

KRISTINA MILAGROS L. QUIPSE, PETITIONER, VS. ACADEMIA DE SOPHIA INTERNATIONAL, MAN SIK JANG (OWNER) AND DONNA MAE B. AME, AND NATIONAL LABOR RELATIONS COMMISSION, RESPONDENTS.

Ponente: ANTONIO-VALENZUELA, J.

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ANTONIO-VALENZUELA, J.:

This is the Petition for Certiorari under Rule 65 of the Rules of Court, filed by Kristina Milagros L. Quipse (“petitioner Quipse”), imputing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the National Labor Relations Commission (“NLRC”), in issuing the following: 1) the Decision dated 27 March 2012;[1] and 2) the Resolution dated 29 June 2012.[2]

THE FACTS

The facts are as follows: on 08 October 2010, petitioner Quipse filed the Complaint[3] for illegal dismissal, non-payment of 13th month pay, service incentive leave pay, and moral and exemplary damages, against Academia de Sophia International (“respondent school”) before the NLRC Regional Arbitration Branch, in Baguio City (“RAB”). In her Position Paper,[4] petitioner Quipse alleged: in 2006, respondent school employed petitioner Quipse as an English Tutor, and at the time of her illegal dismissal, petitioner Quipse had been working for respondent school for almost four years, and had been receiving a monthly salary of Php 13,500; in 2010, petitioner Quipse filed a complaint for labor standard violations against respondent school before the Department of Labor and Employment (“DOLE”), which caused the respondent school to turn its ire against petitioner Quipse; respondent school issued the letter to petitioner Quipse requiring her to explain why administrative sanctions should not be imposed on her for her previous acts; while petitioner Quipse complied, respondent school was not satisfied with petitioner Quipse’s written answer, and thus issued her (petitioner Quipse) two memoranda for administrative hearings; after the administrative hearings, respondent school issued to petitioner Quipse the termination letter, and terminated petitioner Quipse allegedly because of her (petitioner Quipse) inquiries regarding respondent school’s constant violation of labor laws; petitioner Quipse suffered sleepless nights and besmirched reputation, and was forced to engage the services of counsel to protect her interests.

Respondent school, by way of its Position Paper,[5] alleged that: respondent school employed petitioner Quipse as a Special Remediation Program (“SRP”) teacher for a period of three years and ten months, on a monthly contract basis; at the time of petitioner Quipse’s termination of employment by reason of non-renewal of contract, petitioner Quipse had been receiving a basic salary of Php 8,400 per month; on 20 May 2010, respondent school called for a general assembly, where a new salary system was discussed; during the general assembly, petitioner Quipse misled her co-teachers, and told them that there had never been any discussion on the new salary system, and that Ms. Donna Mae Ame, the respondent school’s Operations Manager, unilaterally ordered the SRP teachers to accept the amount of Php 5,000.00 as monthly basic salary; despite the repeated explanations made by the respondent school, petitioner Quipse refused to understand the salary system, and insisted that her actual net/take

home pay should be declared as her basic pay; on 31 May 2010, petitioner Quipse filed a complaint for non-payment of 13th month pay, service incentive leave pay, basic pay, and holiday pay, against respondent school before the DOLE; on 06 June 2010, Engineer Jose Gamad, Jr. ("Engr. Gamad"), the DOLE Inspector, checked respondent school's records as regards petitioner Quipse's complaint, and after the inspection, Engr. Gamad noted that respondent school's violation was merely the non-payment of service incentive leave, and that respondent school already acted on the findings of Engr. Gamad, and had already paid all of its employees; petitioner Quipse's disappointment with the findings of Engr. Gamad caused her demeanor to change, and she became arrogant, disobedient, disrespectful towards her co-teachers, the officers of the respondent school, and her students; on 10 August 2010, petitioner Quipse shouted at her Korean student, Heon Jae, which prompted Heon Jae to file a complaint against her (petitioner Quipse), and to request for a different teacher; petitioner Quipse had been violating basic school policies, as shown by the various memoranda issued to her (i.e., habitual tardiness and absences; non-submission of lesson plans); during the general meeting with all the teachers on 11 August 2010, petitioner Quipse rudely interrupted the respondent school's Directress, and furiously walked out of the meeting without signing the attendance sheet; on 15 August 2010, respondent school issued the memorandum to petitioner Quipse directing her to explain her continuous insinuation to co-workers that the management's acts were malicious, and that she did not believe the result of the arbitration conducted by several authorities; on 17 August 2010, petitioner Quipse answered the memoranda, but instead of explaining, she reiterated her old questions regarding the basic salary system thus, respondent school was not satisfied with petitioner Quipse's answer because the basic salary system had been explained to her numerous times; on 08 September 2010, respondent school requested for an administrative hearing as regards petitioner Quipse's answer on 17 August 2010, but petitioner Quipse refused to attend, and stated that she had nothing to explain; on 29 September 2010, respondent school called for another administrative hearing, which was attended by petitioner Quipse together with her counsel; during the second administrative hearing, the respondent school manifested its dissatisfaction with petitioner Quipse because of her persistent and willful disobedience to school policies, her attitude towards her co-teachers, continuous dissatisfaction with school policies on salary schemes, and her obnoxious personality (which was already affecting her work); on 30 September 2010, petitioner Quipse's employment contract ended, and respondent school chose not to renew it, but nevertheless, in recognition of petitioner Quipse's three years and ten months of service, respondent school terminated her services by authorized causes as enumerated in Article 282 of the Labor Code, despite the fact that she was just a contractual employee and that the term of her contract already ended; considering that petitioner Quipse was not a degree holder, nor did she endeavor to improve her qualifications within the three years and ten months she was employed, petitioner Quipse lacked the minimum academic qualification of a private school teacher, and thus did not attain regular status.

On 16 March 2011, the RAB rendered the Decision[6] which dismissed petitioner Quipse's Complaint for illegal dismissal, ordered respondent school to pay petitioner Quipse her Service Incentive Leave for the years 2007 until 2010 in the amount of Php 6,461.54, and dismissed petitioner Quipse's other claims for lack of basis. The RAB concluded that petitioner Quipse did not possess the minimum academic qualification prescribed for private teachers, since she was not a bachelor's degree holder, and therefore did not acquire regular status. The RAB concluded that petitioner Quipse was a contractual employee who was validly terminated by non-renewal of the employment contract. The dispositive portion of the RAB Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered finding no illegal dismissal in this case.

However, respondent is ordered to pay complainant her Service Incentive Leave Pay (SILP) for the year 2007, 2008, 2009, and 2010 computed as follows:

$$P8,400/26 \text{ days} \times 5 \text{ days} \times 4 \text{ years} = P6,461.54$$

Other claims are dismissed for lack of basis.

SO ORDERED.

Petitioner Quipse appealed the RAB Decision to the NLRC, and argued that the minimum academic requirement for private school teachers was not applicable because she was employed by the respondent school as a tutor, and not as a teacher.[7]

On 27 March 2012, respondent NLRC rendered the assailed Decision, which reversed the RAB's Decision, and concluded that petitioner Quipse had attained regular status as an English Tutor, and that respondent school illegally dismissed her.[8] Its dispositive portion reads:

WHEREFORE, the decision of the executive labor arbiter Vito C. Bose is hereby set aside and a new one is entered as follows:

a) complainant is declared to have been illegally dismissed from work;

b) In lieu of reinstatement, Academia de Sophia International [sic] AMA Computer College-Parañaque City, is hereby DIRECTED to pay separation pay in the amount of one (1) month salary for every year of service until the finality of this Decision. The separation pay shall be in addition to the Service Incentive Leave Pay (SILP) for year 2007, 2008 in the amount of P6,461.54 as awarded by the Labor Arbiter.

SO ORDERED.

Petitioner Quipse filed her Partial Motion for Reconsideration,[9] and argued that the failure to pray for an award of backwages in her complaint was a technical lapse that should not deprive her of the award of backwages, which is a legal consequence of her illegal dismissal.

On 29 June 2012, respondent NLRC rendered the assailed Resolution,[10] denying petitioner Quipse's Partial Motion for Reconsideration for lack of merit.

Aggrieved, petitioner Quipse files this Petition and makes the following assignment of errors:

THE HONORABLE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN RULING THAT THE PETITIONER IS NOT ENTITLED TO PAYMENT OF BACKWAGES DESPITE THE FINDING THAT SHE WAS ILLEGALLY DISMISSED.

THE RULING OF THE HONORABLE PUBLIC RESPONDENT THAT THE PETITIONER IS NOT ENTITLED TO BACKWAGES DESPITE THE FINDING THAT SHE WAS ILLEGALLY DISMISSED IS IN VIOLATION OF THE LAW (ARTICLE 279 OF THE LABOR CODE) MANDATING FOR THE PAYMENT OF BACKWAGES TO AN ILLEGALLY DISMISSED EMPLOYEE.

The issue is whether the NLRC committed grave abuse of discretion in ruling that petitioner Quipse was not entitled to backwages despite the finding that she was illegally dismissed, on the fact that the complaint did not specifically pray for backwages.

Petitioner Quipse answers in the affirmative. Respondent NLRC committed grave abuse of discretion in ruling that petitioner Quipse was not entitled to backwages despite the finding that she was illegally dismissed, just because the complaint did not pray for backwages. The Petition for Certiorari thrusts: the non-indication of claim for backwages in the prayer portion of the pro-forma complaint was merely a technical lapse, considering that in the complaint, illegal dismissal was indicated as one of the causes of action; the general prayer for "other reliefs" necessarily included the prayer for backwages; pursuant to Article 279 of the Labor Code, petitioner Quipse is

entitled to full backwages, as a necessary relief of the findings of her illegal dismissal.

Respondent school answers in the negative. Respondent NLRC did not commit grave abuse of discretion in ruling that petitioner Quipse was not entitled to backwages despite finding that she was illegally dismissed. Respondent school's Comment[11] parries: the non-indication of claim for payment of backwages in the prayer of the pro-forma complaint was a substantial lapse; the phrase "other just and equitable relief," may not be interpreted so broadly as to include even those which were not expressly prayed for by petitioner Quipse.

THE COURT'S RULING

We rule in the affirmative. The NLRC committed grave abuse of discretion in ruling that petitioner Quipse was not entitled to backwages despite finding that she was illegally dismissed, on the mere circumstance that the complaint did not pray for the award of backwages.

Article 279 of the Labor Code, as amended, is applicable. It reads:

ARTICLE. 279. Security of Tenure.-- In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

In the assailed Decision, despite ruling that respondent school illegally dismissed petitioner Quipse, the NLRC deemed it proper not to award backwages on the ground that it was not specifically prayed for by petitioner Quipse in her Complaint before the RAB.[12] The NLRC ratiocinated in this wise:

There was really no valid cause for complainant's dismissal. Consequently, complainant shall be entitled to the legal consequences of her illegal dismissal. However, since the complaint shows that complainant is praying only for payment of separation pay, in lieu of reinstatement, without claim for payment of backwages, this commission hereby awards her the payment of separation pay in the amount of one (1) month pay for every year of service up to the finality of this Decision. The separation pay shall be in addition to her Service Incentive Leave Pay (SILP). All other claims are denied for lack of basis.

We do not agree.

As can be gleaned from Article 279 above-quoted, an illegally dismissed employee, such as petitioner Quipse, is entitled to the twin reliefs of reinstatement and backwages. The two reliefs provided are separate and distinct. Thus, when reinstatement is no longer feasible because of the strained relationship between the employer and the employee, separation pay is awarded. An illegally dismissed employee, in effect, is entitled to reinstatement, if viable, or separation pay if reinstatement is no longer viable, and backwages.[13] Undoubtedly, aside from separation pay in lieu of reinstatement, petitioner Quipse is also entitled to an award of full backwages as a consequence of her illegal dismissal.

The failure of petitioner Quipse to include in the prayer in her Complaint, an award for backwages, did not justify its non-award.

Rule 7, Section 2(c), of the Rules of Court is applicable. It reads:

xxx

(c) Relief. - The pleading shall specify the relief sought, but it may add a general prayer for such further or other relief as may be deemed just or equitable.

xxx

Under the above-quoted provision of law, a court can grant the relief warranted by the allegation and the proof even if it is not specifically sought by the injured party. The inclusion of a general prayer may justify the grant of a remedy different from or together with the specific remedy sought, if the facts alleged in the complaint and the evidence introduced so warrant.[14] The prayer in the complaint for other reliefs equitable and just in the premises justifies the grant of a relief not otherwise specifically prayed for.[15]

Since the facts proved that respondent school illegally dismissed petitioner Quipse, the latter is entitled to an award of backwages, pursuant to Article 279 of the Labor Code, and upon the general prayer for "other reliefs." The mere failure of petitioner Quipse to categorically state in her complaint that she prayed for an award of backwages, cannot overrule the fact she is entitled to backwages under Article 279.

There is grave abuse of discretion when an act is done contrary to the Constitution, the law or jurisprudence.[16] Thus, the NLRC committed grave abuse of discretion when it did not award backwages despite the finding that respondent school illegally dismissed petitioner Quipse.

The Petition for Certiorari is GRANTED. We REVERSE and SET ASIDE the assailed Resolution dated 29 June 2012, and rule as follows: 1) we AFFIRM the finding that respondent Academia De Sophia International illegally dismissed petitioner Kristina Milagros L. Quipse; 2) we AFFIRM the award of separation pay, and the award of Service Incentive Leave Pay in favor of petitioner Kristina Milagros L. Quipse; and 3) we ORDER respondent Academia De Sophia International to pay petitioner Kristina Milagros L. Quipse full backwages, inclusive of all benefits she should have received had she not been dismissed, computed from the time of her illegal dismissal until the finality of this decision.

IT IS SO ORDERED.

Veloso (Chairperson) and Lantion, JJ., concur.

[1] Annex "A" (of the Petition for Review), C.A. Rollo, pp. 18-24.

[2] Annex "B" (of the Petition for Review), C.A. Rollo, pp. 26-31.

[3] Dated 06 October 2010, Annex "F" (of the Petition for Certiorari), C.A. Rollo, p. 37.

[4] Affidavit/Position Paper, dated 29 December 2010, Annex "G" (of the Petition for Certiorari), C.A. Rollo, pp. 38-40.

[5] Dated 30 November 2010, Annex "H" (of the Petition for Certiorari), C.A. Rollo, pp. 41-60.

[6] Annex "I," (of the Petition for Certiorari), C.A. Rollo, pp. 153-161.

[7] Memorandum of Appeal, dated 01 April 2011, Annex "J," (of the Petition for Certiorari), C.A. Rollo, pp. 162-170.

[8] Annex "A," supra note 1, at p. 24.

[9] Dated 30 April 2012, Annex "K," (of the Petition for Certiorari), C.A. Rollo, pp. 181-184.

[10] Annex "B," supra note 2.

[11] Comment (To The Petition for Certiorari), dated 19 November 2012, C.A. Rollo, pp. 194-205.

[12] Decision, *supra* note 1, at p. 22.

[13] *Bani Rural Bank Inc. v. De Guzman*, G.R. No. 170904, 13 November 2013.

[14] *Prince Transport Inc. v. Garcia*, G.R. No. 167291, 12 January 2011 citing *Philippine Charter Insurance Corporation v. Philippine Construction Corporation*, G.R. No. 185066, 02 October 2009.

[15] *Ibid.*, citing *BPI Family Bank v. Buenaventura*, G.R. No. 148196, 30 September 2005.

[16] *Republic of the Philippines v. Flores*, G.R. No. 167741, 12 July 2007 citing *Information Technology Foundation of the Philippines v. Commission on Elections*, G.R. No. 159139, 13 January 2004.

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