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**NWPC LAW GAZETTE**

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CA-G.R. CEB SP No. 07773

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**CA-G.R. CEB S.P. No. 07773**

11 March 2014

SHEMBERG BIOTECH CORPORATION, Petitioner

vs.

NATIONAL WAGES AND PRODUCTIVITY COMMISSION  
and REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY  
BOARD, Respondents.

*Wage Order; Exemption; Purpose of Exemption.* - A distressed company, may be granted exemption from compliance with the payment of wage increases to its workers to assist it in maintaining its financial viability for a period of one year without any extension since the above-quoted rule provides for a one-year period without any extension.

*Same; Same; No Further Extension of One Year Exemption; No Grave Abuse of Discretion.* - As to whether such period of one year can be extended, this query had been squarely addressed in the case of *Nasipit Lumber Company v. National Wages and Productivity Commission* where the Supreme Court ruled that the NWPC was granted the power and functions to prescribe rules and guidelines for the determination of appropriate minimum wage and productivity measures and the exemptions thereto. Such that, when it set the exemption to one year and did not allow further extension in furtherance of such rule, it was merely implementing to the letter its own rule. Hence, since NWPC followed its own rule, which in the first place they had the authority to make, no grave abuse of discretion can be attributed to it.

*Same; Same; Same; When the Law and Jurisprudence Do Not Make Any Distinction as to Whether the Applicant Seeking Exemption is a Distressed Establishment or Not, There is no Reason to Depart From the Settled Rule.* - Consequently, since the

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law and jurisprudence do not make any distinction as to whether the applicant seeking exemption is a distressed establishment or not, We see no cogent reason to depart from this settled rule that only one year of exemption can be granted.

### **FACTS:**

SBC filed with the Board an application for exemption from compliance with Wage Order No. RBVII-16 as a distressed establishment under corporate rehabilitation where the latter granted the former a one (1) year exemption effective September 22, 2011 until September 21, 2012. A day before the end of one year exemption, SBC filed an extension of the exemption for another year as it was still undergoing corporate rehabilitation but the Board denied its request for lack of any legal basis. NWPC also denied its appeal and motion for reconsideration on the ground that Section 5A of the NWPC Guidelines No. 02, Series of 20073 provides that the extent and duration of exemption is only one year.

Hence, a petition for certiorari to the Court of Appeals,

### **ISSUES:**

1. Whether or not a one (1) year exemption granted to SBC may be extended;
2. Whether or not NWPC committed grave abuse of discretion

### **HELD:**

The Court of Appeals dismissed the petition for lack of merit declaring that applying Section 2 of the NWPC Guidelines No. 2, Series of 2007 SBC, as a distressed company, may be

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granted exemption from compliance with the payment of wage increases to its workers to assist it in maintaining its financial viability for a period of one year without any extension since the above-quoted rule provides for a one-year period without any extension. As to whether such period of one year can be extended, this query had been squarely addressed in the case of Nasipit Lumber Company v. National Wages and Productivity Commission where the Supreme Court ruled that the NWPC was granted the power and functions to prescribe rules and guidelines for the determination of appropriate minimum wage and productivity measures and the exemptions thereto. Such that, when it set the exemption to one year and did not allow further extension in furtherance of such rule, it was merely implementing to the letter its own rule. Hence, since NWPC followed its own rule, which in the first place they had the authority to make, no grave abuse of discretion can be attributed to it.

In affirming the RTWPB's Resolution denying petitioners' application for extension for another year of their full exemption from compliance with Wage Order No. RX-03, the NWPC did not act with grave abuse of discretion. On the contrary, it merely applied its own Guideline No. 01, Series of 1992 limiting the duration of exemption to only one (1) year. Consequently, since the law and jurisprudence do not make any distinction as to whether the applicant seeking exemption is a distressed establishment or not, We see no cogent reason to depart from this settled rule that only one year of exemption can be granted.

Petition was DISMISSED for lack of merit. Cost against petitioner.

*Hernando, J., ponente.*

*Salandan-Manahan; Quijano-Padilla, JJ., concur.*

**SUPREME COURT’S DECISION ON PETITION FOR  
REVIEW ON CERTIORARI (G.R. No. 214418, 01 December  
2014)**

**The petition for certiorari was also denied by the Supreme Court for failure of SBC to show any reversible error in the challenged decision and resolution as to warrant the exercise of the Court’s discretionary appellate jurisdiction.**

*Jardeleza, J., on leave; Mendoza, J., designated as Acting Member per Special Order No. 1896 dated November 28 2014.*

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