

**MT. CARMEL COLLEGE, BISHOP JULIO LABAYEN AND SR.
MERCEDES SALUD, PETITIONERS, VS. NATIONAL LABOR RELATIONS
COMMISSION AND MRS. NORMITA A. BAÑEZ, RESPONDENTS.**

G.R. No. 117514. October 04, 1996

Ponente: PUNO, J.

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PUNO, J.:

Petitioner Mt. Carmel College, through its president, Bishop Julio Labayen, and its vice president, Sister Mercedes Salud, assails the portion of the Decision of respondent National Labor Relations Commission in NLRC Case No. RAB-IV-6-4406-92-Q[1] ordering it to pay private respondent Normita A. Bañez the amount of P10,200.00 representing her salary for the unexpired portion of her probationary employment.

The facts are undisputed:

On June 1, 1989, petitioner school hired private respondent as grade school teacher under a written Contract of Probationary Employment. Paragraph 5 of the contract provides for private respondent's salary and the duration of her employment, thus:

5. That my salary or wage shall be One Thousand Six Hundred Seventy Five Pesos (P1,675.00) per month and until such time as the School decides to retain me in its permanent employ, my employment therein shall be deemed to run from SY 1989-1990 to SY 1991-1992 (day to day of month to month) and my service may be terminated at any time after I fail to comply with the foregoing conditions laid down by the School. The School shall have no further liability to me whatsoever, either by way of separation pay or otherwise.[2] (emphasis supplied)

In March 1992, petitioner school terminated the services of private respondent as she did not pass the National Teacher's Board Examination.[3]

Private respondent filed a complaint for illegal dismissal against the petitioners.

The Labor Arbiter found petitioners guilty of illegal dismissal and ordered them to reinstate private respondent with full backwages.[4]

Petitioners appealed to the NLRC.

Public respondent reversed the decision of the Labor Arbiter. It found private respondent's dismissal from service to be legal. Public respondent, however, ordered petitioners to pay private respondent the amount of P10,200.00, representing her salary for the unexpired portion of her probationary period. According to public respondent, private respondent's probationary employment was supposed to end in June 1992, but her services were terminated three (3) months earlier, in March 1992. Hence, it ordered petitioners to pay private respondent her salary corresponding to those months.[5]

Petitioners filed the present petition raising the following issue:

Whether or not the NLRC gravely abused its discretion in finding an "unexpired portion" in private respondent's probationary contract, which expires at the end of the school year 1991-1992, and holding petitioners liable for the payment of her salary equivalent to that "unexpired portion".[6]

The petition is impressed with merit.

Private respondent's employment contract stipulated that her employment "shall be deemed to run from SY 1989-1990 to SY 1991-1992 (day to day of month to month)". Under Section 48 of the Manual of Regulations for Private Schools, a school year or academic year begins on the second Monday of June and shall consist of "approximately forty weeks of normally five school days each, exclusive of approved vacations and including legal and special holidays, and special activities." [7]

In the cases of *Espiritu Santo Parochial School vs. NLRC* [8] and *Colegio San Agustin vs. NLRC*, [9] the court recognized the distinction between a calendar year and a school year. In *Espiritu Santo Parochial School*, we held:

xxx the petitioners can not talk of a "three-year probationary employment expiring each school year." If it expires per school year, it is not a three-year period.

Then in *Colegio San Agustin*, we said:

xxx As applied to private school teachers, the probationary period is three years as provided in the manual of Regulations for Private Schools. It must be stressed that the law speaks of three years not three school years.
xxx

Needless to say, a calendar year consists of twelve (12) months, while a school year consists only of ten (10) months. A school year begins in June of one calendar year and ends in March of the succeeding calendar year.

Public respondent therefore erred in finding that private respondent's probationary employment was supposed to end in June 1992. The contract clearly states the duration of private respondent's term -- it shall begin at the opening of school year 1989-1990 (i.e., June 1989) and shall end at the closing of school year 1991-1992 (i.e., March 1992). Hence, petitioners are not obliged to pay private respondent her salary for the months of April, May and June as her employment already ceased in March, in accordance with the provisions of her employment contract.

IN VIEW WHEREOF, the award of P10,200.00 in favor of private respondent in the Decision of public respondent NLRC in NLRC Case No. RAB-IV-6-4406-92-Q is SET ASIDE.

SO ORDERED.

Regalado, Romero, and Torres, Jr., JJ., concur.

Mendoza, J., on official leave.

[1] Penned by Commissioner J. A. Tanodra.

[2] NLRC Decision, Rollo, pp. 15-16.

[3] NLRC Decision, Rollo, p. 16.

[4] NLRC Decision, Rollo, pp. 14-15.

[5] NLRC Decision, Rollo, pp. 18-19.

[6] Petition, Rollo, pp. 5-6.

[7] Ulpiano P. Sarmiento, III, *Manual of Regulations for Private Schools Annotated*, First Edition (1995), p. 193.

[8] 177 SCRA 802 (1989).

[9] 201 SCRA 398 (1991).

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