

SECOND DIVISION

[G.R. No. 108951, March 07, 2000]

JESUS B. DIAMONON, PETITIONER, VS. DEPARTMENT OF LABOR AND EMPLOYMENT; HON. BIENVENIDO E. LAGUESMA, AS THE UNDERSECRETARY OF LABOR; MANASES^[1] T. CRUZ, IN HIS CAPACITY AS THE MED-ARBITER; ATTY. ZOILO DE LA CRUZ, JR., AND MEMBERS OF THE NATIONAL CONGRESS OF UNIONS IN THE SUGAR INDUSTRY OF THE PHILIPPINES (NACUSIP) AND PHILIPPINE AGRICULTURAL COMMERCIAL AND INDUSTRIAL WORKER'S UNION (PACIWU), RESPONDENTS.

DECISION

DE LEON, JR., J.:

Before us is a petition for certiorari seeking to annul the twin Orders dated December 29, 1992^[2] and January 25, 1993^[3] of public respondent Bienvenido E. Laguesma, acting then as Undersecretary, now the secretary, of the Department of Labor and Employment (DOLE), in his affirmance of the dismissal^[4] by the Med-Arbiter of the complaint for unauthorized and illegal disbursement of union funds filed by petitioner Jesus B. Diamonon against private respondent Atty. Zoilo V. de la Cruz and Sofia P. Mana-ay.

The facts of the case are the following:

Petitioner served as the National Executive Vice President of the National Congress of Unions in the Sugar Industry of the Philippines (NACUSIP) and Vice President for Luzon of the Philippine Agricultural, Commercial and Industrial Workers Union (PACIWU).

In a letter dated March 23, 1991, petitioner learned^[5] of his removal from the positions he held in both unions in a resolution approved during a meeting^[6] of the National Executive Boards of both unions.^[7]

On April 22, 1991, petitioner sought^[8] reconsideration of the resolution on his removal. At the same time, he initiated a complaint^[9] (hereafter referred to as FIRST) before the DOLE against the National President of NACUSIP and PACIWU, private respondent Atty. Zoilo V. de la Cruz, Jr., and the members of the National Executive Boards of NACUSIP and PACIWU questioning the validity of his removal from the positions he held in the two unions.

While the FIRST case was pending with the Med-Arbiter, petitioner filed on May 16, 1991 a second complaint^[10] (hereafter referred to as SECOND) against private respondent Atty. Zoilo V. de la Cruz, Jr., and the National Treasurer of NACUSIP and

PACIWU, Sofia P. Mana-ay. He accused them of three (3) offenses, namely: (a) wanton violation of the Constitution and By-Laws of both organizations, NACUSIP and PACIWU; (b) unauthorized and illegal disbursement of union funds of both organizations; (c) and abuse of authority as national officers of both organizations.

On August 2, 1991, an Order^[11] was issued in the FIRST case declaring that petitioner's removal from the positions he held is null and void. Private respondents appealed^[12] this decision to the public respondent DOLE.

In view of the pendency of their appeal in the FIRST case, private respondents filed a Motion to Dismiss^[13] dated October 21, 1991 in the SECOND case.

In an Order^[14] dated November 5, 1991, the Med-Arbiter dismissed the SECOND case on the ground of lack of personality of petitioner to file the complaint in view of his removal from the offices he held.

On December 27, 1991, public respondent Laguesma, acting as the then Undersecretary of DOLE, decided on the FIRST case on appeal and issued a Resolution^[15] which affirmed the assailed Order dated August 2, 1991 declaring as null and void petitioner's removal from the positions he held.

In view of the adverse Order dated November 5, 1991 dismissing the SECOND case, petitioner appealed^[16] to the public respondent DOLE. Public respondent Laguesma, issued the assailed Order^[17] dated December 29, 1992, holding that petitioner's failure to show in his complaint that the administrative remedies provided for in the constitution and by-laws of both unions, have been exhausted or such remedies are not available, was fatal to petitioner's cause.^[18] Resultantly, he affirmed^[19] the dismissal of the complaint.

Petitioner sought^[20] reconsideration of the Order dated December 29, 1992. However, public respondent in his Order^[21] dated January 25, 1993 denied petitioner's motion for reconsideration.

Hence, this petition.

Petitioner anchors his petition on two (2) grounds, to wit:

"I

PUBLIC RESPONDENT HONORABLE BIENVENIDO V. LAGUESMA HAS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DISMISS ^[sic] THE APPEAL INTERPOSED FROM THE ORDER OF THE MED ARBITER MENESIS ^[sic] T. CRUZ, AND WHEN IT DENIED THE MOTION FOR RECONSIDERATION ON FLIMSY GROUNDS.

II.

THE CASE OF THE PETITIONER IS QUITE MERITORIOUS AND TO DISREGARD THE SAME WOULD ^[sic] TANTAMOUNT TO WILLFULLY ^[sic]

CLOSING OUR EYES TO AVOID SEEING AND REALIZING THE NAKED TRUTH."^[22]

Petitioner emphatically stresses that the only issue on appeal before the DOLE was petitioner's alleged lack of personality to file the complaint. When public respondent "switched" the ground for dismissal of the complaint from "lack of personality of the [petitioner] to file the complaint" to "non-exhaustion of administrative remedies," he staunchly claims that the latter committed grave abuse of discretion amounting to lack or excess of jurisdiction.^[23] For, in doing so, the challenged orders "went outside the issues and purported to adjudicate something upon which the parties were not heard."^[24]

The petition lacks merit.

Generally, an appellate court may only pass upon errors assigned.^[25] However, this rule is not without exceptions.^[26] In the following instances,^[27] the Supreme Court ruled that an appellate court is accorded a broad discretionary power to waive the lack of assignment of errors and consider errors not assigned:

- (a) Grounds not assigned as errors but affecting the jurisdiction of the court over the subject matter;
- (b) Matters not assigned as errors on appeal but are evidently plain or clerical errors within contemplation of law;
- (c) Matters not assigned as errors on appeal but consideration of which is necessary in arriving at a just decision and complete resolution of the case or to serve the interests of a justice or to avoid dispensing piecemeal justice;
- (d) Matters not specifically assigned as errors on appeal but raised in the trial court and are matters of record having some bearing on the issue submitted which the parties failed to raise or which the lower court ignored; Supreme
- (e) Matters not assigned as errors on appeal but closely related to an error assigned;
- (f) Matters not assigned as errors on appeal but upon which the determination of a question properly assigned, is dependent.

There is no reason why this rule should not apply to administrative bodies as well, like the case before us, for the instant controversy falls squarely under the exceptions to the general rule.

In the instant case, not only did petitioner fail to comply with Section 2, Rule VIII, Book V of the Implementing Rules and Regulations of the Labor Code as amended^[28] but also the record reveals that neither did he exhaust the remedies^[29] set forth by the Constitution and by-laws of both unions. In the National Convention of PACIWU and NACUSIP held on August 10 and 11, 1991, respectively, nothing was heard of petitioner's complaint against private respondents on the latter's alleged unauthorized and illegal disbursement of union funds. In fact, what the National Convention resolved was to approve and adopt the resolution of the National Executive Board removing petitioner from the positions he held.^[30] His failure to seek recourse before the National convention on his complaint against