



Public Sector Labor-Management Council

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ASSOCIATION OF CONCERNED EMPLOYEES OF THE PHILIPPINE FISHERIES DEVELOPMENT AUTHORITY- COURAGE (ACE-PFDA-COURAGE)

Re: Cancellation/Revocation of the Certificate of Union
Registration of the Association of Concerned Employees
of the Philippine Fisheries Development Authority
(SALAKAB-PFDA)

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PSLMC RESOLUTION NO. 05, s. 2009

The Association of Concerned Employees of the Philippine Fisheries Development Authority-COURAGE (ACE-PFDA-COURAGE) through its National President Rosario D. Deblois, appeals from the Order dated November 9, 2007 of the Department of Labor and Employment-Bureau of Labor Relations (DOLE-BLR) dismissing the Petition for Revocation/Cancellation of the Certificate of Union Registration of the Association of Concerned Employees of the Philippine Fisheries Development Authority (ACE-PFDA-SALAKAB).

The DOLE-BLR Order dated November 9, 2007 in part states, as follows:

"The petition must fail.

"Section 4, Rule VII (B) of the Amended Rules and Regulations Governing the Exercise of the Right of Government Employees to Organize, provides for circumstances under which cancellation or revocation of certificate of registration on the ground of misrepresentation, false statement or fraud may be undertaken. It states:

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"Respondent's use of allegedly misleading similar name or the supposed confusion it causes among the employees, do not fall under any of the stated conditions comprising misrepresentation, false statement or fraud.

"Likewise, the fact that respondent supposedly had some ACE of PFDA-COURAGE members affix their signatures to its petition for accreditation, using the name purportedly similar to that of petitioner's, is inconsequential. The same does not constitute misrepresentation, false statement or fraud in connection with the documents submitted for union registration and hence, is not a proper ground to cancel respondent's registration.

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"Furthermore, as correctly pointed out by the respondent, its spelled out name does not specify the acronym "COURAGE", unlike that of petitioner's. Besides, records on file with this Office show that all of respondents' registration documents bear the name "Association of Concerned Employees of the Philippine Fisheries Development Authority (SALAKAB-PFDA)."

"WHEREFORE, premises considered, the petition is hereby DISMISSED for lack of merit."

In its, Motion for Reconsideration herein treated as Appeal, ACE-PFDA-COURAGE through its President avers, as follows:

"The ASSOCIATION OF CONCERNED EMPLOYEES OF THE PHILIPPINE FISHERIES DEVELOPMENT AUTHORITY (SALAKAB-PFDA) committed fraud, made false statements and misrepresented our union, the Association of Concerned Employees of Philippine Fisheries Development Authority-COURAGE (ACE of PFDA-COURAGE).

"They deliberately made our members sign for their list of members and ratification of Constitution and By-Laws of the ASSOCIATION OF CONCERNED EMPLOYEES OF THE PHILIPPINE FISHERIES DEVELOPMENT AUTHORITY (SALAKAB-PFDA) without explaining that their union is entirely different from ours. In fact, they only issued their membership forms after said documents were already submitted to BLR for registration. These membership forms were prepared earlier but were distributed and/or placed inside the employees' tables later. Concerned employees have also provided us with copies of their sign up for the ratification of their Constitution and by Laws as evidence of their deception and lies. x x x.

"The same process was blatantly undertaken by the respondents on their questionable petition for accreditation submitted to the Civil Service Commission.

"They registered the same name, oblivious of the fact that we have already registered our union earlier, to ride on the integrity and credibility of our union. In fact, both have practically the same name except for their acronym. The documents alone of the BLR speak for itself.

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"Their acronym SALAKAB-PFDA is also highly questionable because acronyms are supposed to be derivative of the original name. How can SALAKAB-PFDA BE AN ACRONYM FOR ASSOCIATION OF CONCERNED EMPLOYEES OF THE PHILIPPINE FISHERIES DEVELOPMENT AUTHORITY? If indeed, they want to be recognized as distinct from our union, they should have used Sandigan-Lakas ng mga Kawaning Bayan ng PFDA (SALAKAB-PFDA) instead.

"It is falsehood for respondent to claim that "it has been careful in ensuring that its name, Association of Concerned Employees of PFDA (Sandigan-Lakas ng mga Kawaning-Bayan ng PFDA) is always spelled out and legibly printed on every page of its organizational documents...

"The BLR's documents pertaining to this case and the BLR's Certification of the list of registered employees organization in the Philippine Fisheries Development Authority attest that the respondents have been using ASSOCIATION OF CONCERNED EMPLOYEES OF THE PHILIPPINE FISHERIES DEVELOPMENT AUTHORITY (SALAKAB-PFDA) and not Association of Concerned Employees of PFDA (Sandigan-Lakas ng mga Kawaning-Bayan ng PFDA). x x x"

Records show that the Philippine Fisheries Development Authority (PFDA) has three (3) existing registered employees' organizations, the General Santos Fish Port Employees Union (GSFPEU); the Association of Concerned Employees of Philippine Fisheries Development Authority-COURAGE (ACE of PFDA-COURAGE)), herein referred to as appellant and the Association of Concerned Employees of the Philippine Fisheries Development Authority (SALAKAB-PFDA), herein referred to as appellee.

On March 2, 2007, appellee applied for accreditation. Said application for accreditation was opposed by appellant. Finding the Opposition unmeritorious, the CSC-PRO resolved to accredit appellee on April 7, 2007 as the sole exclusive bargaining representative of the PFDA rank and file employees.

Meanwhile, on August 3, 2007, appellant filed a Petition for Cancellation of Union Registration with the DOLE-BLR alleging that it was registered earlier than appellee as an employee organization on March 16, 2007, while the latter was registered only on April 27, 2007. Further, it alleged that the DOLE-BLR should have refused appellants registration taking into account the latter's earlier registration and appellee's alleged deception, fraud or misrepresentation in obtaining its Certificate of Registration.

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In its Order dated November 9, 2007, the DOLE-BLR dismissed the Petition for lack of merit. Aggrieved, appellant sought reconsideration from the aforesaid Order but the same was forwarded to this Office pursuant to **Section 7, Rule VII of the "Amended Rules and Regulations Governing the Exercise of the Right of Government Employees to Organize"**, hence, this Motion for Reconsideration is treated as an Appeal.

The only issue in this appeal is whether or not the appellee committed misrepresentation, false statement or fraud as a ground for the revocation/cancellation of its Certificate of Registration.

Appellant avers that appellee deceived and made their members sign in the ratification of their Constitution and By-Laws without explaining to them that their union is entirely different from that of appellant. It also contends that appellee registered the same name as the appellant despite the fact of prior registration by the latter and that appellee distributed their membership forms only after said documents were already submitted to the BLR for Registration. According to appellant, these are acts of misrepresentation committed by appellee which clearly falls under letter (b), (e) and (f) of Section 4, Rule VII of the Amended Rules and Regulations.

Appellant's contention is bereft of merit.

Records show that the appellee registered and used in its application for registration, the name "Association of Concerned Employees of the Philippine Fisheries Development Authority (SALAKAB-PFDA) while appellant was registered as Association of Concerned Employees of the Philippine Fisheries Employees Association-COURAGE (ACE of PFDA-COURAGE). Although both names include the word Association of Concerned Employees of the Philippine Fisheries Development Authority, the appellant has affixed the acronym COURAGE and that of appellee has affixed the acronym SALAKAB which means Sandigan-Lakas ng mga Kawaning-Bayan. COURAGE and SALAKAB are two distinct names which differentiates the name of appellee with that of appellant. Therefore, these names are not confusingly similar which will deceive some members of appellant that these two separate unions are one and the same. Added to this is the fact that the words "Association of Concerned Employees of the Philippine Fisheries Development Authority" affixed in both names are mere descriptive words that describes the association as composed of the employees of the PFDA, thus, considered as generic.

To apply by analogy in the case at bar, the Supreme Court, in the case of **Asia Brewery, Inc. vs. Court of Appeals 224 SCRA 437** held, as follows:

"The fact that the words pale pilsen are part of ABI's trademark does not constitute an infringement of SMC's trademark: SAN MIGUEL PALE PILSEN, for "pale pilsen" are generic words



descriptive of the color ("pale"), a type of beer ("pilsen") which is a light bohemian beer with a strong hops flavor that originated in the City of Pilsen in Czechoslovakia and became famous in the middle ages. x x x "Pilsen" is a "primarily geographically descriptive word," x x x hence, non-registerable and not appropriable by any beer manufacturer. x x x"

x x x

"The circumstance that the manufacturer of BEER PALE PILSEN, Asia Brewery Incorporated, has printed its name all over the bottle of its beer product: on the label, on the back of the bottle, as well as on the bottle cap, disproves SMC's charge that ABI dishonestly and fraudulently intends to palm off its BEER PALE PILSEN as SMC'S PRODUCT. In view of the visible differences between the two products, the court believes it is quite unlikely that a customer of average intelligence would mistake a bottle of BEER PILSEN for SAN MIGUEL PALE PILSEN.

Moreover, out of the total number of rank and file employees of the PFDA which is Seven Hundred Fifty Two (752) members, the Manifestation of Support submitted by appellee showed that there are Four Hundred Twelve (412) employees or 57.8 % who certified that they are bona fide members of the appellee and that they are pledging their loyalty to the latter. Affidavits submitted by the appellant showed that there are only twenty (20) members who attested that they were deceived by appellee in signing the Manifestation of Support. This number of employees, however, is not substantial to alter the overwhelming support obtained by appellee. Undoubtedly, appellee complied with the thirty (30) percent signature requirement for registration purposes. Thus, appellee did not commit deceit, fraud or misrepresentation in obtaining their Certificate of Registration. Pertinent to this is **Section 1, Rule V of the Amended Rules and Regulations Governing the Exercise of the Right of Government Employees to Organize**, provides that:

"Section 1. Requirements for registration of employees' organizations.- The application for registration shall be signed by the members of the employees' organization comprising at least thirty (30) percent of the rank and file employees in the organizational unit, and shall be accompanied by the original copy and three (3) duplicate original copies of the following documents:

x x x

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(c) The names of the members comprising at least thirty (30) percent of the rank and file employees in the organizational unit where the applicant organization seeks to operate; (Underscoring supplied)

As to the allegations that the membership forms were prepared earlier but were distributed and/or placed inside the employees' tables later are mere bare allegations which are unsubstantiated and cannot be given weight. It is a basic rule of evidence that a party has the burden of proving his own affirmative allegations with the requisite quantum of evidence (**Alcaraz vs. Court of Appeals, 497 SCRA 77**). In this particular allegation, the appellants contention failed to show pieces of evidence to prove such contention. Scrutiny of the records clearly reveals that indeed there is no proof to warrant the alleged fraudulent acts of the appellee.

All told, the grounds relied upon by the appellee for the cancellation/ revocation of the Certificate of Registration are not among those causes mentioned in **A and 4 (B) Rule VII** of the same Rules which provides, as follows:

"A. ON THE GROUND OF FAILURE TO SUBMIT REPORTORIAL REQUIREMENTS

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"B ON THE GROUND OF MISREPRESENTATION, FALSE STATEMENT, OR FRAUD

"Section 4. Cancellation or revocation of certificate of registration. – Subject to the requirements of notice and due process, the certificate of registration of an employees' organization may be cancelled or revoked on the ground of misrepresentation, false statement or fraud in connection with the following:

X X X

"(a) conduct of organizational meeting;

"(b) adoption or ratification of the Constitution and by-laws;

"(c) election of officers;

"(d) minutes of the election of officers;

"(e) list of voters/members; or

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- "(f) any of the other documents submitted for registration which may have misled the DOLE-BLR in granting the application for registration.

Absent any showing of irregularity, in the issuance of the Certificate of Registration of appellee by the DOLE-BLR, the presumption of regularity in the performance of official duties prevail. **Section 3, Rule 131 of the Revised Rules of Court**, provides as follows:

"Section 3. Disputable Presumption – the following presumption are satisfactory if uncontroverted and overcome by other evidence:

- "(m) That official duty has been regularly performed."*

In fine, having established that there is no basis for the cancellation/revocation of the appellee's Certificate of Union Registration, the appeal must perforce fail.

WHEREFORE, the Appeal filed by the Association of Concerned Employees of Philippine Fisheries Development Authority-COURAGE (ACE-PFDA-COURAGE) for the cancellation/revocation of Registration Certificate of the Association of Concerned Employees of the Philippine Fisheries Development Authority-SALAKAB (ACE-PFDA-SALAKAB) is **DISMISSED** for lack of merit. Accordingly, the DOLE-BLR Order dated November 9, 2007, is **AFFIRMED**.

Quezon City, June 15, 2009



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Chairman, Civil Service Commission
CHAIRMAN



MARIANTO D. ROQUE
Secretary, Department of Labor and Employment
VICE-CHAIRMAN



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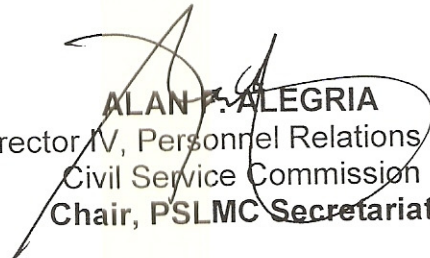


Department of Justice
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