

**PAMANTASAN NG LUNGSOD NG MAYNILA (PLM), PETITIONER, VS.
CIVIL SERVICE COMMISSION (CSC), PAMANTASAN NG LUNGSOD NG
MAYNILA FACULTY ORGANIZATION (PLMFO), ROBERTO AMORES,
ROLANDO AU...**

G.R. No. 107590. February 21, 1995

Ponente: VITUG, J.

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VITUG, J.:

This petition stemmed from a complaint for illegal dismissal and unfair labor practice filed with public respondent Civil Service Commission ("CSC") by private respondents, through Pamantasan Ng Lungsod Ng Maynila Faculty Organization ("PLMFO"), against petitioner Pamantasan Ng Lungsod Ng Maynila ("PLM") and its officers.

The sixteen (16) individual private respondents were full-time instructors of PLM under "temporary contracts" of employment renewable on a yearly basis. They, among other instructors, joined the PLMFO.

Uniform notices of termination, all dated 24 April 1990, were individually sent to private respondents informing them of "the expiration of their temporary appointments at the close of office hours on 31 May 1990" and the non-renewal of their appointments for the school year (SY) 1990-1991. A series of letter-complaints addressed to the CSC by private respondents evoked a letter-response from PLM, dated 16 May 1990, traversing the complainants' right to compel a renewal of the appointments. They were advised that their retention was not recommended by their respective Deans.

On 29 May 1990, private respondents, through PLMFO, filed with the CSC a verified complaint for illegal dismissal and unfair labor practice against petitioner and its officers.

In a letter-comment, dated 13 July 1990, petitioner denied having committed any unfair labor practice or having illegally dismissed private respondents. In its defense, PLM interposed (1) the temporary nature of private respondents' contracts of employment and (2) reasons that could justify the non-renewal of the contracts.

Public respondent CSC referred the case to the Public Sector Labor-Management Council [1] ("PSLMC"). The latter, through its deputized hearing officer, Med?Arbiter Hope Ruiz-Valenzuela of the Bureau of Labor Relations of the Department of Labor and Employment, after due notice, heard the case (PSLMC Case No. 00-06-91). During the proceedings, petitioner relied in main on the temporary nature of private respondents' employment contracts.

In a Resolution, [2] dated 16 December 1991, the PSLMC found petitioner guilty of "Unfair Labor Practice" and held that private respondents "should be reinstated." The dispositive portion of its Resolution read:

"WHEREFORE, premises considered, the Council finds that PLM Management committed Unfair Labor Practice when it terminated the services of herein complainants, and for which the latter should be reinstated.

"Accordingly, let this Resolution be forwarded to the Civil Service Commission for appropriate action.

"SO ORDERED." [3]

Petitioner's request for reconsideration was denied in PSLMC's Order of 30 April 1992. Forthwith, the PSLMC transmitted the case to the CSC for appropriate action.

On 15 May 1992, petitioner filed with this Court a petition for certiorari, entitled "Pamantasan ng Lungsod ng Maynila vs. Public Sector Labor-Management Council, et al.," docketed G.R. No. 105157, that sought the annulment of the aforementioned PSLMC resolutions. In a Minute Resolution, dated 27 May 1992, the Court dismissed the petition for PLM's failure to submit the certification required under Circular 28-91 on forum-shopping. The motion for the reconsideration of this resolution was dismissed with finality, no compelling reason having been shown to reconsider the dismissal of the petition. On 30 July 1992, the resolution became final and executory and, in due course, was recorded in the Book of Entries of Judgment.

In the meantime, public respondent CSC, acting on the case forwarded to it by the PSLMC, issued its Resolution No. 92-814, dated 25 June 1992, sustaining the findings of the PSLMC. The CSC, accordingly, directed the reinstatement, with back salaries, of private respondents; thus -

"WHEREFORE, foregoing premises considered, the Commission hereby resolves to rule that the termination of the services of Estelita Pineda, Vicente Banagale, Salvacion Rodriguez, Anita Leyson, Eleanor Jimenez, Ma. Zelda Reyes, Belinda Santos, Lordeo Poquiz, Rolando Austria, Jonathan Manzano, Manolo Hina, Nemencio Cabatuando, Alfredo Razon, Virgilio Zamora, Roberto Amores and Jose Mejia, all of the Pamantasan ng Lungsod ng Maynila, is illegal.

"The PLM Management is hereby directed to reinstate these employees to their former or equivalent positions and pay them back salaries and other benefits from the time of their illegal termination until their actual reinstatement." [4]

The request for the reconsideration of the order was denied by the CSC in its Resolution No. 92-1573 of 20 October 1992. Respondent CSC, in denying petitioner's motion, held, among other things, that the findings of fact by the PSLMC deserved the respect of the Commission and that there was no further need for it to conduct a hearing of its own.

The PLM cites the following reasons for its instant petition for certiorari (under Rule 65, not Rule 45 such as mistakenly referred to by petitioner):

1. The Civil Service Commission acted with grave abuse of discretion tantamount to lack of jurisdiction and denial of due process when it adopted entirely, without according the petitioner the opportunity to be heard, the findings of facts and resolutions of the Public Sector Labor Management Council, a body separate and distinct and with different jurisdiction from that of the Commission.
2. The Civil Service Commission acted with grave abuse of discretion in effectively denying the petitioner the opportunity to present evidence to substantiate its allegations in its defense against the charge of illegal dismissal, to the prejudice of civil service and public interest.
3. The Civil Service Commission committed a grave abuse of discretion in directing reinstatement and payment of backwages to private respondents whose temporary contracts of employment had already expired.

On 11 May 1993, this Court, acting on petitioner's motion for the issuance of a writ of preliminary injunction, issued, on 18 May 1993, a temporary restraining order directing respondent CSC "to cease and desist from executing (its) assailed Resolutions No. 92-814 and No. 92-1573." [5]

In our resolution, dated 17 August 1993, following the receipt of respondents' comment, we gave due course to

the petition and ordered the parties to file their respective memoranda.

The Solicitor General took an adverse position to that of public respondent and prayed that the petition be given due course, contending that it was inappropriate for respondent CSC to rule on the aspect of illegal dismissal, an act that involved an exercise of its original jurisdiction, without affording anew petitioner an opportunity to be heard.

Public respondent CSC manifested its intention to file its own comment to the instant petition; however, it failed to file any such comment within the allotted period. The Court finally dispensed with the filing of the comment and ordered CSC to instead file its memorandum in accordance with this Court's resolution of 24 August 1993. [6]

On 20 January 1994, the Court dismissed the petition for failure to prosecute on the part of petitioner, which likewise failed to file its memorandum, as well as because of the "evident lack of interest of the parties" [7] to pursue the case. On petitioner's motion for reconsideration, however, the Court resolved, on 24 February 1994, to reinstate the petition.

Petitioner stresses that the CSC and the PSLMC both exercise quasi-judicial functions but not on identical issues and subject matter; that the PSLMC possesses jurisdiction only over the unfair labor practice aspect of private respondents' complaint but that it is the CSC which alone can take cognizance over the question of illegal dismissal; and that, therefore, when the CSC has simply adopted the recommendations of the PSLMC in the unfair labor practice case in resolving the issue of illegal dismissal and ordering the reinstatement of private respondents without conducting further proceedings of its own, it has effectively denied petitioner of its right to due process.

PSLMC's jurisdiction over the unfair labor practice case filed by private respondents against petitioner is not disputed. The PSLMC, in Case No. 00-06-91, has conducted its proceedings in accordance with its legal mandate. [8] The proceedings before Med-Arbiter Valenzuela, who had been deputized to so act as the hearing officer, conform with the "Rules and Regulations to Govern the Exercise of the Right of Government Employees to Self Organization" -

"Sec. 3. The Council may call on any officer or agency for assistance. It may deputize officers to hear and recommend action on complaints or grievances filed with the council.

"Sec. 4. The procedure in the Council shall be non-adversarial in nature. The parties may be required to submit their respective position papers, together with all evidences available in support of their respective positions within 15 days from receipt of notices.

"Sec. 5. The decision of the Council shall be final."

The conclusion of the PSLMC regarding petitioner's alleged commission of unfair labor practice against private respondents can no longer be considered a proper issue either before the CSC or in this instance since this particular matter has already been adjudged with finality in accordance with this Court's resolution in G.R. No. 105157 heretofore mentioned.

The PSLMC, in part, said:

"x x x Individual sixteen (16) complainants were part of the original founders of the PLMFO and claim to be active members thereof. Complainants Vicente Benagale, Roberto Amores, and Anita Leyson were the President, Treasurer and Secretary, respectively, of the PLMFO. At the time of complainants' separation, the union had just secured its public sector union registration. All 16 complainants had temporary employment contracts that were renewed on a yearly basis. Half of the complainants had been with the PLM for a long time, ranging from four (4) to six and one-half (6 1/2) years.

"It appears that the Faculty had many long-standing issues with the PLM Management, which complainants claim motivated the organization of the PLMFO. As gathered from the evidence, the following are some of the more salient issues:

"1. Failure to appoint a true faculty representative to the Board of Regents as provided in the PLM Charter;

"2. No faculty participation in areas where normally the faculty input is sought i.e.

"a. revision of the student curriculum

"b. the development of criteria/policies regarding faculty development and promotion

"3. While PLM has identified the academic qualifications and teaching experience required for each level of hierarchy in the faculty, the actual mechanics of promotion are vague. The faculty remains in the dark as to whether they have already qualified and therefore can apply for the next faculty rank as a matter of right. The PLMFO maintains that this vagueness in the procedure/policies for promotion is a deliberate scheme to enable PLM management to establish the faculty according to its whim;

"4. On the matter of promotion scheme, the faculty is not given the complete results of their performance evaluation;

"5. The faculty is kept guessing about the official salary scale according to rank, so that the implementation of such official salary scale can be arbitrary and discriminatory x x x.

"6. Management refuses to allow the concerned faculty to participate in choosing the Chairperson in their respective departments.

"7. PLM's existing practice in the promotion of faculty members either for permanent status or to the next higher rank has undermined the university's standard of excellence. Out of the 223, close to 30% of the faculty had no previous teaching experience before joining PLM. There are only 29 assistant professors and 6 with the rank of professor. The teachers holding temporary appointments comprise almost half of the faculty.

"After securing its union registration, PLMFO began asserting its rights.

"x x x x x x x x.

"In its complaint, PLMFO alleged that their actions and determination to see changes in the management of PLM angered PLM which prompted its decision to terminate the services of the complainants.

"x x x x x x x x.

"Ordinarily, there is merit to respondent's argument that employees who hold temporary contracts of employment may not expect renewal of appointment as a matter of right, the decision being a management prerogative. However, when the exercise of this privilege is alleged to be the means by which management hinders unionism or outrightly bust unions and such allegation is supported by evidence, the act needs to be examined and studied. It then becomes incumbent upon Management to show that its intentions are otherwise. Records of the case, however, reveal that despite numerous opportunities to do so, PLM makes little attempt to rebut the specific charges and instead rests its defense largely on the argument that since complainants possess only temporary contracts of employment, PLM has the right not to renew their contracts without any need for justification.

"There is sufficient evidence to show that the management of PLM is not particularly enthusiastic about faculty participation in the formulation of policies concerning the University and the Faculty itself, as shown from the very nature of the majority of the complaints of the faculty against the administration and the response/reaction of the management to earlier attempts by the faculty to bring about changes. x x x

"x x x. The facts on record show that management did not respond to any of the faculty issues. One accurate example is the matter of the teachers' performance evaluation ratings which were the basis for "renewal of appointment and recommendation for permanent status." It was discussed in the dialogue that the over-all rating score of the faculty would include the Peer's evaluation. However, as can be seen from the ratings of the complainants who were accused of having poor performance, the Peer's evaluation was not included as one of the factors for their evaluation.

"x x x x x x x x"

"x x x. In its position paper and other subsequent pleadings, PLM has however, abandoned all efforts to pursue its line of defense. It would appear therefore that the charges are false and untenable. If this is so, why was PLM so bold as to present them as grounds for the separation of complainants in the first place? Perhaps, it was confident that because complainants possessed temporary contracts of employment, no serious attempt would be made to examine PLMFO's complaint. Whatever other reasons PLM may have, the circumstances obtaining in the instant case show that these charges were created as an attempt to confuse/mislead PLM's real motivations on the matter." [9]

In agreeing with the PSLMC, the CSC, in its own resolution of 25 June 1992, stated:

"In the arbitration proceedings, the PSLMC found that PLM committed unfair labor practice when it terminated the services of the complainants. It is undisputed that the PLM Management did not renew the appointments of these members of the faculty with temporary contracts but those who were hired as replacements possess even lesser qualifications than the 16 complainants. Further, the PLM Management refused and still refuses to produce the results of their evaluation of the performance of the complainants which can be an indication that presentation of such evidence would be detrimental to its case. Hence, this issue before us.

"Had complainants not been among those active officers and/or members of the PLMFO, and had their qualifications, training, experience and performance rating not been impressive, the Commission would have agreed that the termination or non-renewal of the contracts of complainants does not constitute unfair labor practice. But the records reveal otherwise. Hence, there is indeed no reason for PLM Management to terminate the services of these employees except to bust their organization. The Commission finds no reason to disagree with the findings of facts by the PSLMC that PLM Management committed an unfair labor practice.

"x x x x x x x x.

"Even temporary employees enjoy that basic right to form organization or association for purposes not contrary to law. PLMFO is that organization. Thus, its members cannot be separated from the service for the simple reason of membership in the said organization. And when the appointment status of these members happens to be temporary in nature, such becomes merely incidental and the doctrine that temporary employees have no security of tenure must yield or is not applicable. When the clear intent therefore of PLM Management in terminating the services of these employees is to abridge their constitutional right to self-organization, the Commission has the duty to give them protection and uphold their basic right. This constitutional right of employees is superior to the right of management not to renew the temporary appointment of its employees. When the exercise of discretion by the management is calculated to bust the union as what PLM Management had done, the Commission has no choice but to declare it as a grave abuse of discretion." [10]

Petitioner insists that when CSC has ruled on the matter of illegal dismissal without conducting any further hearing of its own, relying, instead, on PSLMC's finding of unfair labor practice on the part of petitioner, the latter has thereby been denied due process. Unfortunately for petitioner, however, the two supposed independent issues, i.e., the unfair labor practice charge and the complaint for illegal dismissal both filed by private respondents, are, in fact, here unavoidably interlinked. The non-renewal of an employment contract with a term, it is true, is

ordinarily a valid mode of removal at the end of each period. [11] This rule, however, must yield to the superior constitutional right of employees, permanent or temporary, to self-organization. While, a temporary employment may be ended with or without cause, it certainly may not, however, be terminated for an illegal cause.

Petitioner claims that it was denied "due process." It itself admitted, however, that "it manifested (before the PSLMC) its intention to submit evidence (that it had other valid grounds for not renewing private respondents' temporary contracts of employment) which, inadvertently or otherwise, it failed to present x x x." [12] This supposed evidence, if true and being material to substantiate its defense against the unfair labor charge, should have been duly presented, but it did not. Petitioner should not now be heard to complain that it was denied due process. We ruled, time and again, that "due process" was designed to afford an opportunity to be heard, [13] not that an actual hearing should always and indispensably be held.

In any case, in its reply to private respondents' comment, PLM enumerates the alleged causes for the non-renewal of the contracts, to wit:

"Name

Cause

1. Zamora, Virgilio Failure to finish MA after 2 years
2. Benagale, Vicente Poor over-all performance
3. Mejia, Jose Worked with DAR while with PLM
4. Amores, Roberto Failure to complete MA
5. Reyes, Zelda Poor Performance
6. Santos, Belinda Tardiness in class, says negative comments during faculty meeting
7. Poquiz, Lorredo Seldom returns test papers, taught in another university
8. Austria, Rolando Taught in another school for 2nd Semester of 1989- 1990
9. Manzano, Jonathan Taught in another university

10. Hina, Manalo Poor class performance
11. Cabatuando, Nemesio Poor class performance, taught in another university
12. Rodriguez, Salvacion none given
13. Razon, Alfredo none given
14. Jimenez, Eleanor Tardiness during 2nd sem. in school year
15. Leyson, Anita Enrolled in another law school
16. Pineda, Estelita Unbecoming conduct, tardiness" [14]

The PSLMC has noted, however, that the charges are either false or untenable; hence, its following findings:

"x x x In the case of complainants Zelda Reyes, Hina Manalo and Nemencio Cabatuando, PLM alleged that they scored poorly in their performance evaluation ratings. However, a check with their actual performance evaluation scores (see pp. 252-264, records) shows that their grades are near perfect. PLMFO's President Vicente Benagale was accused of having poor class performance scores. His evaluation forms were, however, not available for scrutiny.

"On two occasions, PLM was directed to produce the evaluation results of the 16 complainants, the first, through an Order of Director Salvador Fernandez dated May 28, 1990 (see p. 148, records) and the second, in the conference of January 24, 1990 (see p. 278, records). PLM failed to comply on both occasions. This Council can only deduce that the presentation of such evidence would be detrimental to its case.

"Roberto Amores and Virgilio Zamora were separated on the ground that they failed to complete their MA degrees. A glance at their number of years of service makes PLM's charge spurious. In the case of Roberto Amores, records show that he has been with PLM for 6 1/2 years and was still on a temporary appointment basis. Under Board Resolution 1025, he should be considered as a permanent employee, his contract of employment having been renewed after the interim period. If PLM were sincere in applying the rule that all permanent faculty must have a Masters Degree, it should have disqualified Mr. Amores after his interim period of appointment. It therefore appears that PLM sought to enforce this rule only after Mr. Amores was elected union treasurer. On the other hand, PLM's objection as regards Virgilio Zamora is premature. Mr. Zamora was only in his 4th year at the university. Based on the concept of interim appointment, he is given up to the fifth year to complete his Masters.

"The cause for the termination of Leyson's services was her enrollment in another law school without allegedly asking permission from PLM management. On record (p. 507, records) is a letter dated January 7, 1989 of Anita Leyson to the University, asking permission to continue her studies at the Arellano Law School for the 2nd semester of 1989. PLM challenges complainant to show proof that her request had been granted. Even if complainant, however, cannot produce any document showing that she was granted permission, in like manner, neither can PLM present any document expressly prohibiting her to enroll at the Arellano University. PLM's

non-response, if this is indeed the case, must be construed as consent. Complainant's request was for continuance of her studies. If this act was truly objectionable, PLM should have questioned about her previous enrollment at the Arellano University.

"Moreover, this Council cannot help but comment that as part of every person's basic human right, there is nothing to prevent nor prohibit Ms. Leyson to enroll in the law school of her choice. As borne out by her excellent performance ratings, complainant has rendered an exemplary service. Penalizing complainant for seeking to further improve herself is bordering on oppression.

"In the same conference of January 24, 1991, PLM was directed to further substantiate the validity of its charges against complainants. In its position paper and other subsequent pleadings, PLM has however, abandoned all efforts to pursue its line of defense. It would appear therefore that the charges are false and untenable. If this is so, why was PLM so bold as to present them as grounds for the separation of complainants in the first place? Perhaps, it was confident that because complainants possessed, temporary contracts of employment, no serious attempt would be made to examine PLMFO's complaint. Whatever other reasons PLM may have, the circumstances obtaining in the instant case show that these charges were created as an attempt to confuse/mislead PLM's real motivations on the matter." [15]

The finding of the PSLMC that the non-renewal by petitioner of the questioned contracts of employment had been motivated by private respondents' union activities is conclusive on the parties. Indeed, this Court's resolution in G.R. No. 105157 (PLM vs. PSLMC et. al.), which has long become final and executory should now render that matter a fait accompli.

When the case was thus referred to the CSC by the PSLMC to take "appropriate action" it understandably meant that the CSC should take the necessary steps of reinstating the illegally dismissed employees.

WHEREFORE, the petition for certiorari is DISMISSED and the appealed resolutions of the Civil Service Commission are AFFIRMED. The temporary restraining order issued by this Court on 18 May 1993, is LIFTED. No costs.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno, Kapunan, Mendoza, and Francisco, JJ., concur.

[1] Created by virtue of Executive Order No. 180 dated 01 June 1987.

[2] PSLM Case No. 00-06-91.

[3] Rollo, p. 55.

[4] Rollo p. 31.

[5] Rollo pp. 169-170.

[6] See Rollo pp. 219-220.

[7] Rollo p. 246.

[8] Executive Order No. 180, dated 01 June 1987, was issued at a time when the President still could lawfully exercise legislative powers, and the law became effective on 01 July 1987.

[9] Rollo pp. 44-55.

[10] Rollo, pp. 29-31.

[11] *Ambas vs. Buenaseda*, 201 SCRA 308.

[12] Rollo p. 162.

[13] *GT Printers vs. NLRC*, 208 SCRA 321; *Azul vs. Castro*, 133 SCRA 271; *Hian vs. Court of Tax Appeals*, 59 SCRA 110; *Medenilla vs. Civil Service Commission*, 194 SCRA 278.

[14] CSC Memorandum, p. 12.

[15] Rollo, pp. 53-55.

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