

## THIRD DIVISION

[ G.R. No. 205188, April 22, 2015 ]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY HONORABLE  
LOURDES M. TRASMONTE IN HER CAPACITY AS  
UNDERSECRETARY OF THE DEPARTMENT OF LABOR AND  
EMPLOYMENT, AND AHONORABLE JENNIFER JARDIN-MANALILI,  
IN HER CAPACITY AS THEN PHILIPPINE OVERSEAS  
EMPLOYMENT ADMINISTRATOR, PETITIONER, VS. HUMANLINK  
MANPOWER CONSULTANTS, INC. (FORMERLY MHY NEW  
RECRUITMENT INTERNATIONAL, INC.), RESPONDENT.**

### DECISION

**VILLARAMA, JR., J.:**

Before us is a petition for review on certiorari<sup>[1]</sup> filed by the Republic of the Philippines represented by the Secretary of the Department of Labor and Employment (DOLE) and the Administrator of the Philippine Overseas Employment Administration (POEA) assailing the Court of Appeals' September 24, 2012 Decision<sup>[2]</sup> and January 14, 2013 Resolution<sup>[3]</sup> in CA-G.R. SP No. 121332. The petition questions whether the Court of Appeals (CA) erred when it ruled that the POEA had no power to declare that the officers and directors of Humanlink Manpower Consultants, Inc.<sup>[4]</sup> (Humanlink) were disqualified from participating in the overseas employment program.<sup>[5]</sup>

A complaint<sup>[6]</sup> for violation of Section 2(b) (*excessive collection of fees*), (d) (*collecting a fee without issuing a receipt*) and (e) (*misrepresentation*) of Rule I,<sup>[7]</sup> Part VI of the POEA Rules and Regulations Governing the Recruitment and Employment of Land-Based Overseas Workers (POEA Rules and Regulations) was filed by Renelson<sup>[8]</sup> L. Carlos against Worldview International Services Corporation (Worldview) and Humanlink before the POEA Adjudication Office.

Briefly, the facts of the case.

Carlos applied at Worldview as a heavy equipment driver in Doha, Qatar with a salary of US\$700.00. After undergoing the required medical examination, Worldview submitted Carlos' application and other documents to the POEA under Humanlink as his recruiting agency.<sup>[9]</sup> During processing of his application, he paid placement fee adding up to a total of P60,000.00<sup>[10]</sup> but no receipt was issued. On December 2, 2007, while awaiting his departure at the airport, he was made to sign an employment contract stating that he was to work as a duct man with a salary of US\$400.00, instead of the heavy equipment driver position he applied for. He was told that the duct man contract was only for entry purposes and was assured that he would work as a heavy equipment driver in Doha as advertised.

Upon his arrival in Doha, he worked as a duct installer with a salary of US\$400.00.<sup>[11]</sup> Carlos complained that the terms of the employment contract were not complied with.<sup>[12]</sup> In March 2008, the foreign employer made Carlos sign a new employment contract reducing his monthly salary in half.<sup>[13]</sup> Carlos filed a complaint with the Philippine Overseas Labor Office but the complaint was not acted upon. This prompted him to speak with the Qatar Labor Office where he discussed his grievance. On April 29, 2008, Carlos was informed that his visa was cancelled and that he was being repatriated at his own expense.

Approximately a week after his return to the Philippines, Humanlink's President<sup>[14]</sup> persuaded him to sign a quitclaim<sup>[15]</sup> absolving it of any liability from the collection of the placement fee.<sup>[16]</sup>

On March 31, 2010, the POEA Adjudication Office found the assertions of Carlos credible and supported by sufficient evidence. First, it noticed that no receipts were issued to Carlos for the payments he made. Second, considering that Carlos' salary only amounted to US\$400.00, the amount of P60,000.00<sup>[17]</sup> collected from him as placement fee was patently excessive. Lastly, it further found that in advertising for a heavy equipment driver but having Carlos sign a contract for a duct man, Humanlink engaged in misrepresentation. It thus found Humanlink liable for violation of Section 2(b), (d) and (e) of the 2002 POEA Rules and Regulations. Worldview was only found liable for violating Section 2(e) of the 2002 POEA Rules and Regulations.<sup>[18]</sup> The *fallo* reads:

**WHEREFORE,** premises considered, for the established violation of Section 2 (b), (d), and (e) of Rule I, Part VI of the Rules and Regulations Governing the Recruitment and Employment of Land-based Overseas Workers, the penalty of cancellation of license and fine in the amount of PHP80,000.00 is hereby imposed upon [Humanlink Manpower Consultants, Inc.] **As a consequence of the cancellation of its license, its officers and directors as of November 2007 are hereby ordered disqualified from participating in the overseas employment program of the government.**<sup>[19]</sup> (Emphasis ours)

Humanlink appealed<sup>[20]</sup> before the DOLE but the same was dismissed for lack of merit in the DOLE February 17, 2011 Order.<sup>[21]</sup> It moved for reconsideration but the same was denied.<sup>[22]</sup>

Humanlink appealed to the CA *via* a petition for certiorari.<sup>[23]</sup> In its September 24, 2012 Decision, the CA affirmed with modification the February 17, 2011 Order. It agreed that Humanlink was guilty of violating Section 2 (b), (d), and (e) of the POEA Rules and Regulations and ordered the cancellation of its license. However, it disagreed that as a consequence of the cancellation of the license, automatic disqualification of officers and directors from participating in government's overseas employment program should be imposed. It considered such penalty to be violative of due process and in excess of the POEA's supervisory powers. It stated:

As a general rule, the Legislature cannot surrender or abdicate its legislative power, for doing so will be unconstitutional. Although the power to make laws cannot be delegated by the Legislature to any other

authority, a power that is not legislative in character may be delegated. Under certain circumstances, the Legislature can delegate to executive officers and administrative boards the authority to adopt and promulgate *Implementing Rules and Regulations [IRRs]*. To render such delegation lawful, the Legislature must declare the policy of the law and fix the legal principles that are to control in given cases. The Legislature should set a definite or primary standard to guide those empowered to execute the law. *The authority to make IRRs in order to carry out an express legislative purpose, or to effect the operation and enforcement of a law is not a power exclusively legislative in character, but is rather administrative in nature.* The rules and regulations adopted and promulgated must not, however, subvert or be contrary to existing statutes. The function of promulgating IRRs may be legitimately exercised only for the purpose of carrying out the provisions of a law. ***The power of administrative agencies is confined to implementing the law or putting it into effect.*** Thus, the [POEA] cannot go beyond the extent and scope of the concerned particular implementing rules which are merely putting into effect the mandate of the Labor Code of the Philippines. Also, it goes without saying that the automatic disqualification of officers and directors of herein petitioner, without specifically impleading the parties concerned, cannot be enforced without violating the due process of law as they were deprived of every opportunity to put up their respective defenses.<sup>[24]</sup>

The CA thus decreed:

**WHEREFORE**, premises considered, the instant petition is **DENIED**. Accordingly, the Order and Resolution dated February 17, 2011 and July 6, 2011 of the Undersecretary of the Department of Labor and Employment in OS-POEA-0098-0521-2010 [POEA Case No. RV 08-08-1455] are hereby **AFFIRMED** with a modification in that the affirmation as to the declaration disqualifying the officers and directors of Humanlink Manpower Consultants, Inc. to engage in the overseas employment program of the government **is declared null and void**.

**SO ORDERED.**<sup>[25]</sup>

Humanlink moved for reconsideration but it was denied. Hence, this petition.

The DOLE and POEA contend that the disqualification of the officers and directors from participation in the overseas employment program of the government is expressly sanctioned under Section 2(f), Rule I, Part II of the POEA Rules and Regulations which reads:

Section 2. Disqualification. The following are not qualified to engage in the business of recruitment and placement of Filipino workers overseas.

xxxx

- f. Persons or partners, officers and Directors of corporations whose licenses have been previously cancelled or revoked for violation of recruitment laws.

It claims that the disqualification is within the delegated powers of the DOLE Secretary and the POEA and argues that the provision "upholds the purpose of the law to establish a higher standard of protection and promotion of the welfare of migrant workers."<sup>[26]</sup>

Humanlink, on the other hand, reiterates its position that petitioner did not raise any substantial argument to warrant the reversal of the CA Decision.<sup>[27]</sup>

The issue for consideration before this Court is whether the POEA has the power to automatically disqualify officers and directors from participating in the government's overseas employment program upon the cancellation of a license.

We rule in the affirmative.

We have long settled the role of the POEA and the DOLE with respect to the recruitment, placement and deployment of overseas workers.<sup>[28]</sup>

While Section 2(c),<sup>[29]</sup> Republic Act (R.A.) No. 8042<sup>[30]</sup> states that the State does not promote overseas employment as a means to sustain economic growth, the State recognizes the vital role of overseas Filipino workers to the nation's economy and development. Aware that overseas workers are vulnerable to exploitation, the State sought to protect the interests and well-being of these workers with creation of specialized bodies such as the POEA under the direct supervision of the DOLE Secretary.

One of the roles of the POEA is the regulation and adjudication of private sector participation in the recruitment and placement of overseas workers.<sup>[31]</sup> Article 25 of the Labor Code, as amended, reads:

ART. 25. Private Sector Participation in the Recruitment and Placement of Workers. — Pursuant to national development objectives and in order to harness and maximize the use of private sector resources and initiative in the development and implementation of a comprehensive employment program, the **private employment sector shall participate in the recruitment and placement of workers, locally and overseas, under such guidelines, rules and regulations as may be issued by the Secretary of Labor.** (Emphasis supplied)

This is echoed in Article 35 of the Labor Code, as amended, and Section 23(b.l), R.A. No. 8042 as amended by R.A. No. 9422, where the legislature empowered the DOLE and POEA to regulate private sector participation in the recruitment and overseas placement of workers, to wit:

ART. 35. Suspension and/or Cancellation of License Authority. - The **Secretary of Labor shall have the power to suspend or cancel any license or authority to recruit employees** for overseas employment **for violation of rules and regulations issued by the Secretary of Labor**, the Overseas Employment Development Board, and the National Seamen Board, or for violation of the provisions of this and other applicable laws, General Orders and Letters of Instruction. (Emphasis supplied)

x x x x

(b.1) Philippine Overseas Employment Administration. The **Administration shall regulate private sector participation in the recruitment and overseas placement of workers by setting up a licensing and registration system.** It shall also formulate and implement, in coordination with appropriate entities concerned, when necessary, a system for promoting and monitoring the overseas employment of Filipino workers taking into consideration their welfare and the domestic manpower requirements.

In addition to its powers and functions, the administration shall inform migrant workers not only of their rights as workers but also of their rights as human beings, instruct and guide the workers how to assert their rights and provide the available mechanism to redress violation of their rights.

In the recruitment and placement of workers to service the requirements for trained and competent Filipino workers of foreign governments and their instrumentalities, and such other employers as public interests may require, the administration shall deploy only to countries where the Philippines has concluded bilateral labor agreements or arrangements: *Provided*, That such countries shall guarantee to protect the rights of Filipino migrant workers; and: *Provided, further*, That such countries shall observe and/or comply with the international laws and standards for migrant workers. (Emphasis supplied)

This Court in *Eastern Assurance and Surety Corporation v. Secretary of Labor*<sup>[32]</sup> affirmed the POEA's power to cancel the license of erring recruitment agencies as a consequence of not adhering to the rules and regulations set by the POEA and DOLE. Rules and regulations referred to includes POEA Rules and Regulations.

Sections 1 and 2, Rule I, Part II of the POEA Rules and Regulations provide the qualifications and disqualifications for private sector participation in the overseas employment program. Section 1 of this rule provides that for persons to participate in recruitment and placement of land-based overseas Filipino workers, they must not possess any of the disqualifications as provided in Section 2. Section 1 partly reads:

Section 1. Qualifications. Only those who possess the following qualifications may be permitted to engage in the business of recruitment and placement of Filipino workers:

x x x x

- c. Those **not otherwise disqualified** by law or other government regulations to engage in the recruitment and placement of workers for overseas employment.

In connection with the foregoing, Section 2 provides for the disqualifications. Specifically, Section 2(d)(4) and (f) provides that persons, directors and officers of