NWPC Case No. WO-11-002

CASES COMPILED

A. APPEALS ON WAGE ORDERS

1. PERIOD AND MANNER OF APPEAL

NWPC Case No. W.O. 11-002

IN RE: APPEAL ON WAGE ORDER NO. NCR-16

TRADE UNION CONGRESS OF THE PHILIPPINES (TUCP), Appellant.

Wage Order; Period and Manner of Appeal. - On the timeliness of the appeal, we note that the appeal was filed on 26 May 2011 beyond the ten (10) day reglementary period provided for under Article 123, Labor Code as amended by R.A. 6727 and Section 1, Rule V, Amended Rules of Procedure on Minimum Wage Fixing. Wage Order No. NCR-16 having been published by the Board at the Philippine Daily Inquirer on 11 May 2011, the Appellant had only up to 21 May 2011 within which to file an appeal. In Gutierrez vs. CA 26 SCRA 32 [1968] the Supreme Court declared that the provisions of the law and the rules concerning the manner and the period of taking appeal are mandatory and jurisdictional, compliance with which is essential to enable the appellate agency or court to take cognizance of the appeal.

Moreover, in Swire Agricultural Products, Inc. vs. Hyundai Corporation, G.R. No. 193934, 9 June 2005, the Supreme Court

NWPC Case No. WO-11-002

ruled that the time honored doctrine of immutability of judgments states that except for correction of clerical errors, final and executory judgments can neither be amended nor altered. Nothing is more settled in law than that once a judgment attains finality, it thereby becomes immutable and unalterable. It may no longer be modified in any respect, except to correct clerical errors or mistakes, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact and law, and regardless of whether the modification is attempted to be made by the court rendering it, or by the highest court of the land. Otherwise, there would be no end to litigation and would set to naught the main role of courts of justice to assist in the enforcement of the rule of law and the maintenance of peace and order by setting justiciable controversies with finality. Any amendment or alteration which substantially affects a final and executory judgment is null and void for lack of jurisdiction.

Same; Minimum Wage Fixing; Grave Abuse of Discretion. — As regards the second issue, the Commission finds no abuse of discretion on the part of the Board when it issued the assailed Wage Order No. NCR-16. The Board, before issuing the Wage Order, conducted public hearing and caused the publication of the Wage Order as required under R.A. 6727 and the Amended Rules of Procedure on Minimum Wage Fixing. The issuance of the Wage Order was based on the result of the continuous study of the socioeconomic conditions of the NCR and the factual data/information provided by other government agencies. Clearly, the Board followed the substantive and procedural due process requirements in the issuance of the Wage Order under review.

Further, we are convinced that Wage Order No. NCR-16 did not disregard the intent and spirit of R.A. 6727. As culled from the records of the case, the decision on the wage increase of P22.00 per day COLA was arrived at only after the Board made a factual

NWPC Case No. WO-11-002

determination on the amount of wage increase based on the result of the public hearing participated by the different sectors, and the review and study of economic conditions in the NCR. It may not be amiss to note that the P22.00 increase granted under the assailed Wage Order was even higher than the amount needed to restore the purchasing power (P20.03) using the April 2011 CPI. Therefore, as pointed out by the Board, it more than compensated the erosion by reason of inflation. Clearly, as the Board merely performed its delicate task of balancing the interests of both labor and capital within the frameworks of national economic and social development program, which is precisely what the law requires.

Same; Same; Authority to Enlist Exemptible Categories. — On the third issue the Commission does not find any contrariety of Wage Order No. NCR-16 to law. The Board submitted to the Commission justification for the inclusion of Establishment with Total Assets of Not More Than 3 Million in the list of exemptible categories in the Wage Order. The said Wage Order was submitted for review and passed upon by the Commission on 11 May 2011.

With the inclusion of this exemptible category in previous Wage Orders (W.O. Nos. NCR-10, 11, 12, 13, 14 and 15) which had been passed upon by the Commission, it can be said that it is not a new category anymore. In the decisions dated 2 July 2010 (W.O. No. NCR-15), 27 June 2008 (W.O. No. NCR-14) and 19 September 2007 (W.O. No. NCR-13) on the appeals of TUCP, the Commission had already declared and ruled that this exemptible category is not a new category, the same having been considered and affirmed in the previous wage orders.

FACTS:

On 07 March 2011, the Appellant filed with the Board a petition for a P75.00 per day across-the-board wage increase in the

NWPC Case No. WO-11-002

daily minimum wage of private sector workers in the National Capital Region. The existence of supervening conditions having been declared by the Board and confirmed by the Commission, the Board conducted public consultations/hearings and thereafter issued Wage Order No. NCR-16 providing for a P22.00 daily Cost of Living Allowance (COLA) to all minimum wage earners in the NCR.

The said Wage Order was published on 11 May 2011 at the Philippine Daily Inquirer.

The Appellant filed a Memorandum of Appeal on 26 May 2011 on the grounds of grave abuse of discretion claiming that the amount of the wage increase was inadequate and therefore, grossly disregarded the very spirit and intent of R.A. 6727 for not conforming with some of the criteria set by the said law; and on being contrary to law with regard to the added exemptible category.

ISSUES:

- 1. Whether or not the manner and period of appeal are mandatory and jurisdictional.
- 2. Whether or not the RTWPB-NCR committed grave abuse of discretion in issuing Wage Order No. NCR-16 for gross disregard of the spirit and intent of R.A. 6727; and
- 3. Whether or not W.O. No. NCR-16 is contrary to law for the inclusion of establishments with total assets of P3M, not being one of those mentioned in the guidelines.

HELD:

NWPC Case No. WO-11-002

On the timeliness of the appeal, we note that the appeal was filed on 26 May 2011 beyond the ten (10) days reglementary period provided for under Article 123, Labor Code as amended by R.A. 6727 and Section 1, Rule V, Amended Rules of Procedure on Minimum Wage Fixing. Wage Order No. NCR-16 having been published by the Board at the Philippine Daily Inquirer on 11 May 2011, the Appellant had only up to 21 May 2011, the Appellant had only up to 21 May 2011 within which to file an appeal. In Gutierrez vs. CA, 26 SCRA 32 [1968] the Supreme Court declared that the provisions of the law and the rules concerning the manner and the period of taking appeal are mandatory and jurisdictional, compliance with which is essential to enable the appellate agency or court to take cognizance of the appeal.

Moreover, in Swire Agricultural Products, Inc. vs. Hyndai Corporation, G.R. No. 193934, 9 June 2005, the Supreme Court ruled that the time honored doctrine of immutability of judgments states that except for correction of clerical errors, final and executory judgments can neither be amended nor altered. Nothing is more settled in law than that once a judgment attains finality, it thereby becomes immutable and unalterable. It may no longer be modified in any respect, except to correct clerical errors or mistakes, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact and law, and regardless of whether the modification is attempted to be made by the court rendering it, or by the highest court of the land. Otherwise, there would be no end to litigation and would set to naught the main role of courts of justice to assist in the enforcement of the rule of law and the maintenance of peace and order by setting justiciable controversies with finality. Any amendment or alteration which substantially affects a final and executory judgment is null and void for lack of jurisdiction.

NWPC Case No. WO-11-002

As regards the second issue, the Commission finds no abuse of discretion on the part of the Board when it issued the assailed Wage Order No. NCR-16. The Board, before issuing the Wage Order, conducted public hearing and caused the publication of the Wage Order as required under R.A. 6727 and the Amended Rules of Procedure on Minimum Wage Fixing. The issuance of the Wage Order was based on the result of the continuous study of the socioeconomic conditions of the NCR and the factual data/information provided by other government agencies. Clearly, the Board followed the substantive and procedural due process requirements in the issuance of the Wage Order under review.

Further, we are convinced that Wage Order No. NCR-16 did not disregard the intent and spirit of R.A. 6727. As culled from the records of the case, the decision on the wage increase of P22.00 per day COLA was arrived at only after the Board made a factual determination on the amount of wage increase based on the result of the public hearing participated by the different sectors, and the review and study of economic conditions in the NCR. It may not be amiss to note that the P22.00 increase granted under the assailed Wage Order was even higher than the amount needed to restore the purchasing power (P20.03) using the April 2011 CPI. Therefore, as pointed out by the Board, it more than compensated the erosion by reason of inflation. Clearly, as the Board merely performed its delicate task of balancing the interests of both labor and capital within the frameworks of national economic development program, which is precisely what the law requires.

Well-settled is the rule that factual findings of quasi-judicial bodies in the exercise of their quasi-judicial duties are accorded not only with respect but also with finality if such findings are supported by substantial evidence (Villareal v. CA, 219 SCRA 291). It is only upon clear showing of grave abuse of discretion and

NWPC Case No. WO-11-002

disregard of the NWPC Rules of Procedure on Minimum Wage Fixing that such factual determinations may altered or modified.

On the third issue the Commission does not find any contrariety of Wage Order No. NCR-16 to law. The Board submitted to the Commission justification for the inclusion of Establishment with Total Assets of Not More Than 3 Million in the list of exemptible categories in the Wage Order. The said Wage Order was submitted for review and passed upon by the Commission on 11 May 2011.

With the inclusion of this exemptible category in previous Wage Orders (W.O. Nos. NCR-10, 11, 12, 13, 14 and 15) which had been passed upon by the Commission, it can be said that it is not a new category anymore. In the decisions dated 2 July 2010 (W.O. No. NCR-15), 27 June 2008 (W.O. No. NCR-14) and 19 September 2007 (W.O. No. NCR-13) on the appeals of TUCP, the Commission had already declared and ruled that this exemptible category is not a new category, the same having been considered and affirmed in the previous wage orders.

We stress that the exemption under the Wage Order is different from the exemption under Republic Act No. 9178 (Barangay Micro Business Enterprises Act of 2002). The exemption under Wage Order No. NCR-16 is not automatic as the applicants have to apply and submit the required documents whereas R.A. 9178 expressly removes registered enterprises with certificates of authority from the coverage of the minimum wage law for two (2) years subject to renewal. The establishments referred to under the Wage Order No. NCR-16 are those not registered as BMBEs.

Appeal denied for lack of merit.

NWPC Case No. WO-11-002

Soriano (Chairperson Designate), Paderanga (Vice-Chairperson), Floro and Rondain (Commissioners), Lagunzad III (Member and NWPC Executive Director) voted to deny the appeal.

Bagtas* and Diwa (Commissioners) dissented.

*Dissenting opinion:

- 1. The P22 is a misappreciation of the criteria
- 2. Violation of explicit NWPC Guidelines on Wage Exemption; NWPC should confirm category outside the guidelines before issuing Wage Order

----- o0o -----