

LUZVIMINDA DE LA CRUZ, MERCY DE LEON, TERESITA EUGENIO, CORAZON GOMEZ, ELENA GUEVARRA, ROSALINA JINGCO, LOIDA IGNACIO, AND EMERITA PIZARRO, PETITIONERS VS., COURT OF APPEALS, CI...

G.R. No. 126183. March 25, 1999

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

These consolidated petitions[1] are among several petitions filed with this Court arising from the much-publicized public school teachers' mass actions of September/October 1990.

Petitioners are public school teachers from various schools in Metro Manila who were simultaneously charged, preventively suspended, and eventually dismissed in October 1990 by then Secretary Isidro D. Cariño of the Department of Education, Culture and Sports (DECS), in decisions issued by him which uniformly read -

This is a motu-proprio administrative complaint separately filed by the Secretary of Education, Culture and Sports against the following public school teachers x x x x based on the report submitted by their respective school principals wherein it was alleged that the above-named teachers participated in the mass action/illegal strike on Sept. 19-21, 1990 and subsequently defied the return-to-work order dated September 17, 1990 issued by this Office, which acts constitute grave misconduct, gross neglect of duty, gross violation of Civil Service Law, Rules and Regulations and reasonable office regulations, refusal to perform official duty, gross insubordination, conduct prejudicial to the best interest of the service and absence without official leave (AWOL), in violation of Presidential Decree 807, otherwise known as the Civil Service Decree of the Philippines.

Required to explain within a period of not less than 72 hours but not more than 5 days from receipt of the complaint, respondents failed to submit the required answer within the given time up to the present, and despite the denial of their request for extension of 30 days within which to submit their answers dated September 25, 1990 filed by their counsel, Atty. Gregorio Fabros, in a letter of this Office to him dated September 28, 1990, respondents failed to submit the same, which failure, is considered a waiver on their part of their right to answer the charges and to controvert the same.

Wherefore, after a careful evaluation of the records, this Office finds the respondents guilty as charged.

In accordance with Memorandum Circular 30 s. 1989 of the Civil Service Commission on Guidelines in the Application of Penalty in Administrative Cases, the herein respondents are dismissed from Office effective immediately.

The decisions dismissing petitioners were immediately implemented.

Petitioners appealed to the Merit Systems Protection Board (MSPB) and then to the Civil Service Commission (CSC). In 1993 the CSC found petitioners guilty of "conduct prejudicial to the best interest of the service" for having participated in the mass actions and imposed upon them the reduced penalty of six (6) months' suspension.

However, in view of the length of time that petitioners had been out of the service by reason of the immediate implementation of the dismissal orders of Secretary Cariño, the CSC likewise ordered petitioners' automatic reinstatement in the service without back wages.

Petitioners were unhappy with the CSC decision. They initially filed petitions for certiorari with this Court, docketed as G.R. Nos. 111998,[2] 114435-5506,[3] and 116312-19,[4] which were all referred to the Court of Appeals pursuant to Revised Administrative Circular No. 1-95,[5] and there re-docketed as CA-G.R. SP No. 37620, CA-G.R. SP No. 37619 and CA-G.R. SP Nos. 37784, 37808-37014, respectively.

On 29 November 1995 the Special Third Division of the Court of Appeals[6] rendered a joint decision in CA-G.R. SP Nos. 37619-20 dismissing the petitions for lack of merit.[7] The appellate court ruled that the questioned resolutions of the Civil Service Commission finding petitioners guilty of conduct prejudicial to the best interest of the service were based on reasonable and justifiable grounds; that petitioners' perceived grievances were no excuse for them not to conduct classes and defy the return-to-work order issued by their superiors; that the immediate execution of the dismissal orders of Secretary Cariño was sanctioned by Sec. 47, par. (2), of the Administrative Code of 1987 (E.O. No. 292) as well as Sec. 37, par. (b), Art. IX of PD No. 807,[8] and Sec. 32, Rule XIV of the Omnibus Rules Implementing Book V of E.O. No. 292. Their motion for reconsideration having been denied on 15 May 1997,[9] petitioners then appealed by certiorari to this Court on 26 June 1997, docketed as G.R. No. 129221.

Meanwhile, on 24 April 1998 the Tenth Division of the Court of Appeals[10] rendered a joint decision in CA-G.R. SP No. 37784 and Nos. 37808-14 likewise dismissing the petitions for lack of merit.[11] The appellate court rejected petitioners' contention that they should not have been penalized for participating in the September/October 1990 mass actions because they were merely exercising their constitutional right to free assembly. In so ruling the Court of Appeals cited *Manila Public School Teachers Association v. Laguio, Jr.*[12] wherein this Court ruled that the public school teachers' mass actions of September/October 1990 were "to all intents and purposes a strike x x x constitut[ing] a concealed and unauthorized stoppage of, or absence from, work which it was the teachers' duty to perform, undertaken for essentially economic reasons." Petitioners' contention that Secretary Cariño's decision to dismiss them was not supported by evidence was likewise rejected in view of petitioners' admissions and/or failure to refute the factual finding that petitioners actually joined the mass actions based on the report of absences submitted by their respective school principals. Their motion for reconsideration having been denied in the resolution of 20 August 1996,[13] petitioners then filed a petition for review on certiorari with this Court on 1 October 1996, docketed as G.R. No. 126183.

By resolution of 7 October 1997 we granted petitioners' motion for the consolidation of G.R. Nos. 126183 and 129221 involving as they did common questions of fact and law.

Petitioners contend that the Court of Appeals grievously erred in affirming the CSC resolutions finding them guilty of conduct prejudicial to the best interest of the service when their only "offense" was to exercise their constitutional right to peaceably assemble and petition the government for redress of their grievances. Moreover petitioners insist that the mass actions of September/October 1990 were not "strikes" as there was no actual disruption of classes. Petitioners therefore ask for exoneration or, in the alternative, award of back wages for the period of three (3) years when they were not allowed to work while awaiting resolution of their appeals by the MSPB and CSC, deducting the period of six (6) months' suspension eventually meted them.

The petitions must be denied in view of previous rulings of this Court already settling all the issues raised by petitioners. It is a very desirable and necessary judicial practice that when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases where the

facts are substantially the same.[14] Stare decisis et non quieta movere. Stand by the decisions and disturb not what is settled.[15]

As early as 18 December 1990 we have categorically ruled in the consolidated cases of Manila Public School Teachers Association v. Laguio Jr.[16] and Alliance of Concerned Teachers v. Hon. Isidro Cariño[17] that the mass actions of September/October 1990 staged by Metro Manila public school teachers "amounted to a strike in every sense of the term, constituting as they did, a concerted and unauthorized stoppage of or absence from work which it was said teachers' sworn duty to perform, carried out for essentially economic reasons -- to protest and pressure the Government to correct what, among other grievances, the strikers perceived to be the unjust or prejudicial implementation of the salary standardization law insofar as they were concerned, the non-payment or delay in payment of various fringe benefits and allowances to which they were entitled, and the imposition of additional teaching loads and longer teaching hours." In Rolando Gan v. Civil Service Commission,[18] we denied the claim that the teachers were thereby denied their rights to peaceably assemble and petition the government for redress of grievances reasoning that this constitutional liberty to be upheld, like any other liberty, must be exercised within reasonable limits so as not to prejudice the public welfare. But the public school teachers in the case of the 1990 mass actions did not exercise their constitutional rights within reasonable limits. On the contrary, they committed acts prejudicial to the best interest of the service by staging the mass protests on regular school days, abandoning their classes and refusing to go back even after they had been ordered to do so. Had the teachers availed of their free time - recess, after classes, weekends or holidays - to dramatize their grievances and to dialogue with the proper authorities within the bounds of law, no one - not the DECS, the CSC or even the Supreme Court - could have held them liable for their participation in the mass actions.[19]

With respect to our ruling in PBM Employees Organization v. Philippine Blooming Mills Co., Inc.,[20] invoked by petitioners, we have likewise already ruled in the Rolando Gan case[21] that the PBM ruling - that the rights of free expression and assembly could not be lightly disregarded as they occupy a preferred position in the hierarchy of civil liberties - was not applicable to defend the validity of the 1990 mass actions because what were pitted therein against the rights of free expression and of assembly were inferior property rights while the higher consideration involved in the case of the striking teachers was the education of the youth which must, at the very least, be equated with the freedom of assembly and to petition the government for redress of grievances.[22]

We affirmed the foregoing rulings in Bagana v. Court of Appeals[23] by denying a similar petition filed by another group of teachers who participated in the 1990 mass actions but who claimed to have been merely exercising their constitutional right to free assembly. We held in Bagana that the Court of Appeals committed no reversible error in affirming the CSC resolutions finding the teachers guilty of conduct prejudicial to the best interest of the service and imposing penalties of six (6) months' suspension without pay. In Bangalisan v. Court of Appeals[24] we added that the persistent refusal of the striking teachers to call the mass actions by the conventional term "strike" did not erase the true nature of the mass actions as unauthorized stoppages of work the purpose of which was to obtain a favorable response to the teachers' economic grievances. We again stressed that the teachers were penalized not because they exercised their right to peaceably assemble but because of the manner by which such right was exercised, i.e., going on unauthorized and unilateral absences thus disrupting classes in various schools in Metro Manila which produced adverse effects upon the students for whose education the teachers were responsible. But herein petitioners contend that classes were not actually disrupted because substitute teachers were immediately appointed by Secretary Cariño. Besides being a purely factual assertion which this Court cannot take cognizance of in a petition for review, the fact that the prompt remedial action taken by Secretary Cariño might have partially deflected the adverse effects of the mass protests did not erase the administrative liability of petitioners for the intended consequences thereof which were the very reason why such prompt remedial action became necessary.

Considering the foregoing, we find that respondent Court of Appeals did not err in sustaining the CSC resolutions finding petitioners guilty of conduct prejudicial to the best interest of the service.

As an alternative prayer, petitioners ask that in the event their exoneration is not decreed they be awarded back wages for the period when they were not allowed to work by reason of the supposed unjustified immediate implementation of the dismissal orders of Secretary Cariño while awaiting resolution of their appeals by the MSPB and CSC.

The issue of whether back wages may be awarded to teachers ordered reinstated to the service after the dismissal orders of Secretary Cariño were commuted by the CSC to six (6) months' suspension is already settled.

In *Bangalisan v. Court of Appeals*[25] we resolved the issue in the negative on the ground that the teachers were neither exonerated nor unjustifiably suspended, two (2) circumstances necessary for the grant of back wages in administrative disciplinary cases. Like herein petitioners, those in *Bangalisan* were also teachers who participated in the 1990 mass actions for which they were dismissed by Secretary Cariño but ordered merely suspended for six (6) months by the Civil Service Commission. On a plea that the immediate implementation of the dismissal orders of Secretary Cariño was unjustified, thus warranting an award of back wages the Court said -

As to the immediate execution of the decision of the Secretary against petitioners, the same is authorized by Section 47, paragraph (2), of Executive Order No. 292, thus: "The Secretaries and heads of agencies and instrumentalities, provinces, cities and municipalities shall have jurisdiction to investigate and decide matters involving disciplinary action against officers and employees under their jurisdiction. Their decision shall be final in case the penalty imposed is suspension for not more than thirty days or fine in an amount not exceeding thirty days' salary. In case the decision rendered by a bureau or office is appealable to the Commission, the same shall be executory except when the penalty is removal, in which case the same shall be executory only after confirmation by the Secretary concerned.

And since it was already the final dismissal orders of Secretary Cariño which were being carried out, immediate implementation even pending appeal was clearly sanctioned by the aforequoted provision of the Administrative Code of 1987.[26] Hence, being legal, the immediate execution of the dismissal orders could not be considered unjustified.

The cases cited by petitioners to support their prayer for back salaries, namely, *Abellera v. City of Baguio*[27] and *Bautista v. Peralta*[28] being cases which involved the unjustified immediate execution of the dismissal orders of the then Civil Service Commissioner pending appeal to the Civil Service Board of Appeals are therefore not applicable to justify petitioners' prayer. Neither could petitioners be considered to have been exonerated from the charges levelled against them by Secretary Cariño from the mere fact that they were found guilty only of conduct prejudicial to the best interest of the service by the CSC. It must be remembered that Secretary Cariño charged petitioners with grave misconduct, gross neglect of duty, gross violation of civil service law, rules and regulations, etc., for having participated in the 1990 illegal mass actions. On appeal the CSC while affirming the factual finding that petitioners indeed participated in the mass actions found them liable only for conduct prejudicial to the best interest of the service. Clearly the CSC decision did not proceed from a finding that petitioners did not commit the acts complained of. Having been found to have actually participated in the illegal mass actions although found answerable for a lesser offense, petitioners could not be considered as fully innocent of the charges against them.[29] Being found liable for a lesser offense is not equivalent to exoneration.[30]

Thus in *Bangalisan* we denied the claim for back wages of those teachers who were found to have actually participated in the 1990 mass actions but granted the claim of one Rodolfo Mariano who was absent only because he attended the wake and interment of his grandmother. In *Jacinto v. Court of Appeals*[31] we again denied the claim for back wages of teachers found to have given cause for their suspension, i.e., their unjustified

abandonment of classes to the prejudice of their students but granted the claim of Merlinda Jacinto who was absent because of illness.

Petitioners do not deny, nay they even admit, having participated in the 1990 mass actions. Thus having given cause for their suspension, their prayer for back wages must be denied conformably with settled rulings of this Court.

WHEREFORE, the petitions are DENIED and the assailed Decisions of the Court of Appeals dated 29 November 1995 and 24 April 1996 are AFFIRMED. No costs.

SO ORDERED.

Davide, Jr., C.J., Romero, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, and Gonzaga-Reyes, JJ., concur.

[1] In G.R. No. 126183, petitioners are Luzviminda de la Cruz, Mercy de Leon, Teresita Eugenio, Corazon Gomez, Elena Guevarra, Rosalina Jingco, Loida Ignacio, and Emerita Pizarro, while respondents are Court of Appeals, Civil Service Commission and the Secretary of Department of Education, Culture and Sports.

In G.R. No. 129221 petitioners are Rolando Alura, Clara Alvarez, Porfirio Austria, Vicente Carranza, Elmer Dalida, Rosalinda Dalida, Nelson Duldulao, Leo Pocong, Enrico Raymundo, Margie Serrano, Susan Sierte, Jessie Villanueva, Norberto Abad, Maria Acejo, Elvira Alano, Susana Banua, Carolina Bulaclac, Danilo Caballes, Echelita Calma, Jesusa Caraig, Cecilia Castillo, Anacleto Corrales, Gloria Cuevas, Concondia de Guzman, Rowena del Rosario, Matilde Dingle, Rosario Duldulao, Conrada Endrina, Luzviminda Espino, Virgilio Estrada, Damian Fetizanan, Democrito Flores, Rosalia Garcenila Gonzales, Violeta Guanizo, Surena Gundran, Hilaria Halago, Nerissa Ignacio, Leonor Lacerna, Teresita Lagumbay, Teresita Laurente, Carmelita Legion, Leonardo Limbo, Edgardo Liwanag, Erlina Magallanes, Neda Magsulit, Amelita Mangahas, Guia Morris, Hipolita Natividad, Natividad Nepomuceno, Rosalina Nocom, Maxima Non, Estela Palileo, Ana Palma, Gliceria Pangindian, Ma. Luz Perez, Lydia Quintain, Lorenza Real, Bernardita Rino, Celia Ronquilo, Gloria Salvador, Catherine San Agustin, Liberty Sison, Erlinda Solamo, Alma Talamante, Gina Timbas, Benjamin Valbuena, Donato Valdemoro, Rosemarie Vedeja, Rizalina Victorio, Myrna Villamin, IForenda Villareal, Wilson Perez, Enrico Pilande, Josephine Parmisano, Felipe Alacar, Jose Fetalvero, Jr., Myrna Barliso, Carolina Coligado, Rolando Cerbo, and Lora Clemencia, while respondents are Court of Appeals, Civil Service Commission, and Secretary of Education, Culture and Sports.

[2] "Wilson Perez, et al. v. Civil Service Commission, et al."

[3] "Rolando Alura, et al. v. Civil Service Commission, et al."

[4] "Luzviminda dela Cruz, et al. v. Civil Service Commission, et al."

[5] Re: Rules Governing Appeals to the Court of Appeals from Judgments or Final Orders of the Court of Tax Appeals and Quasi-Judicial Agencies.

[6] J. Fidel R. Purisima (Chairman), JJ. Ruben T. Reyes, Consuelo Ynares-Santiago, Romeo J. Callejo, Sr., and Romeo A. Brawner (Members).

[7] G.R. No. 129221, Rollo, pp. 75-87.

[8] Civil Service Law.

- [9] Rollo, pp. 95-96.
- [10] J. Alfredo L. Benipayo [ponente], JJ. Buenaventura J. Guerrero and Romeo A. Brawner [concurring].
- [11] G.R. No. 126183, Rollo, pp. 64-77.
- [12] G.R. No. 95445, 6 August 1991, 200 SCRA 323.
- [13] Rollo, p. 78.
- [14] Moreno, Philippine Law Dictionary, 1988 Ed., p. 902, citing *Government v. Jalandoni*, 44 O.G. 1840.
- [15] *Santiago v. Valenzuela*, 78 Phil. 397 (1947).
- [16] G.R. No. 95445, 6 August 1991.
- [17] G.R. No. 95590, 6 August 1991.
- [18] G.R. Nos. 110717 and 110721-22, 14 December 1993.
- [19] *Jacinto v. Court of Appeals*, G.R. No. 124540, 14 November 1997, 281 SCRA 657, 675.
- [20] No. L-31195, 5 June 1973, 51 SCRA 189.
- [21] See Note 18.
- [22] *Ibid.*
- [23] G.R. No. 126567, Minute Resolution dated 9 September 1997.
- [24] G.R. No. 124678, 31 July 1997, 276 SCRA 619.
- [25] See Note 24.
- [26] *Jacinto v. Court of Appeals*, G.R. No. 124540, 14 November 1997, 281 SCRA 657, 679-680.
- [27] No. L-23957, 18 March 1967, 19 SCRA 223.
- [28] No. L-21967, 29 September 1966, 18 SCRA 223.
- [29] *Jacinto v.. Court of Appeals*, G.R. No. 124540, 14 November 1997, 281 SCRA 657, 682.
- [30] *Ibid.*
- [31] G.R. No. 124540, 14 November 1997, 281 SCRA 657.

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