

**1. SUBSTANTIVE AND PROCEDURAL
REQUIREMENTS IN WAGE ORDER ISSUANCE**

NWPC Case No. W.O. 13-004

June 21, 2013

IN RE: APPEAL FROM WAGE ORDER NO. RIX-18

ZAMBOANGA CHAMBER OF COMMERCE AND INDUSTRY
FOUNDATION, INC., Appellant

Wage Order; Appeal; Substantive and Procedural Requirements in Wage Orders Issuance. – The Board followed the substantive and procedural requirements in issuing Wage Order No. RIX-18, as set forth in R.A. 6727 and the Commission’s Amended Rules of Procedure on Minimum Wage Fixing. After publication of the notice of public consultations in newspapers of general circulation in the region, the Board conducted public consultations as mentioned in the recital of facts. Clearly, the wage increase of P13.00 per day was arrived at only after the Board made a factual determination on the amount of wage increase based on series of public consultations participated by the different sectors and the review and study of prevailing economic conditions in the region. In addition, the Board likewise caused the publication of the Wage Order on 26 May 2013 at Zamboanga Today.

Same; Same; Power of the Board to Fix Minimum Wage Not Confined to the 10 Relevant Factors Under Art. 124 of the Labor Code, as Amended by R.A. 6727. - The power of the Board to fix minimum wage is not confined to the abovementioned ten (10) relevant factors only. It likewise considered other factors including the region’s poverty incidence, the problematic power situation in the region and the labor market indicators as shown by the Board’s submitted documents and the 4th and 5th WHEREASES of W.O. No. RIX-18.

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Same; Same; Rationale of Two Tiered Wage System. – Two Tiered Wage System is an approach to minimum wage setting which aims to improve the coverage of minimum wages, promote workers and enterprise productivity and address the negative effects of minimum wage policies. This reform does not replace but maintains regional minimum wage setting by the Boards.

Same; Same; R.A. 6727 Rationalizing Wages. – In *ECOP vs. NWPC* (G.R. No. 96169, September 24m 1991), the Court declared that precisely, Republic Act No. 6727 was intended to rationalize wages, first, by providing for full-time boards to police wages round-the-clock, and second, by giving the boards enough powers to achieve this objective. The Court is of the opinion that Congress meant the boards to be creative in resolving the annual question of wages without labor and management knocking on the legislature’s door at every turn. The Court’s opinion is that if Republic Act No. 6727 intended the boards alone to set floor wages, the Act would have no need for a board but an accountant to keep track of the latest consumer price index, or better, would have Congress done it as the need arises, as the legislature, prior to the Act, has done so for years. The fact of the matter is that the Act sought a “thinking” group of men and women bound by statutory standards.

FACTS:

After publication of the notice of public consultations in newspapers of general circulation and the conduct of public consultations participated in by workers, employers, and government sectors in different provinces/cities in the region, the Board issued Wage Order No. RIX-18 providing a P13.00 daily wage increase to all minimum wage earners in Region IX with reservation of the two (2) employer representatives on Section 13 [par. 2 and 3] with regard to credibility of wage increase.

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Hence, the appeal of the Appellant.

ISSUES:

1. WHETHER OR NOT WAGE ORDER NO. RIX-18 SHOULD BE STRICKEN DOWN FOR IMPOSING A WAGE INCREASE WITHOUT BASIS IN LAW AND IN FACT.
2. WHETHER OR NOT THE BOARD COMMITTED GRAVE ABUSE OF DISCRETION.

HELD:

Appeal denied.

Wage Order No. RIX-18 is valid and therefore should not be stricken down. The records of the case show that the Board followed the substantive and procedural requirements in issuing Wage Order No. RIX-18, as set forth in R.A. 6727 and the Commission's Amended Rules of Procedure on Minimum Wage Fixing. After publication of the notice of public consultations in newspapers of general circulation in the region, the Board conducted public consultations as mentioned in the recital of facts. Clearly, the wage increase of P13.00 per day was arrived at only after the Board made a factual determination on the amount of wage increase based on series of public consultations participated by the different sectors and the review and study of prevailing economic conditions in the region. In addition, the Board likewise caused the publication of the Wage Order on 26 May 2013 at Zamboanga Today.

The Board in issuing Wage Order No. RIX-18 took into consideration the criteria in Art. 124 of the Labor Code, as amended by R.A. 6727, quoted as follows: "The regional minimum wages to

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be established by the Regional Board shall be as nearly adequate as in economically feasible to maintain the minimum standards of living necessary for the health, efficiency, and general well-being of the employees within the framework of the national economic and social development program. In the determination of such regional minimum wages, the Regional Board shall, among other relevant factors, consider the following:

- (a) The demand for living wages;
- (b) Wage adjustment vis-à-vis the consumer price index;
- (c) The cost of living and changes or increases therein;
- (d) The needs of workers and their families;
- (e) The need to induce industries to invest in the countryside;
- (f) Improvements in standards of living;
- (g) The prevailing wage levels;
- (h) Fair return of the capital invested and capacity to pay of employers;
- (i) Effects on employment generation and family income; and
- (j) The equitable distribution of income and wealth along the imperatives of economic and social development.”

The power of the Board to fix minimum wage is not confined to the abovementioned ten (10) relevant factors only. It likewise considered other factors including the region’s poverty incidence, the problematic power situation in the region, and the labor market indicators as shown by the Board’s submitted documents and the 4th and 5th WHEREASES of W.O. No. RIX-18.

It is worth stating also that the Two Tiered Wage System is an approach to minimum wage setting which aims to improve the coverage of minimum wages, promote workers and enterprise productivity, and address the negative effects of minimum wage

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policies. This reform does not replace but maintains regional minimum wage setting by the Boards.

In *ECOP vs. NWPC* (G.R. No. 96169, September 24, 1991), the Court declared that precisely, Republic Act No. 6727 was intended to rationalize wages, first, by providing for full-time boards to police wages round-the-clock, and second, by giving the boards enough powers to achieve this objective. The Court is of the opinion that Congress meant the boards to be creative in resolving the annual question of wages without labor and management knocking on the legislature's door at every turn. The Court's opinion is that if Republic Act No. 6727 intended the boards alone to set floor wages, the Act would have no need for a board but an accountant to keep track of the latest consumer price index, or better, would have Congress done it as the need arises, as the legislature, prior to the Act, has done so for years. The fact of the matter is that the Act sought a "thinking" group of men and women bound by statutory standards.

Unless the Commission finds arbitrariness and/or whimsical exercise of the power of the Board, its factual determination in the issuance of wage orders, including the amount and form of wage increase, is generally accorded respect.

The Board did not commit any abuse of discretion when it issued the assailed Wage Order as the standards and criteria under the law and the guidelines of the Commission had been observed.

The appeal of Zamboanga Chamber of Commerce and Industry Foundation, Inc. DENIED for lack of merit.

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Lagunzad III (Chairperson-Designate), Balisacan (Vice-Chairperson), Bagtas, Diwa (Commissioners), Sy (NWPC OIC Executive Director) voted to deny the appeal.

Floro, Rondain (Commissioners) took the position of the Employers' Representatives in the Board with reservation on Section 13, paragraph 2-3, Wage Order No. RIX-18.

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