SUPREME COURT
SECOND DIVISION

PAPER INDUSTRIES CORPORATION OF THE PHILIPPINES,
***Petitioner*,**

-versus-

G.R. No. 101738
April 12, 2000

HON. BIENVENIDO E. LAGUESMA, Undersecretary of Labor and Employment, HON. HENRY PABEL, Director of the Department of Labor and Employment Regional Office No. XI and/or the Representation Officer of the Industrial Relations Division who will act for and in his behalf, PCOP-BISLIG SUPERVISORY AND TECHNICAL STAFF EMPLOYEES UNION, ASSOCIATED LABOR UNION and FEDERATION OF FREE WORKERS,
***Respondents*.**
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D E C I S I O N

DE LEON, JR., *J.*:

Before us is a Petition for Certiorari seeking to annul the Resolution[1] and the Order[2] dated April 17, 1991 and August 7, 1991, respectively, of public respondent Bienvenido E. Laguesma, acting then as Undersecretary, now the Secretary, of the Department of Labor and Employment (DOLE), which reversed the Order dated March 27, 1990[3] of Med-Arbiter Phibun D. Pura declaring that supervisors and section heads of petitioner under its new organizational structure are managerial employees and should be excluded from the list of voters for the purpose of a certification election among supervisory and technical staff employees of petitioner.[4]

The facts of the case are the following:

> Petitioner Paper Industries Corporation of the Philippines (PICOP) is engaged in the manufacture of paper and timber products, with principal place of operations at Tabon, Bislig, Surigao del Sur. It has over 9,000[5] employees, 944[6] of whom are supervisory and technical staff employees. More or less 487 of these supervisory and technical staff employees are signatory members of the private respondent PICOP-Bislig Supervisory and Technical Staff Employees Union (PBSTSEU).[7]
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> On August 9, 1989. PBSTSEU instituted a Petition[8] for Certification Election to determine the sole and exclusive bargaining agent of the supervisory and technical staff employees of PICOP for collective bargaining agreement (CBA) purposes.
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> In a Notice[9] dated August 10, 1989, the initial hearing of the petition was set on August 18, 1989 but it was reset to August 25, 1989, at the instance of PICOP, as it requested a fifteen (15) day period within which to file its comments and/or position paper. But PICOP failed to file any comment or position paper. Meanwhile, private respondents Federation of Free Workers (FFW) and Associated Labor Union (ALU) filed their respective petitions for intervention.
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> On September 14, 1989, Med-Arbiter Arturo L. Gamolo issued an Order[10] granting the petitions for interventions of the FFW and ALU. Another Order[11] issued on the same day set the

holding of a certification election among PICOP's supervisory and technical staff employees in Tabon, Bislig, Surigao del Sur, with four (4) choices, namely: (1) PBSTSEU; (2) FFW; (3) ALU; and (4) no union.

On September 21, 1989, PICOP appealed[12] the Order which set the holding of the certification election contending that the Med-Arbiter committed grave abuse of discretion in deciding the case without giving PICOP the opportunity to file its comments/answer, and that PBSTSEU had no personality to file the petition for certification election.

After PBSTSEU filed its Comments[13] to petitioner's appeal, the Secretary of the Labor[14] issued a Resolution[15] dated November 17, 1989 which upheld the Med-Arbiter's Order dated September 17, 1989, with modification allowing the supervising and staff employees in Cebu, Davao and Iligan City to participate in the certification election.

During the pre-election conference on January 18, 1990, PICOP questioned and objected to the inclusion of some section heads and supervisors in the list of voters whose positions it averred were reclassified as managerial employees in the light of the reorganization effected by it.[16] Under the Revised Organizational Structure of the PICOP, the company was divided into four (4) main business groups, namely: Paper Products Business, Timber Products Business, Forest Resource Business and Support Services Business. A vice-president or assistant vice-president heads each of these business groups. A division manager heads the divisions comprising each business group. A department manager heads the departments comprising each division. Section heads and supervisors, now called section managers and unit managers, head the sections and independent units, respectively, comprising each department.[17] PICOP advanced the view that considering the alleged present authority of these section managers and unit managers to hire and fire, they are classified as managerial employees, and hence, ineligible to form or join any labor organization.[18]

Following the submission by the parties of their respective position papers[19] and evidence[20] on this issue, Med-Arbiter Phibun D. Pura issued an Order[21] dated March 27, 1990, holding that supervisors and section heads of the petitioner are managerial employees and therefore excluded from the list of voters for purposes of certification election.

PBSTSEU appealed[22] the Order of the Med-Arbiter to the Office of the Secretary, DOLE. ALU likewise appealed.[23] PICOP submitted evidence militating against the appeal.[24] Public respondent Bienvenido E. Laguesma, acting as the then Undersecretary of Labor, issued the assailed Order[25] dated April 17, 1991 setting aside the Order dated March 27, 1990 of the Med-Arbiter and declaring that the subject supervisors and section heads are supervisory employees eligible to vote in the certification election.

PICOP sought[26] reconsideration of the Order dated April 7, 1991. However, public respondent in his Order[27] dated August 7, 1991 denied PICOP's motion for reconsideration.

Hence, this petition.

PICOP anchors its petition on two (2) grounds, to wit:

I.

THE PUBLIC RESPONDENT HONORABLE BIENVENIDO E. LAGUESMA, UNDERSECRETARY OF LABOR AND EMPLOYMENT, IN A CAPRICIOUS, ARBITRARY AND WHIMSICAL EXERCISE OF POWER ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION, TANTAMOUNT TO ACTING WITHOUT OR IN EXCESS OF JURISDICTION WHEN HE DENIED YOUR PETITIONER'S PLEA TO PRESENT ADDITIONAL EVIDENCE TO PROVE THAT SOME OF ITS MANAGERIAL EMPLOYEES ARE DISQUALIFIED FROM JOINING OR FORMING A UNION REPRESENTED BY CO-RESPONDENT PBSTSEU, IN VIEW OF A SUPERVENING EVENT BROUGHT ABOUT BY THE CHANGES IN THE ORGANIZATIONAL STRUCTURE OF

YOUR PETITIONER WHICH WAS FULLY IMPLEMENTED IN JANUARY 1991 AFTER THE CASE WAS ELEVATED ON APPEAL AND SUBMITTED FOR DECISION.

II.

THE PUBLIC RESPONDENT, HONORABLE BIENVENIDO E. LAGUESMA, ALSO ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION, TANTAMOUNT TO ARBITRARILY ACTING WITHOUT OR IN EXCESS OF JURISDICTION WHEN HE TOTALLY DISREGARDED THE DOCUMENTARY EVIDENCE SO FAR SUBMITTED BY YOUR PETITIONER AND RELIED MAINLY ON THE UNSUBSTANTIATED CLAIM AND MERE ALLEGATIONS OF PRIVATE RESPONDENT, PBSTSEU, THAT THE REORGANIZATION OF YOUR PETITIONER WAS A SHAM AND CALCULATED MERELY TO FRUSTRATE THE UNIONIZATION OF YOUR PETITIONER'S SUPERVISORY PERSONNEL; AND SOLELY ON THIS BASIS, DENIED YOUR PETITIONER'S URGENT MOTION FOR RECONSIDERATION.[28]

PICOP's main thesis is that the positions Section Heads and Supervisors, who have been designated as Section Managers and Unit Managers, as the case may be, were converted to managerial employees under the decentralization and reorganization program it implemented in 1989. Being managerial employees, with alleged authority to hire and fire employees, they are ineligible for union membership under Article 245[29] of the Labor Code. Furthermore, PICOP contends that no malice should be imputed against it for implementing its decentralization program only after the petition for certification election was filed inasmuch as the same is a valid exercise of its management prerogative, and that said program has long been in the drawing boards of the company, which was realized only in 1989 and fully implemented in 1991. PICOP emphatically stresses that it could not have conceptualized the decentralization program only for the purpose of "thwarting the right of the concerned employees to self-organization."

The petition, not being meritorious, must fail and the same should be as it is hereby dismissed.

> ***First.*** In United Pepsi-Cola Supervisory Union (UPSU) vs. Laguesma,[30] we had occasion to elucidate on the term "managerial employees." Managerial employees are ranked as Top Managers, Middle Managers and First Line Managers. Top and Middle Managers have the authority to devise, implement and control strategic and operational policies while the task of First-Line Managers is simply to ensure that such policies are carried out by the rank-and-file employees of an organization. Under this distinction, "managerial employees" therefore fall in two (2) categories, namely, the "managers" per se composed of Top and Middle Managers, and the "supervisors" composed of First-Line Managers.[31] Thus, the mere fact that an employee is designated manager" does not ipso facto make him one. Designation should be reconciled with the actual job description of the employee,[32] for it is the job description that determines the nature of employment.[33]
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> In the petition before us, a thorough dissection of the job description[34] of the concerned supervisory employees and section heads indisputably show that they are not actually managerial but only supervisory employees since they do not lay down company policies. PICOP's contention that the subject section heads and unit managers exercise the authority to hire and fire[35] is ambiguous and quite misleading for the reason that any authority they exercise is not supreme but merely advisory in character. Theirs is not a final determination of the company policies inasmuch as any action taken by them on matters relative to hiring, promotion, transfer, suspension and termination of employees is still subject to confirmation and approval by their respective superior.[36] Thus, where such power, which is in effect recommendatory in character, is subject to evaluation, review and final action by the department heads and other higher executives of the company, the same, although present, is not effective and not an exercise of independent judgment as required by law.[37]

Second. No denial of due process can be ascribed to public respondent Undersecretary Laguesma for the latter's denial to allow PICOP to present additional evidence on the implementation of its program inasmuch as in the appeal before the said public respondent, PICOP even then had already submitted voluminous supporting documents.[38] The record of the case is replete with position papers and exhibits that dealt with the main thesis it relied upon. What the law prohibits is the lack of opportunity to be heard.[39] PICOP has long harped on its contentions and these were dealt upon and resolved in detail by public respondent Laguesma. We see no reason or justification to deviate from his assailed resolutions for the reason that law and jurisprudence aptly support them.

Finally, considering all the foregoing, the fact that PICOP voiced out its objection to the holding of certification election, despite numerous opportunities to ventilate the same, only after respondent Undersecretary of Labor affirmed the holding thereof, simply bolstered the public respondents' conclusion that PICOP raised the issue merely to prevent and thwart the concerned section heads and supervisory employees from exercising a right granted them by law. Needless to stress, no obstacle must be placed to the holding of certification elections, for it is a statutory policy that should not be circumvented.[40]

WHEREFORE, the petition is hereby **DISMISSED**, and the Resolution and Order of public respondent Bienvenido E. Laguesma dated April 17, 1991 and August 17, 1991, respectively, finding the subject supervisors and section heads as supervisory employees eligible to vote in the certification election are **AFFIRMED**. Costs against petitioner.

SO ORDERED.

Bellosillo, Mendoza, Quisumbing and Buena, *JJ.*, concur.

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[1] Rollo, pp. 35-45.
[2] Rollo, pp. 31-34.
[3] Rollo, pp. 321-333.

[4] Rollo, p. 332.
[5] Rollo, p. 542.
[6] Rollo, pp. 46-47.
[7] Ibid.
[8] Docketed as R-202-ROXI MED-UR-59-89, Department of Labor and Employment (DOLE), Regional Office XI in Davao City, ibid.
[9] Issued by Assistant Regional Director Teodulo B. Ramirez, Rollo, p. 48.
[10] Rollo, p. 52.
[11] Rollo, pp. 49-51.
[12] Rollo, pp. 53-62.
[13] Dated October 5,1989, Rollo, pp. 63-92.
[14] Franklin M. Drilon, now Senator.
[15] Rollo, pp. 93-97.
[16] Rollo, p. 322.
[17] Rollo, p. 543.
[18] Rollo, p. 103.
[19] Rollo, pp. 98-110, 148-163,237-249, 265-272, 273-276, 277-289, 311-320.
[20] Rollo, pp. 111-146, 164-236, 250-264, 290-310.
[21] Rollo, pp. 321-333.
[22] Petition dated April 12, 1990, Rollo, pp. 334-361.
[23] Rollo, pp. 402-406.
[24] Rollo, pp. 542-694.
[25] See Note No.1, supra.
[26] Rollo, pp. 703- 715.
[27] See Note No. 2, supra.
[28] Rollo, p. 14.
[29] Art. 245. Ineligibility of managerial employees to join any labor organization; right of supervisory employees. — Managerial employees are not eligible to join, assist or form any labor organization. Supervisory employees shall not be eligible for membership in a labor organization of the rank-and-file employees but may join, assist or form separate labor organizations of their own.
[30] 288 SCRA 15 (1998).
[31] Ibid., citing James A.F. Stoner & Charles Wankel, Management 11 (3rd. ed., 1987).
[32] Pepsi-Cola Products Phil. Inc. vs. Secretary of Labor, et al. G.R. No. 96663; Pepsi Cola Products Philippines vs. Office of the Secretary Department of Labor et al., G.R. No. 103300, August 10, 1999; Pagkakaisa ng mga Manggagawa sa Triumph International-United Lumber and General Workers of the Philippines vs. Ferrer-Calleja, 181 SCRA 119, 126 (1990).
[33] Dunlop Slazenger (Phils.), vs. Secretary of Labor and Employment, 300 SCRA 120, 127 (1998) citing Engineering Equipment, Inc. vs. NLRC, 133 SCRA 752, 760-761 (1984).
[34] Rollo, pp. 545-548, 549-554, 555-558, 559-563.
[35] Rollo, p. 103.
[36] Authority Chart revised December 20, 1989, Rollo, p. 145; see Atlas Lithographic Services, Inc. vs. Laguesma, 205 SCRA 12, 17 (1992).

[37] Philippine Appliance Corporation vs. Laguesma, 226 SCRA 730, 737 (1993) citing Franklin Baker Company of the Philippines vs. Trajano, 157 SCRA 416, 422-433 (1988).
[38] Rollo, pp. 542-694.
[39] Alliance of Democratic Free Labor Organization vs. Laguesma, 254 SCRA 565, 574 (1996).
[40] Trade Unions of the Philippines vs. Laguesma, 233 SCRA 565, 571 (1994); Progressive Development Corporation vs. Secretary Department of Labor and Employment, 205 SCRA 802, 807 (1992).