

**ENELYN E. PEÑA, ERLINDA A BIRON, FLORDELIZA A. ABOGADO,
ROSARIO A RAÑA, MA. LUISA P. LANUZA AND JOSEPHINE S. DELA
CRUZ, PETITIONERS, VS. THE NATIONAL LABOR RELATIONS
COMMISSION,...**

G.R. No. 100629. July 05, 1996

Ponente: MENDOZA, J.

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MENDOZA, J.:

This petition for certiorari to set aside the decision dated December 28, 1990, of the National Labor Relations Commission reversing the decision of the Labor Arbiter and sustaining the termination of petitioner's employment.

Petitioners were teachers at the Naga Parochial School in Naga City. They had been employed there for more than three years and as a consequence, had enjoyed permanent status. On May 4, 1998, however, they were given notice of the termination of their employment on the ground that they failed to obtain a minimum efficiency rating of 85% in the two previous schoolyears as required in the teacher's manual of respondent school.

Petitioner filed a complaint for dismissal which the Labor Arbiter, after hearing, found to be well founded. Among other things, the Labor Arbiter held that the criteria used to determine the efficiency rating of petitioners were unclear and arbitrary. Accordingly, they were ordered reinstated and paid backwages and attorney's fees.

On appeal, the NLRC reversed on the ground that the petitioners had been sufficiently warned after failing to obtain the required efficiency rating in the two preceding schoolyears (1985-1986 and 1986-1987) and given time to improve their skills and performance. Nonetheless, considering the length of service of petitioners, the NLRC awarded them separation pay equal to one month for every year of service.

In the present petition, petitioners invoke the Manual of Regulations for Private Schools of the Department of Education (1970), pursuant to which full-time teachers, who have rendered three consecutive years of satisfactory service, are considered permanent and entitled to security of tenure. They contend that their employment could be terminated only on the ground of gross incompetence or inefficiency and that, although their performance ratings were below 85%, they should be considered above satisfactory. Petitioners' ratings are as follows:

PETITIONERS

SY 1985-1986

SY 1986-1987

SY1987-1988

Enelyn E. Peña

83

83

81.23

Erlinda A. Biron

82

82

79.25

Flordeliza A. Abogado

82

84

83.01

Rosario A. Raña

77

84

80.01

Ma. Luisa P. Lanuza

78

84

82.33

Josephine S. dela Cruz

77

84

80.02

Petitioners claim that the NLRC gravely abused its discretion in approving the termination of their employment. They maintain that the criteria used by the respondent school for rating them were unreasonable.

We find the petition to be without merit.

First. Petitioners argue that to require a minimum efficiency rating of 85% is unreasonable and unfair because, by any other standard, the average grade is 75%.

This contention is untenable. It is the prerogative of the school to set high standards of efficiency for its teachers since quality education is a mandate of the Constitution.[1] As long as the standards fixed are reasonable and not arbitrary, courts are not at liberty to set them aside. School cannot be required to adopt standards which barely satisfy criteria set for government recognition.[2]

Petitioners do not complain of unreasonable grading by school authorities. The fact is that the evaluation of their performance left nothing to be desired. As private respondent explains, the following procedure was followed in

evaluating teachers performance:

Teacher performance is evaluated by a panel composed of the Principal, Assistant Principal, Area Coordinators, the Prefect of Discipline, the Registrar and the Student Activity Program Coordinator. The minimum number of evaluators for each teacher is eight and the maximum is ten. In addition, there is a system of "peer evaluation" for demonstration teaching and grade level coordinatorship and "self-evaluation" on unannounced observation (classroom), and personality traits. After the announced and unannounced visits are completed, a post conference with area coordinators is held to assess and evaluate the results.

In the evaluation of teachers' efficiency, not only the performance in actual teaching is considered but, in addition, such other factors as personality traits, educational attainment, professional growth, pupils' management and discipline, preparation/submission of reports, teaching experience are taken into account.[3]

Petitioners have disputed the school's claim that, after each evaluation period, they were informed of their ratings and invited to examine their grades and discuss them with the evaluators but petitioners did not object to the ratings they received.

What petitioners complain against is that the criteria by which their performance were evaluated varied from year to year as shown by the fact that prior to the schoolyear 1985-1986, a rating of 85% was considered "good" and not merely "satisfactory." Petitioners have not shown, however, how such description could affect the numerical ratings given to them, which appear to be the real basis for the evaluation of their performance. Indeed, when the evaluation system was first included in the teacher's manual in 1984 for the purpose of upgrading the competence of faculty members, petitioners did not object. The criteria for evaluation of teacher performance were presented and explained to the teachers and the staff prior to their implementation.[4] Neither did petitioners object to the ratings given to them. They did so only after they had been given notice of termination.

We are satisfied that petitioner's employment was terminated for just and legal cause. Their fear that, in the future, unachievable standards might be imposed by the school as a scheme to ease out tenured members of the faculty is unfounded. The fact is that the evidence in this case does not bear out petitioner's misgivings. To the contrary, it appears that only the six petitioners, out of the school's 47 teachers, failed to obtain the grade of 85%, which proves that the rating is neither unattainable nor unrealistic. Anyway, if in the future petitioners' fears prove to be real and not merely imagined, there are appropriate agencies for the redress of grievances.

Second. Petitioners argue that termination of employment is such a harsh and drastic measure to take against them. Petitioners were given sufficient time (three years), however, within which to make the necessary adjustment and self-improvement, but they failed to come up to the school's standard. It would be an act of oppression against the employer for courts to compel private respondent to retain petitioners in its faculty even when it is clear that they cannot meet reasonable standards. Security of tenure, while constitutionally guaranteed, cannot be used to shield incompetence or deprive an employer of its prerogatives under the law. We think the grant of separation pay to petitioners, while vindicating the employer's prerogatives to set reasonable standards of performance, at the same time sufficiently gives recognition for past services of petitioners. The demands of justice are thus satisfied.

WHEREFORE, the petition is DISMISSED for lack of merit.

SO ORDERED.

Regalado (Chairman), Romero, Puno, and Torres, Jr., JJ., concur.

[1] Art. XIV, § 1.

[2] Compare the statement in *Buiser v. Leogardo*, 131 SCRA 151, 152 (1984): "Failure to observe prescribed standards of work, or to fulfill reasonable work assignments due to inefficiency may constitute just cause for dismissal. Such inefficiency is understood to mean failure to attain work goals or work quotas, either by failing to complete the same within the allotted reasonable period, or by producing unsatisfactory results. This management prerogative of requiring standards may be availed of so long as they are exercised in good faith for the advancement of the employer's interest."

[3] Private respondents' Comment, pp. 9-10; Rollo, pp. 102-103.

[4] Comment, p. 2, Rollo, p. 95.

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