



DATE:6-24-94

CASE NO: 93-TAE-0002

IN THE MATTER OF

Anonymous Workers,
Complainants

v.

Grapevine Corporation (formerly Tri-County Growers, Inc.),
Respondent,

RULING ON MOTION FOR RECONSIDERATION

Upon consideration of the Regional Administrator's Motion for Reconsideration of the Final Order issued June 16, 1994, the next to the last paragraph of the Order admonishing the Regional Administrator is hereby stricken. I had read his brief as urging a cause of action under the H-2 programs, totally without regard to the H-2A statute of limitations, rather than as urging that the otherwise H-2A statute of limitation was not applicable to H-2 violations.

Nevertheless, it seems to me that in order for §655.110(g) to accomplish an exception to the general statute of limitations applicable to the H-2A program, the section would need to have specifically so stated. Although the violation arises under the H-2 program, it still involves the imposition of a penalty under the H-2A program of ineligibility to apply for certification. It is counterintuitive to assume that a new two year statute of limitations would be made applicable to the new H-2A program and at the same time violations, however old, under the H-2 program could be used to bar certification applications under the H-2A program. Such a result should be reachable only through explicit language so providing, which is lacking here.

The Final Order of Dismissal is hereby reaffirmed.

Charles P. Rippey
Administrative Law Judge
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