household service, involving an amount exceeding five thousand pesos (P5,000.00), whether or not accompanied with a claim for reinstatement.

Petitioner further contends that since the Order appealed from is void and without legal effect, said Order never assumed finality and, therefore, it was improper for the respondent Secretary of Labor to outrightly dismiss the appeal on the ground that petitioner failed to post a cash/surety bond.^[12]

Petitioner alleges that respondent Secretary of Labor acted with grave abuse of discretion in evading its duty to entertain the appeal on a technical ground.^[13]

Finally, petitioner prays for the issuance of a temporary restraining order or a writ of preliminary injunction as the enforcement of the alleged void orders would cause them great prejudice if not irreparable damage.

Petitioner's arguments are untenable.

While it is true that under Articles 129^[14] and 217^[15] of the Labor Code, the Labor Arbiter has jurisdiction to hear and decide cases where the aggregate money claims of each employee exceeds P5,000.00, said provisions of law do not contemplate nor cover the visitorial and enforcement powers of the Secretary of Labor or his duly authorized representatives.

Rather, said powers are defined and set forth in Article 128 of the Labor Code (as amended by R.A. No. 7730) thus:

Art. 128. Visitorial and enforcement power. -

- (a) The Secretary of Labor or his duly authorized representatives, including labor regulation officers, shall have access to employer's records and premises at any time of the day or night whenever work is being undertaken therein, and the right to copy therefrom, to question