

EVELYN J. GARCIA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, THIRD DIVISION, HOLY TRINITY ACADEMY, AND MSGR. MANUEL GABRIEL, RESPONDENTS.*G.R. No. 119527. July 03, 1996*

Ponente: ROMERO, J.

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How much is the price of trust? For petitioner Evelyn Garcia, the loss of trust in her by her employer resulted in her dismissal after nineteen years of faithful service. She claims the penalty was too harsh for a single mistake. On the other hand, her employer avers that her services were terminated only after an investigation revealed that she had committed several infractions in the past which put in question her very honesty and trustworthiness as an employee.

Petitioner served as school cashier for private respondent Holy Trinity Academy (the school) from June 1974 until her dismissal on October 5, 1993 for alleged loss of confidence, gross negligence of duty, gross inefficiency, and dishonesty. As school cashier, she was the custodian of all school funds, including tuition fees, the petty cash and canteen cash receipts. In her position paper, she alleged that her termination was brought about by an incident which occurred on June 15, 1993. There appeared to be a discrepancy in one of the deposits she made where the amount indicated in the deposit slip and the money actually received by the bank did not tally. A sum of P50,000.00 was missing and such loss was blamed exclusively on her by the private respondents, after considering the separate reports of the National Bureau of Investigation and the Diaz Murillo Dalupan Auditing Firm.

The school administration, on the other hand, relied on audit and fact-finding reports which showed irregularities in the handling of school funds, such as delays in making, deposits, infidelity and lack of control and inventory over official receipts, accommodation of checks from cash collections, non-use of the bank armored car in the pickup of large deposits and shortages in collections from the school canteen, not the least of which was the incident of June 15, 1993.

Prior to her dismissal on October 5, 1993, petitioner was suspended for a total of 90 days. On December 23, 1993, she filed a complaint for illegal dismissal, nonpayment of overtime pay and damages. In the decision of Labor Arbiter Nieves V. de Castro on June 30, 1994, the school was ordered to pay petitioner P45,500.00 as separation pay. She opined that petitioner's dismissal was not for a valid or authorized cause and that she was denied due process as she was not given prior written notice of the charges against her. Both parties appealed to the National Labor Relations Commission.

On November 21, 1994, the Commission promulgated its decision. Reversing, the Labor Arbiter, it found that petitioner was validly dismissed for gross negligence and for loss of trust and confidence but it directed private respondents to indemnify petitioner in the amount of P10,000.00 for their failure to comply with the requisites of due process prior to her termination. Petitioner's motion for reconsideration was likewise denied in the

Commission's resolution of January 31, 1995.

In this petition for certiorari, petitioner anchors her arguments on the presupposition that she was dismissed solely on the basis of the June 15, 1993 incident. An examination of the records of the case reveals, however, that said incident was merely one of several acts of dishonesty discovered by the auditing firm and the fact-finding committee formed by the school.

Bearing in mind that the position of cashier is a highly sensitive position, requiring as it does the attributes of absolute trust and honesty because of the temptations attendant to the daily handling of money, petitioner's acts could not help but sow mistrust and loss of confidence on the part of respondent employer. The Court agrees with the Commission that the resulting breach of trust constitutes a valid cause for the dismissal of petitioner.

The Court likewise concludes that due process was not observed by the school in terminating the services of petitioner. After the June 15, 1993 incident, petitioner was put under preventive suspension for a total of 90 days. Within that period, an on-the-spot audit was conducted by an auditing firm and an investigation was conducted by a fact-finding committee. The findings of these two groups, though impartial, were reached without hearing petitioner's side. In short, there was never an opportunity for petitioner to defend herself against the charges hurled against her.

Public respondent Commission did not err in penalizing the school for non-observance of due process even if it had a valid ground to dismiss its erring employee. The Court, however, in line with past jurisprudence reduces the indemnity from P10,000.00 to P1,000.00.

WHEREFORE, the assailed decision dated November 21, 1994 is hereby **AFFIRMED** with the **MODIFICATION** that the indemnification awarded by the public respondent Commission to petitioner be reduced from P10,000.00 to P1,000.00, in keeping with the Court's policy regarding the same. The instant petition for certiorari is hereby **DISMISSED** without costs to petitioner.

SO ORDERED.

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

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