

FIFTH DIVISION

[CA-G.R. SP NO. 129969, November 21, 2014]

NOOR INTERNATIONAL PERSONNEL SERVICES, INC. AND WELLINGTON INSURANCE CORP.^[*], PETITIONER, VS. HON. SECRETARY OF THE DEPARTMENT OF LABOR AND EMPLOYMENT AND PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION (POEA), RESPONDENTS.

DECISION

BARZA, J.:

This is a petition for certiorari under Rule 65 of the Rules of Court assailing the Order^[1] dated 13 April 2012 of the Secretary of Labor and Employment (Secretary) which affirmed the orders of the Administrator of the Philippine Overseas Employment Administration (POEA) dated 31 July 2008^[2] and 20 July 2010,^[3] finding the petitioner liable 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^[4]. Also being assailed is the Resolution^[5] of the Secretary dated 22 February 2013, denying the Motion for Reconsideration of the above order.

The antecedents are, as follows:

Petitioner Noor International Personnel Services, Inc. (Noor) is a POEA-licensed recruitment corporation, engaged in the business of contracting, enlisting, recruiting professionals and workers both skilled and unskilled for local/overseas work and to act as agents of individuals or firms in the supply of manpower. In September 2006, a division of Al-Attiyah Group (Group 2), a foreign entity with principal address in Doha, Qatar, manifested its interest to hire Filipino workers for its Qatar-based projects. Noor, as the local agent, applied for accreditation of Group 2 with the Land-based Accreditation Division of the POEA

Pursuant to the 2002 POEA Rules and Regulations, Section 4, Rule I, Part III^[6], Group 2, through Noor, submitted the documentary requirements for registration of Principals/Projects, to the Head of Land-based Accreditation Division, POEA.

In addition to the Demand Letter^[7] which is the subject of this case, Group 2 also sent to the petitioner the following documents as part of the requirements for accreditation:

- a. Standard Employment Contract;
- b. Addendum to the Standard Employment Contract;
- c. Commercial Registration Data;
- d. Undertaking;

- e. Special Power of Attorney, naming the petitioner as its legal representative.

After the submission of the above requirements, an inquiry was made by the POEA with the Philippine Overseas Labor Officer (POLO) regarding the manpower request/demand letter submitted by Group 2.

The Office of the Labor Attache in Doha, through Felicitas Q. Bay, submitted her Reply^[8] dated 17 October 2006. As stated therein, an inquiry was made by POEA on POLO if the latter has verified the one-page manpower request for Noor, stating various skills which included 50 security guards and why there was no POLO small circle stamp on the manpower request. Upon verification by the Office of the Labor Attache on 12 September 2006 for Group 2 and the petitioner, the manpower request that has been verified is composed of two (2) pages. The first page has the stamp (circle) of POLO with the initial of Felicitas Q. Bay and the category stated – engineer and technician. The first page has no stamping of the Qatar Chamber of Commerce and the Ministry of Foreign Affairs, but it has the employer's stamp. The Reply further stated that the second page of the Manpower Request has a space in blank (category portion) with the stamping of Qatar Chamber of Commerce, Ministry of Foreign Affairs and employer in the end portion. The Office of the Labor Attache was not able to photocopy the verification and authentication stamped at the back of the document but the office logbook indicated that the office verified only for five (5) engineers and ten (10) technicians.

Sought for comment by the POEA Land-based Center, the Office of the Labor Attache in Doha, through Felicitas Q. Bay, commented in the said reply, as follows:

"x x x. It would appear that the second page of the Manpower Request was the one presented/submitted by Noor International to the Landbased Center and it would further appear that the blank space or portion has been filled up (using a typewriter).

x x x

In view of the agency's misrepresentation, we would like to request your office to submit this matter for appropriate investigation.

x x x"

On 4 December 2006, a Show Cause Order^[9] was sent by the POEA to the petitioner to explain the alleged violation of Sect. 2 (e), Rule I, Part VI of the 2002 POEA Rules and Regulations.

In its Answer/Explanation, Noor denied committing any form of misrepresentation when it applied for accreditation as local agent of Group 2 before the Land-based Accreditation Division of the POEA. As explained, all the documents submitted by Noor to POEA provided by Group 2 were submitted by Noor for POEA's evaluation and approval in "as is" state/form. Nothing in the questioned documents were altered, modified, amended or fabricated by Noor. Also, Noor denies any knowledge

as to who in particular filled up the questioned manpower request/demand letter (category position). When the said documents were forwarded by Group 2 to Noor, the same were already duly accomplished, filled up and complete by itself, such that Noor only had to submit exactly the same documents before the POEA.

In an Order dated 31 July 2008, the POEA in POEA Case No. RV 06-11-2340 found Noor liable 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. According to the POEA Administrator, in the process for registration of the recruitment documents of the foreign principal/employer or its project, it is the obligation of the local recruitment agency to know that what it submits to the POEA for registration have all been properly verified, genuine and authentic. While the documents in this case had been verified by the POLO, there were material insertions (job categories and number of workers) in the manpower request that were included after the verification. It is because of its (Noor's) own laxity that the said misrepresentation occurred.

The dispositive portion reads:

"WHEREFORE, premises considered, 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, Noor International Personnel Services, Inc. is hereby meted the penalty of SUSPENSION OF ITS LICENSE for nine (9) months, or in lieu thereof, a fine amounting to Php 90,000.00, this being its second commission of the same offense.

SO ORDERED."

Reconsideration was denied by the POEA on 20 July 2010.

On appeal to the Secretary of the Department of Labor and Employment, Noor argues that the subject manpower request was not a notice, information or document in relation to the recruitment or employment as to fall within the charged violation. Instead, it is a document coming from the principal and forwarded by the local agency to the POEA for the purpose of obtaining authority to hire workers in the Philippines. When the POEA denied registration/accreditation, the subject manpower request never reached the stage that it can be utilized for purposes of recruitment or employment. POEA should have charged Noor with violation pertaining to acts of misrepresentation for the purpose of securing a license or renewal thereof such as giving false information or documents.

The Secretary, in the assailed 13 April 2012 Order, denied the appeal. As held, the mere denial of any participation or knowledge about the material insertions contained in the request submitted to the POEA cannot overthrow the verification made by the POLO that attested to the original contents when the request passed through it. In case of discrepancies, the obligation of a local agency to submit authentic requests is not dispensed with by the mere excuse that it is the foreign principal that prepared the same. The Secretary disposed, as follows:

"WHEREFORE, the appeal, herein treated as petition for review, filed by Noor International Personnel Services, Inc., is hereby DISMISSED. Accordingly, the Order dated 20 July 2010 of the POEA Administrator, affirming its earlier Order dated 31 July 2008, is FURTHER AFFIRMED.

SO ORDERED."

Petitioner's motion for reconsideration was denied anew in the Resolution dated 22 February 2013.

Hence, this petition for certiorari on the following grounds:

I

WHETHER OR NOT THE PETITIONER MAY BE PUNISHED BY SUSPENSION OF LICENSE FOR A GROSSLY NEGLIGENT ACT WHICH WAS UNDISPUTABLY COMMITTED BY THE PHILIPPINE OVERSEAS LABOR OFFICE IN DOHA, QATAR.

II

WHETHER OR NOT THERE WAS GRAVE ABUSE OF DISCRETION COMMITTED BY THE RESPONDENT IN SUSTAINING THAT THE PETITIONER WAS LIABLE IN THE ABSENCE OF ANY EVIDENCE TO PROVE THAT IT HAS KNOWLEDGE OR WAS A PARTY TO THE INSERTION OF JOBS IN THE BLANK BUT POLO VERIFIED MANPOWER REQUEST

III

WHETHER OR NOT THERE IS A BASIS IN THE APPLICATION OF THE MALUM PROHIBITUM RULE WHEN THE RESPONDENT FAILED TO PRODUCE EVIDENCE TO SUBSTANTIATE ITS ALLEGATION, EXCEPT FOR THE FACT THAT THE PETITIONER WAS THE NAMED AGENT WHO FORWARDED THE DOCUMENTS IN BEHALF OF THE FOREIGN PRINCIPAL WHO WAS STILL SEEKING REGISTRATION IN THE PHILIPPINES.

The Public Respondent Secretary, through the Legal Service of the DOLE, submitted its Comment, positing that no grave abuse of discretion has been committed by the Secretary in issuing the assailed Orders. As argued, the Secretary acted well within the authority granted and merely decided on the facts and issues presented in line with well-settled rules.

As further argued, substantial evidence exists to hold the petitioner liable for misrepresentation. It cannot escape liability by passing the blame to POLO. Petitioner should have verified what it submitted to the POEA, since the material insertions were made after the verification of the manpower request. As the local agency, it should have exercised diligence in ascertaining that the contents of the documents that it submitted were *bona fide*.

The submission of the said altered documentary requirements for registration with the POEA falls under the concept of *malum prohibitum*, which is one punished as an offense under special law. The petitioner already admitted that it was the one who submitted the documents in question, thereby making it liable because under