SPP Guiding Case No. 235: Litigation Supervision Case: Company A v. Hubei Administration of Work Safety (Administrative Penalty Dispute)

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

Decided at the 46th meeting of the 14th Procuratorial Committee of the Supreme People's Procuratorate on February 8, 2025; issued on March 21, 2025.

Keywords

Supervision of legally effective administrative judgments / administrative penalty / accident investigation report / engineering quality defect / supervision responsibility / protest

Holding

When handling an administrative litigation supervision case concerning an administrative penalty for production safety, with respect to an administrative penalty decision made by a safety regulatory department based on the facts such as negligent performance of duties by a supervision entity as determined in an Accident Investigation Report approved by a people's government, where, even though the engineering quality defect and the supervision entity's negligent performance of duties have not yet constituted the main cause of a traffic accident, the people's court revokes the administrative penalty decision on the ground of lack of factual basis, the people's procuratorate shall supervise in accordance with law.

Basic Facts

Company A was the construction supervision entity for the anti-collision guardrails of a highway bridge. In July 2005, the highway bridge passed completion acceptance. On March 12, 2013, a major road traffic accident occurred at the south end of the bridge: a normally traveling double-deck sleeper bus, because its driver swerved sharply to the right while avoiding a two-wheeled motorcycle traveling in the wrong direction, operated improperly and, after scraping against the motorcycle, crashed through the bridge guardrail and fell under the bridge, causing 14 deaths and 9 injuries and damaging the two vehicles and the highway facilities. After the accident, the People's Government of Hubei Province established an accident investigation team and an accident technical expert team. On April 11, 2013, the accident technical expert team issued a Technical Report. On July 24, the accident investigation team issued an Accident Investigation Report, determining that: the accident in the case was a liability accident, and multiple units or departments, such as the company of the driver, respectively bore primary, important or other different responsibilities for the occurrence of the accident due to inadequate implementation of the primary responsibility for production safety. Among them, the construction company of the anti-collision guardrail of the accident section, because of defects in the construction quality of the safety guardrail, in which the weld length and height of the welding between the base of the bridge safety guardrail and the embedded steel bars did not meet the design requirements, the weld dimensions were unstable, and most of the weld metal did not fuse with the steel bars or the fusion depth was shallow, leaving safety hazards, bore responsibility for the occurrence of the accident; Company A, as the construction supervision entity of the anti-collision guardrail of the accident section, because of inadequate supervision work, failed to promptly discover the construction quality defects of the safety guardrail of the accident section during the supervision work, and bore responsibility for the occurrence of the accident. The Accident Investigation Report separately made handling recommendations for the relevant responsible personnel and responsible units, including recommending that the Hubei Administration of Work Safety (now the Hubei Provincial Department of Emergency Management, hereinafter referred to as the "Hubei Administration of Work Safety") impose the economic penalty at the

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prescribed upper limit on Company A. On August 19, 2013, the Accident Investigation Report was approved by the People's Government of Hubei Province. On April 22, 2014, the Hubei Administration of Work Safety, based on the above report and in accordance with the provisions of paragraph 2 of Article 32 and item (3) of Article 37 of the Regulations on the Reporting, Investigation and Handling of Production Safety Accidents, made an administrative penalty decision imposing a fine of RMB 500,000 on Company A. On July 21, 2014, Company A filed an administrative lawsuit requesting the revocation of the administrative penalty decision.

On May 14, 2015, the People's Court of a district rendered a first-instance judgment. The court held that the Technical Report had determined that the main cause of the guardrail failure was that the actual impact force was greater than the design impact force, but the Hubei Administration of Work Safety still determined, based on the facts determined in the Accident Investigation Report, that Company A had committed acts of inadequate performance of supervision duties, yet failed to adduce evidence proving the causal relationship between such acts and the loss of protective function of the guardrail failure, and therefore the main evidence for the administrative penalty decision sued in the case was insufficient, and ruled to revoke it. The Hubei Administration of Work Safety, dissatisfied, appealed. The Intermediate People's Court of a city held in the second instance that, even if the construction of the bridge in this case objectively did have the situation described in the Technical Report of failing to meet the design requirements and the welding quality also failing to meet the requirements, it could not be concluded that there was a causal relationship between the construction quality of the bridge and Company A's supervision of the bridge construction quality and the fact that the guardrail of the accident section of the bridge in this case lost its protective function after being struck, thereby causing the accident-causing bus to cross the guardrail and aggravating the accident result, nor could the conclusion in the Accident Investigation Report that "Company A bore responsibility for the occurrence of the accident" be drawn. According to the provisions of Article 30 of the Administrative Penalty Law of the People's Republic of China, ascertaining the facts is the necessary premise and basis for an administrative organ to exercise its power of administrative penalty; the causal relationship between Company A's supervision acts and the occurrence of the accident in this case was the factual basis for the Hubei Administration of Work Safety to make the administrative penalty decision sued in the case, and the Hubei Administration of Work Safety's view that it had no obligation to ascertain the relevant factual basis had no legal basis. On January 20, 2016, the Intermediate People's Court rendered a second-instance judgment, affirming the first-instance judgment on the ground that the administrative penalty decision made by the Hubei Administration of Work Safety was insufficient in evidence. The Hubei Administration of Work Safety applied for retrial, and the Higher People's Court of Hubei Province affirmed the second-instance judgment upon retrial.

Procuratorate Performance of Duties

Case source. The Hubei Administration of Work Safety applied to the People's Procuratorate of Hubei Province for supervision. After examination in accordance with law, the Hubei Provincial People's Procuratorate held that the application of law in the effective retrial judgment was genuinely erroneous and submitted the case to the Supreme People's Procuratorate for protest.

Investigation and verification. On the basis of comprehensive review of the files, the procuratorial organ heard the opinions of the Hubei Administration of Work Safety and Company A in person. It was further ascertained that: the investigation team for the major production safety liability accident in the case was organized by the People's Government of Hubei Province and engaged experts from industries such as bridge construction, road traffic and safety management to form an expert team. The Accident Investigation Report in the case was approved by the People's Government of Hubei Province, determining that in the supervision work, Company A failed to promptly discover construction problems such as the weld length and height of the welding between the base of the bridge safety guardrail and the embedded steel bars, performed its supervision duties inadequately, and bore responsibility for the accident.

Supervision opinions. Upon examination, the Supreme People's Procuratorate held that the retrial judgment, by holding that the construction quality defects had no relation to the occurrence of the accident and denying the accident cause determined in the Accident Investigation Report, erred in the determination of facts. The occurrence of production safety accidents has the characteristic of multiple causes and one result, including both the direct cause leading to the occurrence of the accident and various hidden dangers and other causes triggering the production safety accident. The determination of accident responsibility is often also made in light of the actual circumstances of direct and indirect causes and primary and secondary causes. In this case, the Technical Report determined that the main cause of the guardrail failure was that the actual impact force was greater than the design impact force, but it did not exclude the possibility that construction problems such as weld length and weld height were non-primary or secondary causes of the guardrail failure. The Accident Investigation Report determined that, in the welding between the base of the bridge safety guardrail and the embedded steel bars by the construction company of the anti-collision guardrail of the accident section, the weld length and height did not meet the design requirements, the weld dimensions were unstable, and most of the weld metal did not fuse with the steel bars or the fusion depth was shallow, leaving safety hazards. The construction quality of the safety guardrail had defects, and Company A failed to promptly discover them in the supervision work, which should constitute inadequate performance of supervision duties. On this basis, the administrative penalty decision made by the Hubei Administration of Work Safety in accordance with the Accident Investigation Report and the Regulations on the Reporting, Investigation and Handling of Production Safety Accidents had a factual and legal basis. The retrial judgment, by denying the relevant legal facts determined in the Accident Investigation Report approved by the people's government concerning the causal relationship between the construction quality of the anti-collision guardrail of the accident section and the accident, denying the accident responsibility that the construction entity and supervision company of the anti-collision guardrail of the accident section should bear, and ordering the revocation of the administrative penalty decision sued in the case, was genuinely erroneous in the determination of facts and the application of law. The Supreme People's Procuratorate filed a protest with the Supreme People's Court.

Supervision results. On June 26, 2023, the Supreme People's Court rendered a judgment adopting the protest opinions of the procuratorial organ, holding that the occurrence of production safety accidents is generally caused by multiple causes, including both the direct cause leading to the occurrence of the accident and various hidden dangers and other indirect causes triggering the production safety accident. The Technical Report did not completely exclude the possibility that the weld quality problem was one of the causes of the guardrail failure, and the original judgment's denial of the accident cause determined in the Accident Investigation Report constituted an error in the determination of facts. Before the people's court lawfully conducted a legality examination of the Accident Investigation Report and its approval and confirmed them unlawful, the Accident Investigation Report was lawful and effective. The administrative penalty decision made by the Hubei Administration of Work Safety based on the determination of accident responsibility in the Accident Investigation Report had a factual and legal basis, and the judgment revoked the first-instance, second-instance and retrial judgments and rejected the litigation claims of Company A. On November 9, 2023, Company A paid the fine of RMB 500,000 in accordance with law.

Guiding Significance

When handling an administrative litigation supervision case concerning an administrative penalty for production safety, the people's procuratorate shall, on the basis of the accident cause, accident nature, accident responsibility and handling recommendations for those responsible for the accident determined in the Accident Investigation Report, examine whether the facts on which the administrative penalty is based are clear and the evidence sufficient. Where, without sufficient contrary evidence, the people's court revokes an administrative penalty decision made by a safety regulatory department based on the Accident Investigation Report, the people's procuratorate shall supervise in accordance with law. An Accident Investigation Report approved by the people's government responsible for the investigation of a production

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safety accident is the basis for the relevant departments to impose administrative penalties or sanctions on the relevant units and personnel. The implementation of administrative penalties must be based on facts and be commensurate with the facts, nature and circumstances of the unlawful act and the degree of social harm. In an administrative lawsuit case filed by a party dissatisfied with an administrative penalty decision made by a safety regulatory department, even where the engineering quality defect and the supervision entity's negligent performance of duties have not yet constituted the main cause of a traffic accident, if the people's court revokes the administrative penalty decision sued in the case on that ground, the procuratorial organ shall lawfully file a protest or a procuratorial suggestion for retrial, so as to ensure the unified and correct implementation of laws and regulations such as the Production Safety Law of the People's Republic of China and the Regulations on the Reporting, Investigation and Handling of Production Safety Accidents.

Relevant Legal Provisions

Article 91 of the Administrative Litigation Law of the People's Republic of China.

Articles 2, 73 and 74 of the Production Safety Law of the People's Republic of China (2009 Amendment) (currently Articles 2, 86 and 87 of the 2021 Amendment).

Article 30 of the Administrative Penalty Law of the People's Republic of China (2009 Amendment) (currently Article 40 of the 2021 Revision).

Articles 19, 25, 27, 32, 37 and 43 of the Regulations on the Reporting, Investigation and Handling of Production Safety Accidents.

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