

Republic of the Philippines  
Department of Labor and Employment  
**NATIONAL WAGES AND PRODUCTIVITY COMMISSION**  
Manila

IN RE: MOTION FOR RECONSIDERATION/  
MEMORANDUM OF APPEAL FROM  
WAGE ORDER NO. NCR-12

NWPC Case No. W.O. 06-012

TRADE UNION CONGRESS OF THE  
PHILIPPINES

Movant-Appellant

x -----x

**DECISION**

For resolution is the Motion for Reconsideration and/or Memorandum of Appeal filed by the Trade Union Congress of the Philippines (TUCP) from Wage Order No. NCR-12 issued by the Regional Tripartite Wages and Productivity Board (Board), National Capital Region, which granted a basic wage increase of P25.00 a day in the National Capital Region (NCR) effective 11 July 2006.

The factual background is as follows:

On 16 May 2006, the Trade Union Congress of the Philippines, hereinafter referred to as the movant-appellant, filed with the Board a petition for a P75.00 per day across-the-board wage increase.

On 05, 08, 09 and 21 June 2006, the Board conducted public consultations/public hearings on the petition which was participated in by workers, employers, government and other interested parties.

On 23 June 2006, the Board issued Wage Order No. NCR-12 providing a basic pay increase of P25.00 a day to all minimum wage earners in the NCR which adjusted the daily minimum wage rates in the NCR as follows:

- a. P350.00 (P300.00 basic wage plus P50.00 ECOLA) for workers in Non-Agriculture Sector; and
- b. P313.00 (P263.00 basic wage plus P50.00 ECOLA) for workers in Agriculture, Private Hospitals with bed capacity of 100 or less, Manufacturing Establishment employing less than 10 workers, Retail/Service Establishments employing 15 workers or less.

The Wage Order took effect on 11 July 2006 having been published in the 26 June 2006 issue of the Philippine Daily Inquirer.

On 06 July 2006, the movant-appellant seasonably filed the instant Motion for Reconsideration and/or Memorandum of Appeal before the Commission based on grave abuse of discretion due to the following:

- a. The P25.00 increase in basic pay miserably falls short of the mandate and criteria prescribed under RA 6727 that the minimum wages to be established shall be as nearly adequate as is economically feasible to maintain minimum standards of living necessary for the health, efficiency, and general well-being of employees within the framework of the national economic and social development program.
- b. It is grossly deficient even for the purpose of recouping lost purchasing power of workers brought about by increases in prices of basic goods, oil and petroleum products.
- c. It disregards the need for decent living standards and the concept of living wage, specifically the demand for living wages, wage adjustment versus the CPI, cost of living and the needs of workers and their families.
- d. The P350.00 per day minimum wage is not even half of the P749.00 per day Family Living Wage for a family of six pursuant to a finding by the National Statistic Coordinating Board (NSCB).
- e. There is urgent need for the integration of the existing cost of living allowance of P50.00 to the basic wage to mitigate the increasing cost of living as this will benefit workers more, particularly in the computation of overtime, 13<sup>th</sup> month pay and other related benefits.

In a Resolution dated 18 July 2006, the Commission resolved to remand the Motion for Reconsideration and/or Memorandum of Appeal to the Board to give said Board the opportunity to pass upon the issues raised by the movant-appellant. The said Resolution was received by the Board on 19 July 2006.

In a Resolution dated 23 August 2006, the Board elevated the Motion for Reconsideration and/or Memorandum of Appeal back to the Commission for the latter's resolution/disposition on the ground of lack of jurisdiction.

During the 14 November 2006 deliberation of the said Motion/Appeal, the Commission clarified that in the exercise of its power of review, it has the authority to remand the said motion/appeal to the Board and the latter should have ruled on the factual issues raised by movant-appellant TUCP as it passed upon these matters in the proceedings it conducted in the issuance of the Wage Order. In the opinion of one Commission member, factual issues as a rule can not be taken up in the Commission level. Further, the records of the NWPC and the Board will bear it out that this is not the first time that TUCP filed a motion for reconsideration from the Wage Order issued by the Board. For instance, on 15 October 1990, the Board issued Wage Order No. NCR-01 increasing the daily minimum wage by P17.00 in the National Capital Region. The TUCP and the Personnel Management Association of the Philippines (PMAP) moved for the reconsideration of the said Wage Order, which was opposed by the Employers Confederation of the Philippines (ECOP). Accordingly, on 23 October 1990, the Board issued Wage Order No. NCR-01-A, amending Wage Order No. NCR-01. The new Wage Order granted an increase of P17.00 per day to all workers in the private sector in the National Capital Region receiving wages even above the minimum up to P125.00 per day.

Nevertheless, in order not to further delay the disposition of the Motion/Appeal, the Commission decided to resolve it. The Commission shall address these issues:

1. WHETHER OR NOT WAGE ORDER NO. NCR-12 IS CONTRARY TO R. A. 6727 FOR FAILURE TO ENSURE THE DECENT STANDARD OF LIVING OF WORKERS.
2. WHETHER OR NOT THE BOARD COMMITTED GRAVE ABUSE OF DISCRETION.

On the first issue, the movant-appellant argues that the P25.00 basic pay increase fell short of the mandate and criteria prescribed under RA 6727 that the minimum wages

to be established shall be as nearly adequate as is economically feasible to maintain minimum standards of living necessary for the health, efficiency, and general well-being of employees within the framework of the national economic and social development program. It contends that the Board, in the determination of minimum wages, shall consider among other relevant factors: demand for living wages; wage adjustment vis-à-vis the consumer price index; the cost of living and changes or increases therein; the needs of workers and their families; improvements in standards of living; and prevailing wage levels. Likewise, it claims that the said increase is grossly deficient even for the purpose of recouping lost purchasing power of workers brought about by increases in prices of basic goods, oil and petroleum products;

Further, the movant-appellant claims that the P350.00 per day minimum wage is not even half of the P749.00 per day Family Living Wage for a family of six pursuant to a finding by the National Statistic Coordinating Board (NSCB). It further argues that there is an urgent need for the integration of the existing cost of living allowance of P50.00 to the basic wage to mitigate the increasing cost of living as this will benefit workers more, particularly in the computation of overtime, 13<sup>th</sup> month pay and other related benefits.

In view of the above allegations of the movant-appellant, the latter claims that the Board committed grave abuse of discretion.

We find the Motion for Reconsideration and/or Memorandum of Appeal lacking in merit.

Relative to the first issue, the records of the case show that the decision to grant a basic wage increase of P25.00 a day was arrived at only after the Board made a factual

determination on the appropriate amount of wage increase based on the series of public consultations and hearing, participated in by all interested parties, including petitioner-TUCP, and the review and study of prevailing economic conditions in the NCR, such as inflation rate, minimum wage compliance, retrenchments, lay offs and closures, unemployment rate, Gross Domestic Product and other socio-economic indicators culled from other government agencies like the National Economic and Development Authority, Department of Trade and Industry and the Department of Energy, among others.

Further, it is the view of the majority of the members of the Commission that the Board, in granting the P25.00 basic wage increase, had to balance the interests of both labor and capital within the framework of national economic and social development program because this is precisely what Republic Act 6727 envisioned when it expressly included in the standards/criteria for minimum wage fixing, relevant factors inherent to both of them, namely: demand for living wages; wage adjustment vis-à-vis the consumer price index; cost of living and changes or increases therein; needs of workers and their families; need to induce industries to invest in the countryside; improvement in standards of living; prevailing wage levels; fair return of the capital invested and capacity to pay of employers; effects on employment generation and family income; and equitable distribution of income and wealth along the imperatives of economic and social development. The determination of what basic wage adjustment to grant has to consider all of these factors so that the Board's decision will conform to the mandate of the law.

Regarding the second issue, the Commission finds no abuse of discretion on the part of the Board as the latter observed both procedural and substantial due process in the issuance of the subject Wage Order.

Unless the Commission finds arbitrariness and/or whimsical exercise of the power of the Board, its factual determination in the issuance of wage orders, including the amount and form of wage increase, is generally accorded respect. Well-embedded is the jurisprudence that factual findings of quasi-judicial bodies in the exercise of their quasi-judicial duties are accorded not only with respect but also with finality if such findings are supported by substantial evidence (*Villareal v. CA*, 219 SCRA 219). It is only upon clear showing of grave abuse of discretion and disregard of the NWPC Rules of

Procedure on Minimum Wage Fixing that such factual determinations may be altered or modified by this Commission.

Also, we find the movant-appellant's prayer to integrate the P50.00 per day ECOLA to the basic wage to be without basis, the same not having been sought for in its original petition for wage increase. It is settled doctrine that issues and questions not raised in the lower court cannot be raised for the first time on appeal. (*Pioneer Savings Loan Bank v. CA*, 226 SCRA 740 [1993]; *Rosales v. CA*, 200 SCRA 300 [1991]).

**WHEREFORE**, premises considered, the Motion for Reconsideration and/or Memorandum of Appeal filed by the Trade Union Congress of the Philippines is hereby **DENIED** for lack of merit. Wage Order No. NCR-12 is **AFFIRMED** in toto.

SO ORDERED.

Manila, Philippines, 18 January 2007.

**ROMEO C. LAGMAN**  
Chairperson Designate

**ROMULO L. NERI**  
Vice-Chairperson

Dissenting opinion attached.

Concurring opinion attached.

**CEDRIC R. BAGTAS**  
Member, Workers' Sector

**FRANCISCO R. FLORO**  
Member, Employers' Sector

Separate opinion attached.

Concurring opinion attached.

**DAVID L. DIWA, JR.**  
Member, Workers' Sector

**EDUARDO T. RONDAIN**  
Member, Employers' Sector

**ESTHER F. GUIRAO**  
Member