

## SECOND DIVISION

[ G.R. No. 128399, January 15, 1998 ]

**CAGAYAN SUGAR MILLING COMPANY, PETITIONER, VS.  
SECRETARY OF LABOR AND EMPLOYMENT, DIRECTOR RICARDO  
S. MARTINEZ, SR., AND CARSUMCO EMPLOYEES UNION,  
RESPONDENTS.**

### D E C I S I O N

**PUNO, J.:**

In this petition for certiorari, petitioner **CAGAYAN SUGAR MILLING COMPANY** (CARSUMCO) impugns the October 8, 1996 Decision of the Secretary of Labor, dismissing its appeal and upholding the Order of Regional Director Ricardo S. Martinez, Sr. finding petitioner guilty of violating Regional Wage Order No. RO2-02.

The facts: On November 16, 1993, **Regional Wage Order No. RO2-02<sup>[1]</sup>** was issued by the Regional Tripartite Wage and Productivity Board, Regional Office No. II of the Department of Labor and Employment (DOLE). It provided, inter alia, that:

"Section 1. Upon effectivity of this Wage Order, the statutory minimum wage rates applicable to workers and employees in the private sector in Region II shall be increased as follows:

x x x

1.2 P14.00 per day .... Cagayan

x x x"

On September 12 and 13, 1994, labor inspectors from the DOLE Regional Office examined the books of petitioner to determine its compliance with the wage order. They found that **petitioner violated the wage order as it did not implement an across the board increase** in the salary of its employees.

At the hearing at the DOLE Regional Office for the alleged violation, **petitioner maintained that it complied with Wage Order No. RO2-02 as it paid the mandated increase in the minimum wage.**

In an **Order dated December 16, 1994**, public respondent Regional Director Ricardo S. Martinez, Sr. ruled that petitioner violated Wage Order RO2-02 by failing to implement an across the board increase in the salary of its employees. He ordered petitioner to pay the deficiency in the salary of its employees in the total amount of P555,133.41.

On **January 6, 1995**, petitioner appealed to public respondent Labor Secretary

Leonardo A. Quisumbing. On the same date, the Regional Wage Board issued Wage Order No. RO2-02-A,<sup>[2]</sup> amending the earlier wage order, thus:

"Section 1. Section 1 of Wage Order No. RO2-02 shall now read as, "Upon effectivity of this Wage Order, the workers and employees in the private sector in Region 2 shall receive an across the board wage increase as follows:

x x x

1.2 P14.00 per day .... Cagayan

x x x

"Section 2. This amendment is curative in nature and shall retroact to the date of the effectivity of Wage Order No. RO2-02."

On October 8, 1996, the Secretary of Labor dismissed petitioner's appeal and affirmed the Order of Regional Director Martinez, Sr. Petitioner's motion for reconsideration was likewise denied.<sup>[3]</sup>

On February 12, 1997, private respondent **CARSUMCO EMPLOYEES UNION** moved for execution of the December 16, 1994 Order. Regional Director Martinez, Sr. granted the motion and issued the writ of execution. On March 4, 1997, petitioner moved for reconsideration to set aside the writ of execution. On March 5, the DOLE regional sheriff served on petitioner a notice of garnishment of its account with the Far East Bank and Trust Company. On March 10, the sheriff seized petitioner's dump truck and scheduled its public sale on March 20, 1997.

Hence, this petition, with a prayer for the issuance of a temporary restraining order (TRO).

On April 3, 1997, this Court issued a TRO enjoining respondents from enforcing the writ of execution.<sup>[4]</sup> On July 16, upon petitioner's motion, we amended the TRO by also enjoining respondents from enforcing the Decision of the Secretary of Labor and conducting further proceedings until further orders from this Court.<sup>[5]</sup>

In the case at bar, petitioner contends that:

#### I

WAGE ORDER RO2-02 IS NULL AND VOID FOR HAVING BEEN ISSUED IN VIOLATION OF THE PROCEDURE PROVIDED BY LAW AND IN VIOLATION OF PETITIONER'S RIGHT TO DUE PROCESS OF LAW.

#### II

WAGE ORDER NO. RO2-02 CLEARLY PROVIDED FOR THE FIXING OF A STATUTORY MINIMUM WAGE RATE AND NOT AN ACROSS THE BOARD INCREASE IN WAGES.

#### III