SUPREME COURT
EN BANC

NATIONAL FEDERATION OF LABOR (NFL),
***Petitioner*,**

-versus-

G.R. No. 123426
March 10, 1999

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*.**
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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.

On 2 January 1995, the Med-Arbiter issued an Order, the pertinent portion of which reads as follows:

> 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 or 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 workers 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.

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 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.

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.

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 period.[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 filing of the petition and remanding the records of this case to the Regional Office of origin."[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

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 vs. 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 vs. NLRC finds application here, leading ultimately to the same disposition as in that leading case.

We have always emphatically asserted our power to pass upon 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 vs. Secretary of Labor[3] thus:

> 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).

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 vs. 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 vs. 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 vs. 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 filed 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 vs. Inciong,[7] quoting Nation Multi Service Labor Union vs. Agcaoili:[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 vs. 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 vs. 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 insure speedy labor justice and further stabilize industrial peace", further eliminated appeals from 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:

(1) Under the Rules and Regulations Governing Recruitment and Placement Agencies for Local Employment[14] dated June 5, 1997 superseding certain provisions of Book I (Pre-Employment) of the implementing rules, the decision of the Regional Director on complaints against agencies is appealable to the Secretary of Labor within ten (10) working days from receipt of a copy of the order, on specified grounds, whose decision shall be final and inappealable.

(2) Article 128 of the Labor Code provides that an order issued by the duly authorized representative of the Secretary of Labor in labor standards cases pursuant to his visitorial and enforcement power under said article may be appealed to the Secretary of Labor.

Section 2 in relation to Section 3 (a), Rule X, Book III (Conditions of Employment) of the implementing rules gives

the Regional Director the power to order and administer compliance with the labor standards provisions of the Code and other labor legislation. Section 4 gives the Secretary the power to review the order of the Regional Director, and the Secretary's decision shall be final and executory.

Section 1, Rule IV (Appeals) of the Rules on the Disposition of Labor Standards Cases in the Regional Offices dated September 16, 1987[15] provides that the order of the Regional Director in labor standards cases shall be final and executory unless appealed to the Secretary of Labor.

Section 5, Rule V (Execution) provides that the decisions, orders or resolutions of the Secretary of Labor and Employment shall become final and executory after ten (10) calendar days from receipt of the case records. The filing of a petition for certiorari before the Supreme Court shall not stay the execution of the order or decision unless the aggrieved party secures a temporary restraining order from the Court within fifteen (15) calendar days from the date of finality of the order or decision or posts a supersedeas bond.

Section 6 of Rule VI (Health and Safety Cases) provides that the Secretary of Labor at his own initiative or upon the request of the employer and/or employee may review the order of the Regional Director in occupational health and safety cases. The Secretary's order shall be final and executory.

(3) Article 236 provides that the decision of the Labor Relations Division in the regional office denying an applicant labor organization, association or group of unions or workers' application for registration may be appealed by the applicant union to the Bureau of Labor Relations within ten (10) days from receipt of notice thereof.

Section 4, Rule V, Book V (Labor Relations), as amended by Department Order No. 9 dated May 1, 1997[16] provides that the decision of the Regional Office denying the application for registration of a workers association whose place of operation is confined to one regional jurisdiction, or the Bureau of Labor

Relations denying the registration of a federation, national or industry union or trade union center may be appealed to the Bureau or the Secretary as the case may be who shall decide the appeal within twenty (20) calendar days from receipt of the records of the case.

(4) Article 238 provides that the certificate of registration of any legitimate organization shall be canceled by the Bureau of Labor Relations if it has reason to believe, after due hearing, that the said labor organization no longer meets one or more of the requirements prescribed by law.

Section 4, Rule VIII, Book V provides that the decision of the Regional Office or the Director of the Bureau of Labor Relations may be appealed within ten (10) days from receipt thereof by the aggrieved party to the Director of the Bureau or the Secretary of Labor, as the case may be, whose decision shall be final and executory.

(5) Article 259 provides that any party to a certification election may appeal the order or results of the election as determined by the Med-Arbiter directly to the Secretary of Labor who shall decide the same within fifteen (15) calendar days.

Section 12, Rule XI, Book V provides that the decision of the Med-Arbiter on the petition for certification election may be appealed to the Secretary.

Section 15, Rule XI, Book V provides that the decision of the Secretary of Labor on an appeal from the Med-Arbiter's decision on a petition for certification election shall be final and executory. The implementation of the decision of the Secretary affirming the decision to conduct a certification election shall not be stayed unless restrained by the appropriate court.

Section 15, Rule XII, Book V provides that the decision of the Med-Arbiter on the results of the certification election may be appealed to the Secretary within ten (10) days from receipt by

the parties of a copy thereof, whose decision shall be final and executory.

Section 7, Rule XVIII (Administration of Trade Union Funds and Actions Arising Therefrom), Book V provides that the decision of the Bureau in complaints filed directly with said office pertaining to administration of trade union funds may be appealed to the Secretary of Labor within ten (10) days from receipt of the parties of a copy thereof .

Section 1, Rule XXIV (Execution of Decisions, Awards, or Orders), Book V provides that the decision of the Secretary of Labor shall be final and executory after ten (10) calendar days from receipt thereof by the parties unless otherwise specifically provided for in Book V.

(6) Article 263 provides that the Secretary of Labor shall decide or resolve the labor dispute over which he assumed jurisdiction within thirty (30) days from the date of the assumption of jurisdiction. His decision shall be final and executory ten (10) calendar days after receipt thereof by the parties.

From the foregoing we see that the Labor Code and its implementing and related rules generally do not provide for any mode for reviewing the decision of the Secretary of Labor. It is further generally provided that the decision of the Secretary of Labor shall be final and executory after ten (10) days from notice. Yet, like decisions of the NLRC which under Art. 223 of the Labor Code become final after ten (10) days,[17] decisions of the Secretary of Labor come to this Court by way of a petition for certiorari even beyond the ten-day period provided in the Labor Code and the implementing rules but within the reglementary period set for Rule 65 petitions under the 1997 Rules of Civil Procedure. For example, in M . Ramirez Industries vs. Secretary of Labor,[18] assailed was respondent's order affirming the Regional Director's having taken cognizance of a case filed pursuant to his visitorial powers under Art. 128 (a) of the Labor Code; in Samahang Manggagawa sa Permed vs. Secretary of Labor,[19] assailed was respondent's order setting

aside the Med-Arbiter's dismissal a petition for certification election; Samahan ng Manggagawa sa Pacific Plastic vs. Laguesma,[20] assailed was respondent's order affirming the Med-Arbiter's decision on the results of a certification election; in Philtread Workers Union vs. Confessor,[21] assailed was respondent's order issued under Art. 263 certifying a labor dispute to the NLRC for compulsory arbitration.

In two instances, however, there is specific mention of a remedy from the decision of the Secretary of Labor, thus:

(1) Section 15, Rule XI, Book V of the amended implementing rules provides that the decision of the Secretary of Labor on appeal from the Med-Arbiter's decision on a petition for certification election shall be final and executory, but that the implementation of the Secretary's decision affirming the Med-Arbiter's decision to conduct a certification election "shall not be stayed unless restrained by the appropriate court."

(2) Section 5, Rule V (Execution) of the Rules on the Disposition of Labor Standards Cases in Regional Offices provides that "the filing of a petition for certiorari before the Supreme Court shall not stay the execution of the [appealed] order or decision unless the aggrieved party secures a temporary restraining order from the Court."

We perceive no conflict with our pronouncements on the proper remedy which is Rule 65 and which should be initially filed in the Court of Appeals in strict observance of the doctrine on the hierarchy of courts. Accordingly, we read "the appropriate court" in Section 15, Rule XI, Book V of the Implementing Rules to refer to the Court of Appeals.

Section 5, Rule V of the Rules on the Disposition of Labor Standards Cases in Regional Offices specifying the Supreme Court as the forum for filing the petition for certiorari is not infirm in like manner or similarly as is the statute involved in Fabian vs. Desierto.[22] And Section 5 cannot be read to mean that the petition for certiorari can only be filed exclusively and solely with this Court, as the provision

must invariably be read in relation to the pertinent laws on the concurrent original jurisdiction of this Court and the Court of Appeals in Rule 65 petitions.

In fine, we find that it is procedurally feasible as well as practicable that petitions for certiorari under Rule 65 against the decisions of the Secretary of Labor rendered under the Labor Code and its implementing and related rules be filed initially in the Court of Appeals. Paramount consideration is strict observance of the doctrine on the hierarchy of courts, emphasized in St. Martin Funeral Homes vs. NLRC, on "the judicial policy that this Court will not entertain direct resort to it unless the redress desired cannot be obtained in the appropriate courts or where exceptional and compelling circumstances justify availment of a remedy within and calling for the exercise of our primary jurisdiction."[23]

WHEREFORE, in view of the foregoing, the instant petition for certiorari, together with all pertinent records thereof, is hereby **REFERRED** to the Court of Appeals for appropriate action and disposition.

SO ORDERED.

Davide, Jr., *C.J.*, Romero, Bellosillo, Melo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena and Gonzaga-Reyes, *JJ.*, concur.

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[1] Rollo, pp. 23-27
[2] Id., at 29.
[3] 64 SCRA 56 (1975). Cited fn. 11 St. Martin Funeral Homes vs. NLRC.
[4] At pp. 13-14.
[5] At p. 15.
[6] Art. 223.
(a) If there is a prima facie evidence of abuse of discretion;
(b) If made purely on questions of law; and
(c) If there is a showing that the national security or social and economic stability is threatened.
[7] 68 SCRA 473 (1975).
[8] 64 SCRA 274 (1975).

[9] Also Confederation of Citizens Labor Unions (CCLU) vs. National Labor Relations Commission, 60 SCRA 450 (1974).
[10] See footnote no. 3.
[11] Entitled "Further Amending Certain Provisions of Book V of Presidential Decree No. 442, Otherwise Known as the Labor Code of the Philippines, As Amended." Issued May 1, 1978.
[12] Entitled "Amending Book V of the Labor Code of the Philippines to Insure Speedy Labor Justice and Further Stabilize Industrial Peace." Issued May 29, 1978.
[13] Section 7, Rule II of the Rules Implementing Presidential Decree No. 1391 effective September 15, 1978 provides that "[t]here shall henceforth be no appeal from decisions [of the Commission] to the Minister of Labor except as provided in PD 1367 and its implementing rules concerning appeals to the Prime Minister, and the decisions of the Commission en banc or any of its Divisions shall be final and executory.
[14] Issued by then Secretary of Labor Leonardo A. Quisumbing pursuant to Art. 5 of the Labor Code.
[15] Issued by then Secretary of Labor and Employment Franklin M. Drilon.
[16] Issued by the Secretary of Labor Leonardo A. Quisumbing.
[17] Observation made in St. Martin Funeral Home vs. NLRC.
[18] 266 SCRA 111 (1997).
[19] G.R No. 107792, March 2,1998.
[20] 267 SCRA 303 (1997).
[21] 269 SCRA 393 (1997).
[22] G.R No. 129742, September 16, 1998, where we declared invalid Section 27 of R.A. No. 6770 (Ombudsman Act of 1989), together with Section 7, Rule III of Administrative Order No. 07 (Rules of Procedure of the Office of the Ombudsman), and any other provision of law or issuance implementing the aforesaid Act and insofar as they provide for appeals in administrative disciplinary cases from the Office of the Ombudsman to the Supreme Court, on the ground that these violate the proscription in Section 30, Article VI of the Constitution against a law which increases the appellate jurisdiction of the Supreme Court.

We note parenthetically that rules and regulations issued by administrative or executive officers in accordance with, and as authorized by, law have the force and effect of law or partake the nature of a statute. Victorias Milling Co., Inc. vs. Social Security Commission, 114 Phil. 555 (1962).
[23] Santiago vs. Vasquez, 217 SCRA 633 (1993), cited at p. 15.