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# EN BANC

# [ G.R. No. 123426, March 10, 1999 ]

## NATIONAL FEDERATION OF LABOR (NFL), PETITIONER, VS. HON. BIENVENIDO E. LAGUESMA, UNDERSECRETARY OF THE DEPARTMENT OF LABOR AND EMPLOYMENT, AND ALLIANCE OF NATIONALIST GENUINE LABOR ORGANIZATION-KILUSANG MAYO UNO (ANGLO-KMU), RESPONDENTS.

## D E C I S I O N

**KAPUNAN, J.:**

Before us is a petition for *certiorari* under Rule 65 assailing the Resolution in OS-A-7-142-93 (RO700-9412-RU-037) dated August 8, 1995 of Undersecretary Bienvenido E. Laguesma, by authority of the Secretary of Labor and Employment, setting aside the Resolution of the Med-Arbiter dated March 13, 1995.

The antecedents are summarized in the assailed Resolution of Undersecretary Laguesma as follows:

> Records show that on 27 December 1994, a petition for certification election among the rank and file employees of Cebu Shipyard and Engineering Work, Inc., was filed by the Alliance of Nationalist and Genuine Labor Organization (ANGLO-KMU), alleging among others, that it is a legitimate labor organization; that respondent Cebu Shipyard and Engineering Work, Inc. is a company engaged in the business of shipbuilding and repair with more or less, four hundred (400) rank and file employees; that the Nagkahiusang Mamumuo sa Baradero - National Federation of Labor is the incumbent bargaining agent of the rank and file employees of the respondent company; that the petition is supported by more than twenty-five percent (25%) of all the employees in the bargaining unit; that the petition is filed within the sixty (60) day period prior to the expiry date of the collective bargaining agreement (CBA) entered into by and between the Nagkahiusang Mamumuo sa Baradero-NFL and Cebu Shipyard Engineering Work, Inc. which is due to expire on 31 December 1994; and, that there is no bar to its bid to be certified as the sole and exclusive bargaining agent of all the rank and file employees of the respondent company.
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> On 2 January 1995, the Med-Arbiter issued an Order, the pertinent portion of which reads as follows:
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> > The petitioner is given five days from receipt of this Order to present proofs that it has created a local in the appropriate bargaining unit where it seeks to operate as the bargaining agent and that, relative thereto, it has submitted to the Bureau of Labor Relations or the Industrial Relations Division

of this Office the following: 1) A charter certificate; 2) the constitution and by-laws, a statement on the set of officers, and the books of accounts all of which are certified under oath by the Secretary or Treasurer, as the case may be, of such local or chapter and attested to by its President, OTHERWISE, this case will be dismissed.

SO ORDERED.

On 9 January 1995, forced-intervenor National Federation of Labor (NFL) moved for the dismissal of the petition on grounds that petitioner has no legal personality to file the present petition for certification election and that it failed to comply with the twenty-five percent (25%) consent requirement. It averred among others, that settled is the rule that when a petition for certification election is filed by the federation which is merely an agent, the petition is deemed to be filed by the local/chapter, the principal, which must be a legitimate labor organization; that for a local to be vested with the status a legitimate labor organization, it must submit to the Bureau of Labor Relations (BLR) or the Industrial Relations Division of the Regional Office of the Department of Labor and Employment the following: a) charter certificate, indicating the creation or establishment of a local chapter; b) constitution and by-laws; c) set of officers, and d) books of accounts; that petitioner failed to submit the aforesaid requirements necessary for its acquisition of legal personality; that compliance with the aforesaid requirements must be made at the time of the filing of the petition within the freedom period; that the submission of the aforesaid requirements beyond the freedom period will not operate to allow the defective petition to prosper; that contrary to the allegation of the petitioner, the number of in the subject bargaining unit is 486, twenty-five percent (25%) of which is 122; that the consent signatures submitted by the petitioner is 120 which is below the required 25% consent requirement; that of the 120 employees who allegedly supported the petition, one (1) executed a certification stating that the signature, Margarito Cabalhug, does not belong to him, 15 retracted, 9 of which were made before the filing of the petition while 6 were made after the filing of the petition; and, that the remaining 104 signatures are way below the 25% consent requirement.

On 16 January 1995, forced-intervenor filed an Addendum/Supplement to its Motion to Dismiss, together with the certification issued by the Regional Office No. VII, this Department, attesting to the fact that the mandatory requirements necessary for the petitioner to acquire the requisite legal personality were submitted only on 6 January 1995 and the certification issued by the BLR, this Department, stating that as of 11 January 1995, the ANGLO-Cebu Shipyard and Engineering Work has not been reported as one of the affiliates of the Alliance of Nationalist and Genuine Labor Organization (ANGLO). Forced intervenor alleged that it is clear from the said certification that when the present petition was filed on 27 December 1994, petitioner and its alleged local/chapter have no legal personality to file the same. It claimed that the fatal defect in the instant petition cannot be cured with the submission of the requirements in question as the local/chapter may be accorded the status of a

> legitimate labor organization only on 6 January 1995 which is after the freedom period expired on 31 December 1994. Forced intervenor further claimed that the documents submitted by the petitioner were procured thru misrepresentation, and fraud, as there was no meeting on 13 November 1994 for the purpose of ratifying a constitution and by-laws and there was no election of officers that actually took place.
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> On 15 February 1995, petitioner filed its opposition to the respondent's motion to dismiss. It averred among others, that in compliance with the order of the Med-Arbiter, it submitted to the Regional Office No. VII, this Department, the following documents; charter certificate, constitution and by-laws; statement on the set of officers and treasurer's affidavit in lieu of the books of accounts; that the submission of the aforesaid document, as ordered, has cured whatever defect the petition may have at the time of the filing of the petition; that at the time of the filing of the petition, the total number of rank and file employees in the respondent company was about 400 and that the petition was supported by 120 signatures which are more than the 25% required by law; that granting without admitting that it was not able to secure the signatures of at least 25% of the rank and file employees in the bargaining unit, the Med-Arbiter is still empowered to order for the conduct of a certification election precisely for the purpose of ascertaining which of the contending unions shall be the exclusive bargaining agent pursuant to the ruling of the Supreme Court in the case of California Manufacturing Corporation vs. Hon. Undersecretary of Labor, et. al., G.R. No. 97020, June 8, 1992.
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> On 20 February 1995, forced-intervenor filed its reply, reiterating all its arguments and allegations contained in its previous pleadings. It stressed that petitioner is not a legitimate labor organization at the time of the filing of the petition and that the petitioner's submission of the mandatory requirements after the freedom period would not cure the defect of the petition.
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> On 13 March 1995, the Med-Arbiter issued the assailed Resolution dismissing the petition, after finding that the submission of the required documents evidencing the due creation of a local was made after the lapse of the freedom.[1]

The alliance of Nationalist Genuine Labor Organization-Kilusang Mayo Uno (ANGLO-KMU) filed an appeal from the March 13, 1995 Med-Arbiter's resolution insisting that it is a legitimate labor organization at the time of the filing of the petition for certification election, and claiming that whatever defect the petition may have had was cured by the subsequent submission of the mandatory requirements.

In a Resolution dated August 8, 1995, respondent Undersecretary Bienvenido E. Laguesma, by authority of the Secretary of Labor and Employment, set aside the Med-Arbiter's resolution and entered in lieu thereof a new order "finding petitioner [ANGLO-KMU] as having complied with the requirements of registration at the time of the filing of the petition and remanding the records of this case to the Regional Office of origin x x x."[2]

The National Federation of Labor thus filed this special civil action for *certiorari* under Rule 65 of the Rules of Court raising the following grounds:

> A. THE RESOLUTION OF PUBLIC RESPONDENT HON. BIENVENIDO E. LAGUESMA DATED 8 AUGUST 1995 AND HIS ORDER DATED 14 SEPTEMBER 1995 WERE ISSUED IN DISREGARD OF EXISTING LAWS AND JURISPRUDENCE; AND
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> B. GRAVELY ABUSED HIS DISCRETION IN APPLYING THE RULING IN THE CASE OF FUR V. LAGUESMA, G.R. NO. 109251, MAY 26, 1993, IN THE PRESENT CASE.

We will not rule on the merits of the petition. Instead, we will take this opportunity to lay the rules on the procedure for review of decisions or rulings of the Secretary of Labor and Employment under the Labor Code and its Implementing Rules. (P.D. No. 442 as amended)

In *St. Martin Funeral Homes v. National Labor Relations Commission and Bienvenido Aricayos*, G.R. No. 130866, September 16, 1998, the Court re-examined the mode of judicial review with respect to decisions of the National Labor Relations Commission.

The course taken by decisions of the NLRC and those of the Secretary of Labor and Employment are tangent, but **all are within the umbra of the Labor Code of the Philippines and its implementing rules.** On this premise, we find that the very same rationale in *St. Martin Funeral Homes v. NLRC* finds application here, leading ultimately to the same disposition as in that leading case.

We have always emphatically asserted our power to pass the decisions and discretionary acts of the NLRC well as the Secretary of Labor in the face of the contention that no judicial review is provided by the Labor Code. We stated in *San Miguel Corporation v. Secretary of Labor*[3] thus:

> xxx. It is generally understood that as to administrative agencies exercising quasi-judicial or legislative power there is an underlying power in the courts to scrutinize the acts of such agencies on questions of law and jurisdiction even though no right of review is given by statute (73 C.J.S. 506, note 56).
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> The purpose of judicial review is to keep the administrative agency within its jurisdiction and protect substantial rights of parties affected by its decision (73 C.J.S. 507, Sec, 165). It is part of the system of checks and balances which restricts the separation of powers and forestalls arbitrary and unjust adjudications.

Considering the above *dictum* and as affirmed by decisions of this Court, *St. Martin Funeral Homes v. NLRC* succinctly pointed out, the remedy of an aggrieved party is to timely file a motion for reconsideration as a precondition for any further or subsequent remedy, and then seasonably file a special civil action for *certiorari* under Rule 65 of the 1997 Rules of Civil Procedure.

The propriety of Rule 65 as a remedy was highlighted in *St. Martin Funeral Homes v. NLRC*, where the legislative history of the pertinent statutes on judicial review of

cases decided under the Labor Code was traced, leading to and supporting the thesis that "since appeals from the NLRC to the Supreme Court were eliminated, the legislative intendment was that the special civil action of *certiorari* was and still is the proper vehicle for judicial review of decision of the NLRC"[4] and consequently "all references in the amended Section 9 of B.P. No. 129 to supposed appeals from the NLRC to the Supreme Court are interpreted and hereby declared to mean and refer to petitions for *certiorari* under Rule 65."[5]

Proceeding therefrom and particularly considering that the special civil action of *certiorari* under Rule 65 is within the concurrent original jurisdiction of the Supreme Court and the Court of Appeals, *St Martin Funeral Homes v. NLRC* concluded and directed that all such petitions should be initially filed in the Court of Appeals in strict observance of the doctrine on the hierarchy of courts.

In the original rendering of the Labor Code, Art. 222 thereof provided that the decisions of the NLRC are appealable to the Secretary of Labor on specified grounds. [6] The decisions of the Secretary of Labor may be appealed to the President of the Philippines subject to such conditions or limitations as the president may direct.

Thus under the state of the law then, this Court had ruled that original actions for *certiorari* and prohibition file with this Court against the decision of the Secretary of Labor passing upon the decision of the NLRC were unavailing for *mere error of judgment* as there was a plain, speedy and adequate remedy in the ordinary course of law, which was an appeal to the President. We said in the 1975 case, *Scott v. Inciong*,[7] quoting *Nation Multi Service Labor Union v. Acgoaili:*[8] "It is also a matter of significance that there was an appeal to the President. So it is explicitly provided by the Decree. That was a remedy both adequate and appropriate. It was in line with the executive determination, after the proclamation of martial law, to leave the solution of labor disputes as much as possible to administrative agencies and correspondingly to limit judicial participation."[9]

Significantly, we also asserted in *Scott v. Inciong* that while appeal did not lie, the corrective power of this Court by a writ of *certiorari* was available whenever a jurisdictional issue was raised or one of grave abuse of discretion amounting to a lack or excess thereof, citing *San Miguel Corporation v. Secretary of Labor*.[10]

P.D. No. 1367[11] amending certain provisions of the Labor Code eliminated appeals to the President, but gave the President the power to assume jurisdiction over any cases which he considered national interest cases. The subsequent P.D. No. 1391, [12] enacted "to ensure speedy labor justice and further stabilize industrial peace", further eliminated appeals form the NLRC to the Secretary of Labor but the President still continued to exercise his power to assume jurisdiction over any cases which he considered national interest cases.[13]

Though appeals from the NLRC to the Secretary of Labor were eliminated, presently there are several instances in the Labor Code and its implementing and related rules where an appeal can be filed with the Office of the Secretary of Labor or the Secretary of Labor issues a ruling, to wit: