

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**OSIAS ACADEMY and MONICA R. DE
CASTRO,**

Petitioners,

-versus-

**G.R. No. 83257-58
December 21, 1990**

**THE DEPARTMENT OF LABOR AND
EMPLOYMENT, CONCHITA
MERCADO, NECITAS GACIS, EVELYN
B. GARAIAS, ESTRELLA GATON, EVA L.
CAYETANO, TERESA G. BILAZON,
SUSAN G. FUELLAS, ELVIRA D. GACIS,
LOURDES CORREA, JULIETA A.
MANALO, NILA G. GABELO and
TEODORO GUANIZO,**

Respondents.

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DECISION

PARAS, J.:

Alleging grave abuse of discretion amounting to lack of jurisdiction, this petition for certiorari seeks the annulment of the Order^[1] of the Department of Labor and Employment which reversed the Order^[2] of the Regional Director dismissing the complaint for money claims filed

by herein private respondents in LRD Cases Nos. RO5-05-81 and RO5-19-81 entitled "Eva Cayetano et. al., Conchita Mercado et. al. vs. Osias Academy/Monica de Castro".

Private respondents were the complainants in the labor case below while petitioner Osias Academy was the respondent.

The factual background of the case as found by the Regional Director, Regional Office No. 5 of Legaspi City, is as follows:

"On January 19, 1981, complainants Eva Cayetano, Susan E. Fuellas, Julieta A. Manalo, Nela Gabelo, Teresa Belazon, Elvira B. Gacis, Lourdes V. Correa and Teddy L. Guanizo, all members of the teaching staff of the Osias Academy, Matnog, Sorsogon, filed complaints for underpayment, non-payment of living allowances and the 13th month bonus against the latter.

"Conciliation of the case (05-81) was assigned to Mrs. Emelita S. Ongtangco who scheduled the initial conference on January 30, 1981.

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"On July 2, 1981, complainant Eva Cayetano, sent a telegram-complaint to Minister Blas F. Ople, Ministry of Labor & Employment, Manila requesting referral of this case to the Arbitration Branch due to the alleged refusal of the Regional Director to refer case to the Arbitration Branch for hearing on the merits. The telegram was transmitted to this Office, thru the Assistant Minister, on July 6, 1981.

"In another development, four (4) new complainants filed their complaints against the same respondent (19-81) on April 21, 1981, namely: Conchita Mercado, for underpayment, overtime pay, violations of PD 851 and non-payment of living allowances on the differential allowances on the matter. Complainant Estrella Gatton filed a similar complaint against the same respondent, Necitas Gacis and Evelyn B. Garais.

“To re-state the position taken by the herein complainants, the common demands from their employer are: underpayment, violation of PD 851, violation of Presidential decrees on Cost of Living Allowance and in the case of complainant Eva Cayetano another cause of action for non-payment of vacation and sick leave has been included.

“Going through the records of the instant cases, the complainants’ position questioning the correctness in the computation of salaries and wages and the economic benefits grantable by law which was arrived at in a complaint inspection undertaken by duly assigned Labor Regulation Officers of this Office on September 29, 1980 was made very manifest.

“The Labor Regulation Officers, after due investigation, came to the conclusion that the respondent as of the date of inspection has been found to have underpaid its employees including the complainants herein in the benefits granted by PDs 1678 and 1713 in the total amount of P1,955.50 more specifically detailed as follows:

Name of Employee	ECOLA DIFFERENTIAL PDs 1678/1713
EVA L. CAYETANO	P15.00
NILA GABELO	15.00
CONCHITA MERCADO	15.00
ELVIRA GACIS	192.25
LOURDES CORREA	240.00
JULIETA MANALO	240.00
ALEJANDRO CARINTO	240.00
TEDDY GUANIZO	120.00
SUSAN FUELLAS	680.00
REBECCA BENEMERITO	192.25

	P1,955.50
	=====

“Exercising their authority as Labor Regulation Officers, they ordered the respondent to pay the deficiency thru a restitution payroll which was paid on 20 October 1980.

“From this point on, the question foremost in the mind of the Office is: Was payment in reference to the benefits under the Presidential issuances on Emergency Cost of Living Allowances correct or in compliance with the applicable law?

“The records submitted by the respondent is to the effect that the findings on ECOLA deficiency was implemented up to and including the month of March, 1981.

“However, since the other issue raised by the complainants is the correctness of their wages, this Office in fairness to the parties to the above-entitled case and other similarly situated employees and employers forwarded a query to the Bureau of Labor Standards for a final and determinative opinion regarding the correct wages of school teachers or knowledge workers who render actual service for 5-days in a week, more specifically, from Monday thru Friday. A telegraphic answer to the query by the Officer-in-Charge of the Bureau of Labor Standards is hereby quoted in its entirety, principally because of its authoritativeness:

“RE: YOUR QUERY WHAT GROUP PRIVATE SCHOOLS TEACHERS FALL STOP EMPLOYEES GROUP IF DETERMINE BY NUMBER OF DAYS WORK IN A WEEK AND WHETHER REST DAY ARE CONSIDERED PAID STOP THUS IF PRIVATE SCHOOLS TEACHERS WORK MONDAY TO FRIDAY AND REST DAY CONSIDERED PAID THEY WOULD FALL UNDER GROUP 3 BUT IF REST DAY NOT CONSIDERED PAID THEY WOULD FALL UNDER GROUP 4 STOP AND IF THEY WORK MONDAY TO SATURDAY BUT THEIR REST DAY NOT CONSIDERED PAID THEY WOULD FALL UNDER GROUP 2.

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DIRECTOR ZAPANTA”
(Rollo, pp. 28-32).

Applying the interpretation of the Director of the Bureau of Labor Standards, the Regional Director considered the complainants (private respondents herein) as falling under Group IV because their restdays (Saturdays and Sundays) are not regarded payable and are therefore governed by the principle of “no work, no pay”.

Based on these findings, an order was issued by the Regional Director dismissing the complaints, the dispositive portion of which reads:

“WHEREFORE, all the foregoing premises considered, the complaints for differential pay for 13th month bonus pursuant to PD 851, the differential pay in the Cost of Living Allowances and the underpayment of wages are hereby dismissed for lack of merit.

“Consequently, the complaint for vacation and sick leave of Eva Cayetano is likewise dismissed. There is no law which grants vacation and sick leave with pay to employees in the private sector. If these employees enjoy the said benefits, it is because of a collective bargaining agreement or by virtue of management’s generosity or policy, either of which does not obtain in this case.

“The complaint of Conchita Mercado for overtime pay is also dismissed for lack of merit.

“SO ORDERED.” (Rollo, pp. 33-34).

Private respondents Conchita Mercado, Necitas Gacis, Evelyn B. Garais, Estrella Gatón, Eva Cayetano, Teresa G. Bilazon Susan G. Fuellas, Elvira D. Gacis, Lourdes Correa, Julieta A Manalo, Nila G. Gabelo and Teodoro Guanizo appealed to the Secretary of Labor and Employment. On February 2, 1984, the Undersecretary (then Deputy Minister of Labor and Employment) reversed the order of the Regional Director and required the petitioner Osias Academy to pay the private respondent monetary benefits as stated in its order, on the basis of his conclusion that complainants’ claim for underpayment, cost of living allowances, 13th month pay and incentive leave pay do not appear satisfied in petitioner Academy’s own payroll. Among others, the Undersecretary (then Deputy Minister of Labor and

Employment) found that complainants do not belong to the Group IV category or daily paid employees but are monthly employees receiving their pay every “quincena”, thus they are entitled to the statutory benefits accorded monthly employees. Similarly, there is no showing that complainants’ allowances under P.D. 525 and 1123 were integrated to their basic salaries in compliance with P.D. 1751.

Accordingly, the Deputy Minister ruled that complainant were underpaid and therefore, must be paid salary differential (Rollo, pp. 22-25, Annex “A” of the petition).

Petitioners then filed a motion for reconsideration of the aforementioned Order of the Deputy Minister on February 29, 1984 which was denied on August 2, 1985 (Rollo, p. 40 and p. 2, respectively). On second motion for reconsideration (Rollo, p. 58-77), the same was likewise denied in an Order dated January 27, 1988 (Rollo, p. 27).

Hence, this Petition for Certiorari with Preliminary Injunction and Urgent Prayer for Restraining Order.

On May 11, 1988, private respondents filed a “Motion for Execution” of the appealed order of the Department of Labor and Employment but the Regional Office No. V of the Department of Labor refused to act on the motion on the ground that Osias Academy and Monica de Castro filed this instant petition. Moreover, petitioner had allegedly filed an unverified “Motion to Stay Execution” before the Office of the Secretary of Labor on May 23, 1988 but this was dismissed for lack of jurisdiction in an Order dated July 11, 1988, hence, private respondents prayed that this Court take judicial notice of the said order (Rollo, pp. 95-96).

After a brief exchange of pleadings by the parties, the Second Division of this Court, in a resolution dated February 8, 1989 gave due course to the petition and required the parties to submit simultaneous memoranda (Rollo, p. 160).

Petitioners in their memorandum alleged that respondent Department of Labor and Employment acted with grave abuse of discretion amounting to lack of jurisdiction in issuing the disputed

order of February 2, 1984 awarding salary and allowance differentials, service incentive leave pay and 13th month pay to private respondents considering that: (a) private respondents' prayer on appeal was only for the issuance of an order to require the labor arbiter to conduct a hearing; (b) petitioner had earlier fully satisfied an order of the Labor Regulation Officers on the letter-complaint of the same private respondents on the same subject matter and cause of action; (c) the disputed order awarded wage and ECOLA differentials contrary to law and the facts; (d) the disputed order awarded incentive leave pay when such award was not prayed for in the complaint and awarded 13th month pay differentials without basis and contrary to the evidence on record; and (e) the disputed order improperly considered petitioner Monica de Castro as respondent when she was not even named in the complaint subject matter of the disputed order (Rollo, p. 168).

The petition is devoid of merit.

Well established is the principle that findings of administrative agencies which have acquired expertise because their jurisdiction is confined to specific matters are generally accorded not only respect but even finality. Judicial review by this Court on labor cases do not go so far as to evaluate the sufficiency of the evidence upon which the Deputy Minister and the Regional Director based their determinations but are limited to issues of jurisdiction or grave abuse of discretion (*Needle Queen Corporation vs. Nicolas, et al.*, G.R. Nos. 60741-43, December 22, 1989; *Baby Bus Inc. vs. Ministry of Labor*, 158 SCRA 221 [1988]; *Philippine Overseas Drilling and Oil Dev. Corp. vs. Ministry of Labor*, 146 SCRA 79 [1986]; *Rosario Bros. Inc. vs. Ople*, 131 SCRA 72 [1984]). For certiorari to lie, there must be capricious arbitrary and whimsical exercise of power, the very antithesis of the judicial prerogative in accordance with centuries of both civil and common law traditions. The abuse of discretion must be grave and patent and it must be shown that the discretion was exercised arbitrarily or despotically (*Purefoods Corp. vs. NLRC*, 171 SCRA 415 [1989]; *Buiser vs. Leogardo, Jr.*, 131 SCRA 151 [1984]), which is not obtaining in the present case.

It is noteworthy that petitioners have accepted the jurisdiction of the Regional Director by presenting their evidence and asking affirmative relief without challenging his power to hear and try the case.

As can be gleaned from the records, this case could have been settled and disposed of easily if all concerned had followed the proper procedures in labor cases and all evidence and documents presented to the barest requirements of truth and fair play. Indeed, the submission of this case to the arbitration branch as sought by respondent complainants could have settled the case more expeditiously and wisely, but it was petitioner Academy which opposed the arbitration on May 19, 1981.

Private respondents' memorandum of appeal explicitly prayed for "such other remedies and benefits as may be proper under the premises." Such general prayer included the relief granted in the disputed order. Moreover, the award of Service Incentive Leave pay is a statutory benefit which cannot be denied to private respondents (See Article 95, Labor Code), the same is true with respect to the 13th month pay since P.D. 851 states that "all employers are required to pay all their employees receiving a basic salary of not more than P1,000.00 a month, regardless of the nature of their employment, a 13th month pay not later than December 24 of every year [See Sec. 1, P.D. 851; Dentech Mfg. Corp. vs. NLRC, 172 SCRA 588 [1989]] and so all the complainants who were not paid their 13th month pay must be paid accordingly. And this is what the Deputy Minister of Labor did when he ordered the award of 13th month pay and the SIL pay.

Petitioners' contention that its full satisfaction of private respondents' letter-complaint for underpayment/nonpayment of wages, allowances and 13th month pay by virtue of an order of the labor regulation officers, constituted *res judicata* is untenable. The Minister of Labor in exercising his appellate jurisdiction over the order of the Regional Director found that the restitution payroll was deficient and did not include the claims for underpayment and 13th month pay of private respondents. Such appellate jurisdiction includes the power to review the entire records of the case and if the Secretary of Labor finds that the appealed judgment is erroneous or deficient, it may correct said judgment.

As regards the award of wage and ECOLA differentials, its computation and application to private respondents are factual matters that are left to the competence and judgment of the Ministry of Labor, it being “the qualified regulatory agency which can determine more speedily those issues as it is expected to have acquired expertise in the ascertainment of decisive facts, its jurisdiction being confined to specific matters” (Begoso vs. Chairman, Phil. Vet. Adm., 32 SCRA 466 [1970]; MD Transit and Taxi Co., Inc. vs. Estrella, 99 SCRA 316 [1980]).

However, Monica de Castro who was not included as party respondent in the complaint filed by the complainants before the Regional Director cannot be held personally liable for whatever liability may be adjudged against the Osias Academy. Furthermore, said Academy being a corporation, has a personality separate and distinct from its officers or members. This is a very basic principle in Corporation Law.

PREMISES CONSIDERED, the instant petition is **DISMISSED** and the appealed order is **AFFIRMED**, with the modification that the name of Monica de Castro is hereby **DELETED** as a party for she is **NOT LIABLE**.

SO ORDERED.

Melencio-Herrera, Padilla, Sarmiento and Regalado, JJ., concur.

[1] Order dated February 2, 1984 promulgated by Deputy Minister Vicente Leogardo, Jr.

[2] Order signed by Regional Director Eugenio Sagmit, Jr. dated July 20, 1981.