

SECOND DIVISION

[G.R. No. 162411, June 27, 2008]

NASIPIT INTEGRATED ARRASTRE AND STEVEDORING SERVICES, INC. (NIASSI), REPRESENTED BY RAMON M. CALO, PETITIONER, NASIPIT EMPLOYEES LABOR UNION (NELU)-ALU-TUCP, REPRESENTED BY DONELL P. DAGANI, RESPONDENT.

D E C I S I O N

VELASCO JR., J.:

This petition for review^[1] under Rule 45 seeks to nullify and set aside the Decision^[2] dated September 30, 2003 and Resolution^[3] dated January 9, 2004, both issued by the Court of Appeals (CA) in CA-G.R. SP No. 70435 which dismissed petitioner Nasipit Integrated Arrastre & Stevedoring Services, Inc.'s (NIASSI's) petition for review of the Decision^[4] dated February 22, 2002 rendered by Voluntary Arbitrator Jesus G. Chavez in VA Case No. 0925-XIII-08-003-01A.

The records yield the following facts:

NIASSI is a domestic corporation with office at Talisay, Nasipit, Agusan del Norte. Respondent Nasipit Employees Labor Union (Union) was—and may still be—the collective bargaining agent of the rank-and-file employees of NIASSI and is a local chapter of the Associated Labor Union.

The dispute started when, in October 1999, the Regional Tripartite Wages and Productivity Board (Wage Board) of Caraga Region in Northeastern Mindanao issued Wage Order No. (WO) RXIII-02 which granted an additional Php 12 per day cost of living allowance to the minimum wage earners in that region. Owing allegedly to NIASSI's failure to implement the wage order, the Union filed a complaint before the Department of Labor and Employment (DOLE) Caraga Regional Office for the inspection of NIASSI's records and the enforcement of WO RXIII-02. A DOLE inspection team was accordingly dispatched to NIASSI. In its reports dated May 30, 2000 and November 28, 2000, the inspection team stated that WO RXIII-02 was not applicable to NIASSI's employees since they were already receiving a wage rate higher than the prescribed minimum wage.

Upon motion by the Union, the DOLE Regional Director indorsed the case to the National Labor Relations Commission (NLRC) Regional Arbitration Branch for further hearing. On May 18, 2001, Executive Labor Arbiter Rogelio P. Legaspi, in turn, referred the case to the National Conciliation and Mediation Board (NCMB) for voluntary arbitration.

The case was, accordingly, referred to the NCMB which docketed the same as VA Case No. 0925-XIII-08-003-01A.

On February 22, 2002, Voluntary Arbitrator Jesus G. Chavez rendered a decision granting the Union's prayer for the implementation of WO RXIII-02 on the rationale that WO RXIII-02 did not specifically prohibit the grant of wage increase to employees earning above the minimum wage. On the contrary, Chavez said, the wage order specifically enumerated those who are outside its coverage, but did not include in the enumeration those earning above the minimum wage. He also held that the Collective Bargaining Agreement (CBA) between NIASI and the Union provides that wage increases granted by the company within one year from CBA signing shall not be creditable to future legally mandated wage increases. The voluntary arbitrator further held that NIASI would not incur any damage from the implementation of WO RXIII-02 since NIASI's petition to increase the tariff rates for all cargoes—to counter the financial burden of implementing WO RXIII-02—had been granted and had been in effect since February 16, 2000.

Following the denial of its motion for reconsideration, NIASI filed with the CA a petition for review under Rule 43 of the Rules of Court to nullify the February 22, 2002 Decision of Chavez. The petition was docketed as CA-G.R. SP. No. 70435.

By a decision dated September 30, 2003, the CA found the decision of the voluntary arbitrator and the premises holding it together to be in order and, accordingly, dismissed NIASI's petition for review.

NIASI is now before the Court via this Petition for Review on Certiorari, ascribing to the CA the commission of several errors all which resolve themselves into the question of whether or not WO RXIII-02 applies or covers NIASI's employees.

The Court's Ruling

In gist, NIASI argues that its employees enjoy a daily wage level higher than the minimum wage mandated by the subject wage order; thus, the wage order is not applicable. Corollary to this argument, NIASI contends that the Wage Board did not envision a wage order with an "across-the-board" wage increase effect; thus, it could be made to apply only to minimum wage earners. As a final point, NIASI states that, since WO RXIII-02 is not applicable, the issue respecting the interpretation of the NIASI-Union CBA provision on wage crediting finds no application either.

As a counterpoint, the Union maintains that Section 2, Article XIX of the CBA clearly mandates the implementation of WO RXIII-02 to cover all NIASI's employees. While admitting that the new wage rates specifically finds application only to minimum wage earners, the Union would nonetheless argue that WO RXIII-02, as couched, does not specifically prohibit the grant of wage increase to employees already receiving wages over the prescribed minimum wage.

The petition is impressed with merit.

The main issue in this case is whether WO RXIII-02 may be made to apply and cover Nasipit's employees who, at the time of the issuance and effectivity of the wage order, were already receiving a wage rate higher than the prevailing minimum wage.

The pertinent portion of WO RXIII-02 provides, as follows:

Section 1. COVERAGE. The rates prescribed under this Wage Order shall apply to **minimum wage earners** in the private sector regardless of their position designation or status and irrespective of the method by which their wages are paid.

Not covered by the provisions of this Order are household or domestic helpers and persons employed in the personal service of another, including family drivers. (Emphasis supplied.)

The provision of the wage order's Implementing Rules and Regulations (IRR)^[5] pertinent to the instant issue reads, as follows:

RULE II
NEW MINIMUM WAGE RATES

Section 1. COVERAGE

- a. The minimum wage rates prescribed under the Order shall apply to the **minimum wage earners** in the private sector regardless of their position, designation or status and irrespective of the method by which their wages are paid.
- b. Not covered by the provision of the Order are household or domestic helpers or persons employed in the personal service of another including family drivers.
- c. Workers and employees who, prior to the effectivity of the Order were receiving a basic wage rate per day or its monthly equivalent of more than those prescribed under the Order, may receive wage increases **through the correction of wage distortions** in accordance with Section 1, Rule IV of this Rules. (Emphasis supplied.)

It is abundantly clear from the above quoted provisions of WO RXIII-02 and its IRR that only minimum wage earners are entitled to the prescribed wage increase. *Expressio unius est exclusio alterius.*^[6] The express mention of one person, thing, act, or consequence excludes all others. The beneficent, operative provision of WO RXIII-02 is specific enough to cover only minimum wage earners. Necessarily excluded are those receiving rates above the prescribed minimum wage. The only situation when employees receiving a wage rate higher than that prescribed by the WO RXIII-02 may still benefit from the order is, as indicated in Sec. 1 (c) of the IRRs, through the correction of wage distortions.

In any case, it would be highly irregular for the Wage Board to issue an across-the-board wage increase, its mandate being limited to determining and fixing the minimum wage rates within its area of concern, in this case the Caraga Region, and to issue the corresponding wage orders and implementing rules. In *Metropolitan Bank and Trust Company, Inc., v. National Wages and Productivity Commission*, the Court elucidated on the authority of the Regional Tripartite Wages and Productivity Board, thus:

R.A. No. 6727 declared it a policy of the State to rationalize the fixing of minimum wages and to promote productivity improvement and gain-