

2017 Cases

APPEALS ON APPLICATION FOR EXEMPTION

Appeal for Exemption from Wage Order No. RTWPB-XI-19

NWPC Case No. E-17-002, October 30, 2017

The Commission, on its own, took notice of a declaration of a state of calamity issued by the legislative body of Davao del Norte and accepted an audited financial statement even for the first time on appeal to properly weigh the facts of the case. Considering the occurrence of a calamity (El Niño), as evidenced by the declaration, and its ill effects to the applicant-establishment whose economic activity is growing and exporting bananas and having suffered a capital impairment in 2015 and 2016 way above the 20% required under the rules, the Commission granted full exemption to Elijosh Agribusiness Co., Inc.

Appeal for Exemption from Wage Order No. RIX-19

NWPC Case No. E-17-001, May 11, 2017

The Commission ruled that the Board acquired jurisdiction over the case as the guidelines provide that applications filed with the DOLE Regional Office within the 75-day reglementary period is deemed filed with the appropriate Board. It further ruled that a Union which was duly notified and has participated well in the case but failed to submit an opposition was not denied of its right to due process. Settled is the rule that an appeal, like what the Union availed of, in this case, is curative in character on the issue of alleged denial of due process. With all the requisites under the rules present, ATS Passenger Terminal Services is considered a distressed establishment thus qualified for an exemption.

TMS CASE

Appeal on Piece Rate Order No. 2017-03

NWPC Case No. TMS-2017-01, October 30, 2017

The Commission remanded the appeal filed by Lonbisco Employees Organization to the Board after determining that the procedure laid down in Rule II, Section 2 of the Revised Guidelines on the Conduct of TMS was not complied with. The Commission instructed the Board to call the required post-conference and assist the parties to agree on the amount of just, fair and reasonable piece rates, and ensuring that the the workers shall be entitled to at least the applicable current daily minimum wage in the region.

APPEALS ON WAGE ORDER

Appeal on Wage Order No. RO VII-20

NWPC Case No. WO 17-001, March 21, 2017; and

Appeal on Wage Order No. RO VII-20

NWPC Case No. WO 17-002

In this consolidated case of Bohol Chamber of Commerce and Industry, *et al.* (BCCI) and Siquijor Chamber of Commerce and Industry, Inc. (SCCI), the Commission ruled that Wage Order No. RO VII-20 was issued after careful consideration of the economic disparities in the region, Bohol and Siquijor included, and after complying with all the criteria set by law. The Commission further declared that the Board merely performed its delicate task of balancing the needs of workers and employers within the framework of national economic and social development, which is precisely what the law envisioned. During the framing of the subject Wage Order, the Labor and Management Sectors are both represented in the Board to protect their own sector's needs and interests. Where the requisites under the rules are all present and complied with, the Commission has no reason and basis to declare a Wage Order contrary to law so much more that the allegations of appellants were unsubstantiated.

Appeal on Wage Order No. RBVI-23

NWPC Case No. WO 17-003

In this case of Iloilo Business Club, Inc., *et al.*, the Commission ruled that a letter of appeal is not a verified appeal. The rules require verification for appeals as well as the submission of a memorandum and all the required documents. Failure to comply with the aforementioned causes the dismissal of the appeal on such ground.

2018 Cases

APPEALS ON WAGE ORDER

Appeal on Wage Order No. IVA-18

NWPC Case No. WO 18-002

In this case of Laguna Workers Alliance (LAWA), the Commission ruled that Wage Order No. IVA-18 was issued without grave abuse of discretion because the demand for living wage is not the only criteria for minimum wage setting per Article 124 of the Labor Code. Also, the Commission upheld that the Board was correct in not granting the five-year automatic increase with fixed amounts in tranches filed by LAWA, as the same is tantamount to baseless prediction of the region's socioeconomic conditions in the years to come. Further, the Commission declared that the issuance of wage rates which vary within industries, provinces or localities is authorized by law, most especially when the classifications are based on valid grounds and actual conditions in the region. Furthermore, the Commission declared that the concept of diminution of benefits *per se* is not applicable in both LAWA's claim of area reclassification and inclusion of exemptible categories in the Wage Order as the area reclassification did not grant any benefits prior to reclassification, and that the Board is empowered by Article 122 of the Labor Code to provide for exemptions in wage orders. Finally, the Commission declared that the productivity-based pay cannot be mandatory, contrary to LAWA's claim, because the Two-Tiered Wage System (TTWS) provides that productivity-based pay is founded on agreement between workers and management, and that while the same cannot be mandatory, the Boards are actively issuing and monitoring Wage Advisories on the matter.

Appeal on Wage Order No. NCR-22

NWPC Case No. WO 18-003

In this case of Association of Minimum Wage Earners and Advocates (AMWEA), the Commission ruled that not only was the appeal filed out of time, but that the same also had no merit. The procedural requirements laid down under existing rules were followed by the Board when it issued Wage Order No. NCR-22, and that the factual determination of the Board is accorded respect. The Commission also ruled that the contention of AMWEA that the amount of increase of minimum wage should be the living wage has no basis in law, stating that it is in excess of jurisdiction for the Boards to fix an amount other than that of the minimum wage, and that the minimum wage is only one of the various policy instruments which contribute to the attainment of a living wage.

2019 Case

APPEAL ON WAGE ORDER

Appeal on Wage Order No. NCR- 22

NWPC Case No. E-19-001

In this case of Pacific Grand Villa Homeowners Association, the Commission denied the appeal for exemption from compliance with Wage Order No. NCR-22, stating that the ground relied upon, Section 4(c) of RA 6727, is not applicable because it is not a service establishment. As defined in the Amended Rules on Exemption, a service establishment is an entity principally engaged in the sale of services to individuals for their own household use and is generally recognized as such. Further, the Commission stated that Pacific Grand Villa Homeowners Association is not qualified for exemption as a distressed establishment because it failed to meet the criteria prescribed.