

ANITA Y. SALAVARRIA, PETITIONER, VS. LETRAN COLLEGE, FR. ROGELIO ALARCON, FR. EDWIN LAO AND NATIONAL LABOR RELATIONS COMMISSION*G.R. No. 110396. September 25, 1998*

Ponente: ROMERO, J.

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On June 1, 1982, petitioner Anita Y. Salavarria was employed by respondent Colegio de San Juan de Letran as a teacher in its High School Department. Sometime in the second semester of school year 1990-1991, the second year students of her Religion classes requested her if they could initiate a special project in lieu of the submission of the required term papers. The students explained that the project consisted in collecting contributions from each of them, which amount shall be used to purchase religious articles such as bibles, chalice, crucifix and similar items to be distributed among the several churches in Metro Manila and nearby rural areas. Furthermore, they claimed that in doing so, it would involve them in charity work in connection with their lesson on "Love of God and Neighbor" and that such activity would entail a much lesser expense than the completion of the term papers. After continuous proddings, petitioner was finally prevailed upon to accede to their proposal.

Even before the project could be executed, however, petitioner received a memorandum dated January 29, 1991 from Assistant Principal Erlinda A. Arguelles, directing her to explain why she should not be disciplined for violation of a school policy against illegal collections from students. In reply, she denied initiating the project, arguing that it was her students who proposed the said undertaking, so, she could not have transgressed any school policy. In spite of her written explanation, another memorandum dated February 1, 1991 was issued requiring her to attend a dialogue with the High School Council, which proceedings were conveyed to co-respondent Fr. Rogelio B. Alarcon, as Rector and President of Letran College, for a final determination of the case. Instead of ruling on the matter, Fr. Alarcon deferred his decision thereon and instead created an Ad Hoc Committee that would further look into the matter. On September 30, 1991, petitioner was found guilty of the offense charged and consequently terminated from the service.

In a complaint for illegal dismissal filed by complainant against respondent Letran College, Labor Arbiter Eduardo J. Carpio rendered a decision dated August 19, 1992, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered:

- 1) Ordering respondents to reinstate complainant herein with full backwages (P5,000 x 10 months) P50,000.00 plus related employment benefits from the time she was dismissed up to the time she is actually reinstated.
- 2) Finding complainant to have been unlawfully suspended and that she should be paid her salary and related benefits during her 2-week suspension.
- 3) Awarding moral and exemplary damages to complainant herein in the sum of P50,000.00 and P15,000.00, respectively, and to be assessed against the respondents herein.

4) Awarding attorney's fees of ten (10%) percent to complainant herein based on her total monetary award.

SO ORDERED."[1]

On appeal, however, the said decision was reversed by the National Labor Relations Commission (NLRC) in a decision dated February 22, 1993, thus:

"WHEREFORE, premises considered, the Decision under review is REVERSED and set aside. Judgment is hereby rendered dismissing the complaint for illegal dismissal and illegal suspension, as well as the rest of complainant's claims. However, considering the equities of this case, respondent school is ordered to pay the complainant severance compensation in the amount of Forty Five Thousand Pesos (P45,000.00), equivalent to her salary for one month for every year of her nine (9) years service.

SO ORDERED."[2]

Petitioner's motion for reconsideration having been denied on May 7, 1993, hence, this appeal.

We affirm the findings of the NLRC.

Petitioner contended that her dismissal was arbitrarily carried out, having been effected without just cause, on the premise that the solicitation of funds necessary to purchase the religious articles was initiated by the students and that her participation therein was merely limited to approving the same. In support of this claim, petitioner relied principally on a letter written by one of her students, Redentor Salonga, who attested to the veracity of the former's assertion, maintaining that he was responsible, not only for the collection of the contributions, but for the canvass of the price of the religious items as well. Moreover, petitioner pleaded that she never misappropriated the money collected and whatever was left of it, after initial purchases were made, were immediately returned to the student-leaders for proper reimbursement to the students concerned. The evidence proffered, though cogent, do not warrant a reversal of the assailed decision.

If there is one person more knowledgeable of respondent's policy against illegal exactions from students, it would be petitioner Salavarria. The records show that she had been meted out a two-week suspension in 1988 for having solicited contributions without the requisite school approval with a final warning that commission of a similar offense shall warrant the imposition of a more severe penalty. Hence, regardless of who initiated the collections, the fact that the same was approved or indorsed by petitioner, made her "in effect the author of the project." [3]

The Labor Code, as amended, stipulates that an employer may terminate the services of an employee only for just or authorized causes. Willful disobedience constitutes a just cause for the severance of an employer-employee relationship.[4] "In order that an employer may terminate an employee on the ground of willful disobedience to the former's orders, regulations or instructions, it must be established that the said orders, regulations or instructions are (a) reasonable and lawful, (b) sufficiently known to the employee, and (c) in connection with the duties which the employee has been engaged to discharge." [5]

Well-entrenched in our jurisprudence is the dictum that when employers issue rules and regulations operative in a workplace are deemed part of the contract of employment binding upon the employees who enter the service, on the assumption that they are knowledgeable of such rules. Thus, in the event of a violation, an employee may be validly terminated from his employment on the ground that "an employer can not rationally be expected to retain the employment of a person whose lack of morals, respect and loyalty to his employer, regard for his employer's rules and application of the dignity and responsibility, has so plainly and completely been bared." [6]

In the instant case, petitioner's infraction of a school policy warrants her dismissal. Having been administratively penalized for a similar offense in 1988, petitioner should have been more circumspect in her actuations of such

nature. It hardly needs reminding that, in view of their position and responsibility, those in the teaching profession must demonstrate a scrupulous regard for rules and policies as befits those who would be role models for their young charges.

On the second issue, petitioner questioned the wisdom of her outright dismissal by respondent when the latter ignored the High School Council's recommendation that she be penalized by a month's suspension. Such argument is unavailing. Suffice it to state that the function of the said Council is merely recommendatory. As succinctly declared by the Solicitor General in his Comment, "the Council's function is limited to the investigation of cases involving violation by faculty and students alike of school rules and regulations, and the submission of its findings and recommendations thereon. It is not in the council's province to finally decide what penalty is to be imposed upon those found guilty since this discretion is vested in the school head, private respondent Alarcon." [7]

We rule that the NLRC correctly awarded to petitioner the amount of P45,000.00 as "severance pay" which is synonymous with "separation pay." As a general rule, an employee who is dismissed for cause is not entitled to any financial assistance. However, equity considerations provide an exception. In *PLDT v. NLRC*, [8] equity has been defined as justice outside law, being ethical rather than jural and belonging to the sphere of morals than of law. It is grounded on the precepts of conscience and not on any sanction of positive law, for equity finds no room for application where there is law. Further, it was held that the grant of separation pay is not merely based on equity but on the provisions of the Constitution regarding the promotion of social justice and protection of the rights of the workers.

As stressed in the recent cases of *Santos v. NLRC* [9] and *Camua v. NLRC*, [10] the Court therein laid down the guidelines in the grant of separation pay to lawfully dismissed employees, thus:

"We hold that henceforth separation pay shall be allowed as a measure of social justice only in those instances where the employee is validly dismissed for causes other than serious misconduct or those reflecting on his moral character. Where the reason for the valid dismissal is, for example, habitual intoxication or an offense involving moral turpitude, like theft or illicit sexual relations with a fellow worker, the employer may not be required to give the dismissed employee separation pay, or financial assistance, or whatever other name it is called, on the ground of social justice."

As applied to the case at bar, we find that petitioner's infraction of the school policy neither amounted to serious misconduct nor reflected that of a morally depraved person as may warrant the denial of separation pay to her. While the Court is not oblivious of the fact that petitioner was already warned in a previous offense, certain circumstances, however, impel us to award her separation pay equivalent to one month salary for every year of service in respondent school. It would appear that her participation in the project, if the students who sent letters of support to the latter were to be believed, was merely limited to the approval thereof. Moreover, what justifies this Court's liberal attitude towards petitioner is that she never took physical custody of the funds, nor was she charged with misappropriating the same for personal gain. Moreover, considering that petitioner had spent nine (9) years of her teaching career with the respondent "the ends of social and compassionate justice would be served if she will be given some equitable relief. The grant of relief in the form of separation pay finds support in a number of the decisions of the Supreme Court. It does not necessarily follow that if there is no illegal dismissal, no award of separation pay may be made." [11]

All told, petitioner failed to show any grave abuse of discretion in the NLRC's assailed decision and resolution dated February 22, 1993 and May 7, 1993, respectively.

WHEREFORE, the instant petition is DISMISSED and the decision of the National Labor Relations Commission

is accordingly AFFIRMED.

SO ORDERED.

Narvasa, C.J. (Chairman), Kapunan, and Purisima JJ., concur.

[1] Rollo, pp. 69-70.

[2] Rollo, p. 38.

[3] Rollo, pp. 102-110.

[4] Art. 282, Labor Code, as amended.

[5] AHS/Philippines, Inc. v. Court of Appeals, 257 SCRA 319 (1996); Stolt-Nielsen Marine Services (Phils.), Inc. v. NLRC, 264 SCRA 307 (1996); Villeno v. NLRC, 251 SCRA 494 (1995).

[6] Philippine-Singapore Transport Services, Inc. v. NLRC, 277 SCRA 506 (1997).

[7] Rollo, p. 109.

[8] 164 SCRA 671 (1988).

[9] G.R. No. 115795, March 6, 1998.

[10] 279 SCRA 45 (1997).

[11] Cruz v. Medina, 177 SCRA 565 (1989), citing the cases of Reyes v. Minister of Labor and Pacwood, Inc., 170 SCRA 134 (1989); Baby Bus, Inc. v. Minister of Labor, 158 SCRA 221 (1988); San Miguel Corp. v. Deputy Minister of Labor and Employment, 126 SCRA 483 (1983); Soco v. Mercantile Corp. of Davao, 148 SCRA 527 (1987)

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