

FIRST DIVISION

[G.R. No. 113097, April 27, 1998]

NASIPIT LUMBER COMPANY, INC., AND PHILIPPINE WALLBOARD CORPORATION, PETITIONERS, VS. NATIONAL WAGES AND PRODUCTIVITY COMMISSION, WESTERN AGUSAN WORKERS UNION (WAWU-ULGWP LOCAL 101), TUNGAO LUMBER WORKERS UNION (TULWU-ULGWP LOCAL 102) AND UNITED WORKERS UNION (UWU-ULGWP LOCAL 103), RESPONDENTS.

D E C I S I O N

PANGANIBAN, J.:

The Labor Code, as amended by RA 6727 (the Wage Rationalization Act), grants the National Wages and Productivity Commission (NWPC) the power to prescribe rules and guidelines for the determination of appropriate wages in the country. Hence, “guidelines” issued by the Regional Tripartite Wages and Productivity Boards (RTWPB) without the approval of or, worse, contrary to those promulgated by the NWPC are ineffectual, void and cannot be the source of rights and privileges.

The Case

This is the principle used by the Court in resolving this petition for certiorari under Rule 65 of the Rules of Court assailing the Decision^[1] dated March 8, 1993, promulgated by the NWPC^[2] which disposed as follows:

“WHEREFORE, premises considered, the Decision appealed from is hereby MODIFIED. The application for exemption of Anakan Lumber Company is hereby GRANTED for a period of one (1) year retroactive to the date subject Wage Orders took effect until November 21, 1991. The applications for exemption of Nasipit Lumber Company and Philippine Wallboard Corporation are hereby DENIED for lack of merit, and as such, they are hereby ordered to pay their covered workers the wage increases under subject Wage Orders retroactive to the date of effectivity of said Wage Orders plus interest of one percent (1%) per month.

SO ORDERED.”

Petitioners also challenge the NWPC’s Decision^[3] dated November 17, 1993 which denied their motion for reconsideration.

The RTWPB’s August 1, 1991 Decision, which the NWPC modified, disposed as follows:

“WHEREFORE, all foregoing premises considered, the instant petition for exemption from compliance with Wage Order Nos. RX-01 and RX-01-A is hereby approved under and by virtue of criteria No. 2, Section 3 of RTWPB Guidelines No.

3 on Exemption, dated November 26, 1990, for a period of only one (1) year, retroactive to the date said Wage Order took effect up to November 21, 1991.

SO ORDERED.”^[4]

The Facts

The undisputed facts are narrated by the NWPC as follows:

“On October 20, 1990, the Region X [Tripartite Wages and Productivity] Board issued Wage Order No. RX-01 which provides as follows:

‘Section 1. Upon the effectivity of this Wage Order, the increase in minimum wage rates applicable to workers and employees in the private sector in Northern Mindanao (Region X) shall be as follows:

- a. The provinces of Agusan del Norte, Bukidnon, Misamis Oriental, and the Cities of Butuan, Gingoog, and Cagayan de Oro - - - - ₱13.00/day
- b. The provinces of Agusan del Sur, Surigao del Norte and Misamis Occidental, and the Cities of Surigao Oroquieta, Ozamis and Tangub - - - - ₱11.00/day
- c. The province of Camiguin ₱9.00/day’

Subsequently, a supplementary Wage Order No. RX-01-A was issued by the Board on November 6, 1990 which provides as follows:

‘Section 1. Upon the effectivity of the original Wage Order RX-01, all workers and employees in the private sector in Region X already receiving wages above the statutory minimum wage rates up to one hundred and twenty pesos (₱120.00) per day shall also receive an increase of ₱13, ₱11, ₱9 per day, as provided for under Wage Order No. RX-01;’

Applicants/appellees Nasipit Lumber Company, Inc. (NALCO), Philippine Wallboard Corporation (PWC), and Anakan Lumber Company (ALCO), claiming to be separate and distinct from each other but for expediency and practical purposes, jointly filed an application for exemption from the above-mentioned Wage Orders as distressed establishments under Guidelines No. 3, issued by the herein Board on November 26, 1990, specifically Sec. 3(2) thereof which, among others, provides:

‘A. For purposes of this Guidelines the following criteria to determine whether the applicant-firm is actually distressed shall be used.

X X X

X X X

X X X

2. Establishment belonging to distressed industry - an establishment that is engaged in an industry that is distressed due to conditions beyond its control as may be determined by the Board in consultation with DTI and NWPC. (Underscoring supplied)

X X X

X X X

X X X

Applicants/appellees aver that they are engaged in logging and integrated wood processing industry but are distressed due to conditions beyond their control, to wit: 1) Depressed economic conditions due to worldwide recession; 2) Peace and order and other emergency-related problems causing disruption and suspension of normal logging operations; 3) Imposition of environmental fee for timber production in addition to regular forest charges; 4) Logging moratorium in Bukidnon; 5) A

reduction in the annual allowable volume of cut logs of NALCO & ALCO by 59%; 6) Highly insufficient raw material supply; 7) Extraordinary increases in the cost of fuel, oil, spare parts, and maintenance; 8) Excessive labor cost/production ratio that is more or less 47%; and 9) Lumber export ban.

On the other hand, oppositor/appellant Unions jointly opposed the application for exemption on the ground that said companies are not distressed establishments since their capitalization has not been impaired by 25%.”^[5]

Citing liquidity problems and business decline in the wood-processing industry, the RTWPB approved the applicants’ joint application for exemption in this wise:

“1. The Board considered the arguments presented by petitioners and the oppositors. The Board likewise took note of the financial condition of petitioner firms. One of the affiliates, Anakan Lumber Company, is confirmed to be suffering from capital impairment by: 14:80% in 1988, 71.35% in 1989 and 100% in 1990. On the other hand, NALCO had a capital impairment of 6.41%. 13.53% and 17.04% in 1988, 1989 and 1990, respectively, while PWC had no capital impairment from 1988 to 1990. However, the Board also took note of the fact that petitioners are claiming for exemption, not on the strength of capital impairment, but on the basis of belonging to a distressed industry - an establishment that is engaged in an industry that is distressed due to conditions beyond its control as may be determined by the Board in consultation with DTI and NWPC.

2. Inquiries made by the Board from the BOI and the DTI confirm that all petitioner-firms are encountering liquidity problems and extreme difficulty servicing their loan obligations.

3. A perusal of the Provincial Trade and Industry Development Plan for Agusan del Norte and Butuan City where petitioners are operating their business, confirms the existence of a slump in the wood-processing industry due to the growing scarcity of [a] large volume of raw materials to feed the various plywood and lumber mills in the area. A lot of firms have closed and shifted to other ventures, the report continued, although the competitive ones are still in operation.

4. The Board took note of the fact that most of the circumstances responsible for the financial straits of petitioners are largely external, over which petitioners have very little control. The Board feels that as an alternative to closing up their business[es] which could bring untold detriment and dislocation to [their] 4,000 workers and their families, petitioners should be extended assistance and encouragement to continue operating - so that jobs could thereby be preserved during these difficult times. One such way is for the Board to grant them a temporary reprieve from compliance with the mandated wage increase specifically W.O. RX-01 and RX-01-A only.”^[6]

Dissatisfied with the RTWPB’s Decision, the private respondents lodged an appeal with the NWPC, which affirmed ALCO’s application but reversed the applications of herein petitioners, NALCO and PWC. The NWPC reasoned:

“The Guidelines No. 3 dated November 26, 1990, issued by the herein Board cannot be used as valid basis for granting applicants/appellees application for exemption since it did not pass the approval of this Commission.

Under the Rules of Procedure on Minimum Wage Fixing dated June 4, 1990, issued by this Commission pursuant to Republic Act 6727, particularly Section 1 of Rule VIII thereof provides that:

‘Section 1. Application For Exemption. Whenever a wage order provides for exemption, applications thereto shall be filed with the appropriate Board which shall process the same, subject to guidelines issued by the Commission.’ (Underscoring supplied)

Clearly, it is the Commission that is empowered to set [the] criteria on exemption from compliance with wage orders. While the Boards may issue supplementary guidelines on exemption, the same should first pass the Commission for the purpose of determining its conformity to the latter’s general policies and guidelines relative thereto. In fact, under the “Guidelines on Exemption from Compliance with the Prescribed Wage/Cost of Living Allowance Increases Granted by the Regional Tripartite Wages and Productivity Boards” dated February 25, 1991, issued by the Commission, there is a provision that “(T)he Board may issue supplementary guidelines for exemption x x x subject to review/approval by the Commission”. (Section 11). In the case at bar, after the Commission Secretariat made some comments on said Guidelines No. 3, the same was never submitted again for [the] Commission’s approval either justifying its original provisions or incorporating the comments made thereon. Until and unless said Guidelines No. 3 is approved by the Commission, it has no operative force and effect.

The applicable guidelines on exemption therefore is that one issued by the Commission dated February 25, 1991, the pertinent portion of which reads:

“Section 3. CRITERIA FOR EXEMPTION

x x x

x x x

x x x

2. Distressed Employers/Establishment:

a. In the case of a stock corporation, partnership, single proprietorship or non-stock, non-profit organization engaged in business activity or charging fees for its services.

When accumulated losses at end of the period under review have impaired by at least 25 percent the:

- Paid-up-capital at the end of the last full accounting period preceding the application, in the case of corporations;
- Total invested capital at the beginning of the last full accounting period preceding the application, in the case of partnership and single proprietor-ships”(Underscoring supplied)

A perusal of the financial documents on record shows that for the year 1990, which is the last full accounting period preceding the applications for exemption, appellees NALCO, ALCO, and PWC incurred a capital impairment of 1.89%, 28.72%, and 5.03%, respectively. Accordingly, based on the criteria set forth above in the NWPC Guidelines on Exemption, only the application for exemption of ALCO should be approved in view of its capital impairment of 28.72%.

We are not unmindful of the fact that during the Board hearing conducted, both labor and management manifested their desire for a uniform decision to apply to all three (3) firms. However, we cannot grant the same for want of legal basis considering

that we are required by the rules to decide on the basis of the merit of application by an establishment having a legal personality of its own.”^[7]

In denying petitioners’ motion for reconsideration, public respondent explained:

“The fact that applicant companies relied in good faith upon Guidelines No. 3 issued by the Board a quo, the same is not sufficient reason that they should be assessed based on the criteria of said Guidelines considering that it does not conform to the policies and guidelines relative to wage exemption issued by this Commission pursuant to Republic Act 6727. Consequently, it has no force and effect. As such, said Guidelines No. 3 cannot therefore be a source of a right no matter if one has relied on it in good faith. In like manner that the workers, who are similarly affected, cannot be bound thereof.

Moreover, even assuming that Guidelines No. 3 conforms to the procedural requirement, still, the same cannot be given effect insofar as it grants exemption by industry considering that the subject Wage Order mentioned only distressed establishments as one of those to be exempted thereof. It did not mention exemption by industries. Well-settled is the rule that an implementing guidelines [sic] cannot expand nor limit the provision of [the] law it seeks to implement. Otherwise, it shall be considered ultra vires. And, contrary to applicant companies’ claim, this Commission does not approve rules implementing the Wage Orders issued by the Regional Tripartite Wages and Productivity Boards. Perforce, it cannot be said that this Commission has approved the Rules Implementing Wage Order No[s]. RX-01 and RX-01-A.”^[8]

Hence, this recourse.^[9]

The Issue

Petitioners raise this solitary issue:

“With all due respect, Public Respondent National Wages and Productivity Commission committed grave abuse of discretion amounting to lack of or in excess of jurisdiction in ruling that RTWPB-X-Guideline No. 3 has ‘no operative force and effect’, among others, and consequently, denying for lack of merit the application for exemption of petitioners Nasipit Lumber Company, Inc. and Philippine Wallboard Corporation from the coverage of Wage Orders Nos. RX-01 and RX-01-A.”

In the main, the issue boils down to a question of power. Is a guideline issued by an RTWPB without the approval of or, worse, contrary to the guidelines promulgated by the NWPC valid?

The Court’s Ruling

The petition is unmeritorious. The answer to the above question is in the negative.

Sole Issue: Approval of NWPC Required

Petitioners contend that the NWPC gravely abused its discretion in overturning the RTWPB’s approval of their application for exemption from Wage Orders RX-01 and RX-01-A. They argue that under Art. 122 (e) of the Labor Code, the RTWPB has the power “[t]o receive, process and act on applications for exemption from prescribed wage rates as may be provided by law or any wage order.”^[10] They also maintain that