

SPECIAL FIFTEENTH DIVISION

[CA-G.R. SP NO. 128904, November 19, 2014]

**CENTAUR INTERNATIONAL MANPOWER SERVICES, INC.,
PETITIONER, VS. HON. DANILO P. CRUZ, UNDERSECRETARY OF
LABOR AND EMPLOYMENT AND HON. JENNIFER JARDIN-
MANALILI, POEA ADMINISTRATOR, RESPONDENTS.**

D E C I S I O N

VILLON, J.:

On ground of grave abuse of discretion, this Petition for Certiorari and Prohibition with Prayer for Temporary Restraining Order and Injunction under *Rule 65* of the *1997 Rules of Civil Procedure*, as amended, seeks to reverse and set aside the following: a) the Order dated October 4, 2010^[1] issued by respondent Administrator Jennifer Jardin-Manalili (or "respondent Manalili") of the Philippine Overseas Employment Administration (POEA) in POEA Case No. RV 08-07-1450; as well as the b) Order dated January 9, 2012^[2] and c) Resolution dated January 29, 2013^[3], both issued by respondent Undersecretary Danilo P. Cruz (or "respondent Cruz") of the Department of Labor and Employment (DOLE) in OS-POEA-0218-1119-2010.

Records show that a complaint for violation of Section 2 (e), (n), (q), (s) and (ee), Rule 1, Part VI of the 2002 POEA Rules and Regulations was *motu proprio* initiated by the POEA against petitioner Centaur International Manpower Services, Inc (or "petitioner") based on the indorsement by the Licensing and Regulations Office (LRO) of the POEA.

As summarized by the DOLE, the facts of the case are as follows:

"This case arose from a memorandum dated 28 May 2008 of Renegold Macarulay, Officer-in-Charge of the POEA Regional Extension Unit of Region IX, Zamboanga City, reporting the recruitment activities of Mr. Jesse Lim, representative of Dyncorp-Al-Taif-Technical Services.

"In the said Memorandum, Mr. Macarulay averred that sometime in the first week of November 2007, his office received information relative to the recruitment activities of a certain Jesse Lim representing Dyncorp and Al-Taif-Technical Services. On 15 November 2007, Mr. Lim caused the advertisement and publication in Zamboanga Today of the recruitment activity conducted by Dyncorp without any license or authority to do so. He also coordinated with the Regional Command of the CIDG and the Licensing and Regulation Branch of the POEA for possible apprehension and verification of Mr. Lim's recruitment activities. On 18 November 2007, together with 6 members of the CIDG, they went to the Grand Astoria Hotel where they found Mr. Lim giving lecture to more or less 400 male applicants regarding overseas employment. Thereafter, Mr. Lim was

advised to secure a license to avoid future apprehension and arrest. Since there were no complainants or witnesses in the said activity and considering the armed bodyguards of Mr Lim, the latter eluded arrest. Hence, he and the CIDG decided to file illegal recruitment charges against Mr. Lim where a resolution dated 17 January 2008 was issued by the investigating officer, finding probable cause to file information for illegal recruitment against Mr. Lim.

"Mr. Macarulay further averred that on 25 April 2008, Mr. Lim accompanied twenty-five (25) applicants, majority of them are former members of the military, requesting his office to assist them in their Pre-Departure Orientation Seminar (PDOS). However, he refused to conduct PDOS when Mr. Lim failed to present the necessary communication and documents from its recruitment agency, petitioner herein. Mr. Lim, without asking permission, used the office computer and downloaded the communications of petitioner's President, Engineer Paterno S. Santos, Jr. Thereafter, despite having informed petitioner over the phone that requests for PDOS shall be addressed to OWWA as the latter is the one authorized to conduct the same, two (2) of petitioner's applicants went again to his office for PDOS sometime in the 2nd week of May. He was also informed by the applicants that it was Mr. Lim who interviewed them and caused the preparation of their employment contracts, and that they have not met any other representative of the petitioner.

"Accordingly, Show Cause Order was issued to the petitioner and its covering surety for violation of Section 2 (e), (n), (q) and (ee) of Rule I, Part VI of the 2002 POEA Rules and Regulations Governing the Recruitment and Employment of Land-Based Overseas Workers.

"In its sworn answer, petitioner denied conducting or participating in any recruitment activities in Zamboanga City. It also maintained that had it known such direct hiring being conducted, it would not allow it as this would prejudice its business' goodwill. Petitioner also denied having connection with Dyncorp of Mr Jesse Lim, and alleged that it had no knowledge of the article published in the 15 November 2007 issue of Zamboanga Today. It claimed that it was only in December 2007 that it was contacted by Al-Taif Services, Inc. when the latter requested for the supply of manpower for a project in Abu Dhabi, U.A.E. Petitioner further averred that it never committed any misrepresentation in connection with the recruitment and placement of workers, nor authorized its representatives to conduct any Pre-Departure Seminar in Zamboanga City or allowed anyone to conduct the same in said place. Further, all workers it recruited and deployed are properly documented in compliance with the POEA Rules and Regulations, and all their PDOS are being conducted through PASEI and at its Cebu branch and correspondingly covered by Special Recruitment Authority from the POEA."^[4]

After due consideration of the parties' evidence, respondent Manalili issued the first assailed Order dated October 4, 2010. Pertinently, the Order states:

"The documents submitted in evidence clearly show that the respondent agency authorized Mr. Jesse Lim to act in its behalf. The report states

that on 25 April 2008, Jesse Lim escorted twenty applicants from the respondent agency and requested POEA-Zamboanga City to conduct a Pre-Departure Orientation Seminar (PDOS) for them. To prove that the respondent agency authorized him to act in its behalf, Mr. Lim submitted to Mr. Macarulay the letter of Engr. Paterno P. Santos to POEA referring 19 of its applicants for PDOS. Engr. Santos is the respondent agency's president and the letter bears his signature.

"The respondent agency denied in its answer that it authorized Mr. Jesse Lim to recruit in its behalf. It never denied however that the signature appearing in the letter that Mr. Lim submitted to Mr. Macarulay is its president's signature. Besides, if the respondent agency did not really authorized Mr. Lim to recruit in its behalf, it should have actively participated in his prosecution to protect its interest. There is no evidence to show however that it even helped in filing a case against Mr. Lim to recruit in its behalf in Zamboanga City. Under these circumstances, we hold the respondent agency liable for violation of Section 2 (e) and (n) of Rule 1, Part VI of the 2002 POEA Rules and Regulations.

"We dismiss the charge of violation of Section 2 (q) of the same rules since there is no evidence that the workers that were subject of the report were deployed.

"The charge for violation of Section 2 (s) is also dismissed since no evidence was presented to indicate the orders, notices and other legal processes that were allegedly violated by the respondent.

"We also dismiss the charge for violation of Section 2 (ee) of the same rules because there is no evidence, that aside from those previously discussed, that the respondent agency violated other pertinent provisions of the code and other relevant laws, rules and regulations, guidelines and other issuances on the recruitment and placement of workers for overseas employment.

"**WHEREFORE**, premises considered, We find the respondent agency liable for violation of Section 2 (e) and (n) of Rule 1, Part VI of the 2002 POEA Rules.

This being the respondent agency's 1st violation of Section 2 (e) and (n), the penalty of suspension for a period of eight (8) months is hereby imposed or, in lieu thereof, payment of fine in the amount of P80,000.00.

The charge of violation of Section 2 (q), (s) and (ee) of the same rules are hereby dismissed for lack of merit.

Include the name of JESSE LIM in the POEA List of Person with Derogatory Record.

SO ORDERED."^[5]

Petitioner's appeal to the DOLE was resolved in the assailed DOLE Order dated January 9, 2012 in this wise:

"**WHEREFORE**, the appeal herein treated as petition for review, filed by Centaur International Manpower Services, Inc., is hereby **PARTIALLY GRANTED**. Accordingly, the Order dated 04 October 2010 of the POEA Administrator is **MODIFIED** to the effect that the penalty of suspension of eight (8) months or in lieu thereof, the payment of fine of Eighty Thousand Pesos (P80,000.00) is reduced to four (4) months suspension or fine of Forty Thousand Pesos (P40,000.00).

All other pronouncements contained in the assailed Order not otherwise modified herein, **STANDS**.

SO ORDERED."

Petitioner's Motion for Reconsideration^[6] was denied in the DOLE Resolution dated January 29, 2013, thus:

"**WHEREFORE**, the Motion for Reconsideration filed by Centaur International Manpower Services, Incorporated, is DENIED for lack of merit. Accordingly, our earlier Order dated 09 January 2012, STANDS.

No further pleadings of similar nature shall hereinafter be entertained.

SO RESOLVED."^[7]

Hence, the present petition for certiorari anchored on a lone issue:

I. THE SECRETARY OF LABOR AND EMPLOYMENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN UPHOLDING THE POEA ADJUDICATION OFFICE'S DECISION FINDING THE PETITIONER LIABLE FOR VIOLATION OF SECTION 2 (E) AND (N) OF RULE 1, PART VI OF THE 2002 POEA RULES.

The petition is bereft of merit.

Violation under *Section 2 (e) and (n) of Part VI, Rule I of the 2002 POEA Rules and Regulations Governing the Recruitment and Employment of Land-Based Overseas Workers*, for which petitioner was charged, consist of:

"(e) Engaging in act/s of misrepresentation in connection with recruitment and placement of workers, such as furnishing or publishing any false notice, information or document in relation to recruitment and employment;

x x x x x

(n) Appointing or designating agents, representatives or employees without prior approval from the Administration;"

Petitioner however, asserts that it was not aware of, nor did it have any participation in the recruitment of workers in Zamboanga City, neither did it have knowledge of any direct hiring conducted by Al-Taif Technical Services, Inc or Jesse Lim in said place; denied any knowledge of or acquaintance with Jesse Lim or involvement in his activities as the latter was not an employee, officer or agent of the company.