

THE SECRETARY OF EDUCATION, CULTURE AND SPORTS, AND THE CIVIL SERVICE COMMISSION, PETITIONERS, VS. COURT OF APPEALS; ABENIS, ERLINDA; ACHACON, JULIAN; ACOL, SOCORRO; AFAN, MA. A...

G.R. No. 128559. October 04, 2000

Ponente: PURISIMA, J.

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PURISIMA, J.:

At bar are consolidated petitions for review on certiorari under Rule 45 of the Rules of Court assailing the Decision, dated February 26, 1997, of the Court of Appeals[1] in CA-G.R. SP No. 39722.

Petitioners are public school teachers from various schools in the National Capital Region who incurred unauthorized absences in connection with or in furtherance of their then on-going "mass action" held sometime in September 1990. Confronted with the strike which threatened to disrupt classes in public schools, former Secretary Isidro Cariño of the Department of Education Culture and Sports (DECS) issued a Memorandum[2] ordering them (subject public school teachers) to return to work under pain of dismissal. But the said Memorandum was ignored by petitioners, prompting the DECS Secretary to lodge administrative complaints against them for grave misconduct, gross neglect of duty, violation of the Civil Service law and rules and reasonable office regulations, refusal to perform official duty, gross insubordination, conduct prejudicial to the public interest, and absence without leave.

Petitioners were given five (5) days from receipt of the formal charge to answer the same. They were also given an option to elect a formal investigation and were informed of their right to avail of the assistance of a lawyer of their choice, but despite the time, aforesaid option and right afforded them, they failed to answer the charges.

Thereafter, investigation committees were created to investigate and hear the cases of petitioners, and the school principals concerned were called to shed light on the inquiry.

Subsequently, DECS Secretary Isidro Cariño rendered separate judgments finding petitioners guilty, as charged, and dismissing them from the service "effective immediately". Such decisions were affirmed by the Merit and System Protection Board (MSPB).

On appeal to it, the Civil Service Commission in similarly worded Resolutions, found petitioners guilty of "conduct prejudicial to the best interest of the service" but it imposed only six (6) months' suspension without pay. In the case of petitioner Erlinda Abenis, the Resolution with respect to her disposed thus:

"WHEREFORE, the Commission hereby finds the Respondent-Appellant guilty of Conduct Prejudicial to the Best Interest of the Service. She is meted out the penalty of six (6) months suspension without pay. Considering the length of time that she has been out of service, she is now automatically reinstated in the service without payment of back salaries."[3]

Dissatisfied with the dispositions adverse to them, petitioners brought a petition for certiorari. Docketed as

CA-G.R. SP No. 39722, the Court of Appeals came out with its decision of February 27, 1997 ruling as follows:

"WHEREFORE, the resolutions of the Civil Service Commission finding the petitioners guilty of conduct prejudicial to the best interest of the service and suspending them for six (6) months are hereby affirmed, with the MODIFICATION that petitioners shall be entitled to back salaries for the period they were not allowed to teach, except for the six (6) months during which they were suspended for cause.

SO ORDERED."[4]

Therefrom, DECS Secretary Isidro Cariño, the Civil Service Commission and the public school teachers involved filed separate petitions with this Court questioning the decision of the Court of Appeals.

On December 9, 1997, the Court resolved to order the consolidation of the petitions.[5]

In G.R. No. 130911, petitioners contend that:

THE RESPONDENT COURT OF APPEALS GRIEVOUSLY ERRED WHEN IT AFFIRMED THE ASSAILED RESOLUTIONS OF THE OF THE CIVIL SERVICE COMMISSION THAT WRONGLY PENALIZED THE PETITIONERS WHOSE ONLY "OFFENSE" WAS TO EXERCISE THEIR CONSTITUTIONAL RIGHT PEACEABLY TO ASSEMBLE AND PETITION THE GOVERNMENT FOR REDRESS OF GRIEVANCES.

In G. R. No. 128559, the DECS Secretary placed reliance on the assignment of errors, that:

I.

THE RESPONDENT COURT OF APPEALS SERIOUSLY ERRED IN ORDERING THE PAYMENT OF BACK SALARIES IN FAVOR OF PRIVATE RESPONDENTS DESPITE FINDING THEM GUILTY OF THE ADMINISTRATIVE CHARGES LODGED AGAINST THEM.

II.

RESPONDENT COURT OF APPEAL (sic) SERIOUSLY ERRED IN AWARDING BACK SALARIES IN FAVOR OF PRIVATE RESPONDENTS WITHOUT GIVING ANY LEGAL AND/OR FACTUAL BASIS THEREFOR.

The public school teachers before the Court theorized that the mass actions they staged in September 1990 were not "strikes". According to them, they were merely exercising their constitutional right to peaceably assemble and petition the government for redress of grievances.

This contention is barren of merit. The issue posed has been settled.

In *Alipat vs. Court of Appeals*,^[6] the Court succinctly held that the mass actions of September/October 1990 participated in by the public school teachers of Metro Manila constituted a strike in every sense of the term. In *De la Cruz vs. Court of Appeals*, a similar case^[7] involving "mass actions" of public school teachers, the Court ratiocinated:

"As early as 18 December 1990 we have categorically ruled in the consolidated cases of *Manila Public School Teachers Association v. Laguio, Jr.* and *Alliance of Concerned Teachers vs. Hon. Isidro Cariño* 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*, 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 right 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.[8]

In light of the foregoing disquisition and jurisprudence in point, the Court is of the opinion, and so holds, that the Court of Appeals erred not in affirming the Resolutions of the Civil Service Commission finding the petitioning public school teachers guilty of conduct prejudicial to the best interest of the service.

This Court has likewise put to rest the issue of whether back wages may be awarded to subject public school teachers who were ordered reinstated in the service after the orders of dismissal issued by the DECS Secretary were commuted by the Civil Service Commission to suspension of six (6) months without pay. To repeat, in *Alipat vs. Court of Appeals*, in denying the teachers' claim for back wages, the Court said:

"This Court has already resolved the issue of whether back wages may be awarded to the teachers who were ordered reinstated to the service after the dismissal orders of Secretary Cariño were commuted by the Civil Service Commission to six (6) months' suspension. The issue was resolved in the negative in *Bangalisan vs. Court of Appeals* on the ground that the teachers were neither exonerated nor unjustifiably suspended. The *Bangalisan* case also ruled that the immediate implementation of the dismissal orders, being clearly sanctioned by law, was not unjustified. The Court held that as regards the payment of back salaries during the period of suspension of a member of the civil service who is subsequently ordered reinstated, the payment of back wages may be decreed if 'he is found innocent of the charges which caused the suspension and when the suspension is unjustified.'

Citing the *Bangalisan* ruling, this Court in *Jacinto vs. Court of Appeals* held that when the teachers have given cause for their suspension - i.e., the unjustified abandonment of classes to the prejudice of their students-they were not fully innocent of the charges against them although they were eventually found guilty only of conduct prejudicial to the best interest of the service and not grave misconduct or other offenses warranting their dismissal from service; 'being found liable for a lesser offense is not equivalent to exoneration'[9]

Evidently, the ruling of the Court of Appeals that the public school teachers involved are "entitled to back salaries for the period they were not allowed to teach, except for the six (6) months period during which they were suspended for cause", does not accord with prevailing jurisprudence. *Stare decisis et non quita movere*. Stand by the decisions and disturb not what is settled.[10] It is a salutary and necessary judicial practice that when a court has laid down a principle of law applicable to a certain state of facts, it must adhere to such principle and apply it to all future cases in which the facts sued upon are substantially the same.[11]

It is beyond cavil that the public school teachers before the Court participated in the September 1990 mass actions and refused to obey the return to work order of the DECS Secretary. It is equally undisputed that they were not completely exculpated of the charges against them, as they were adjudged guilty of committing acts prejudicial to the best interest of the service. Consequently, with the ground for their suspension duly stated, the denial of their prayer for exoneration and payment of back wages is in order.

WHEREFORE, the petition in G.R. No. 128559 is GRANTED; and the petition in G.R. No. 130911 DENIED.

The Decision of the Court of Appeals in CA-G.R. SP No. 39722 is AFFIRMED with the MODIFICATION that the award of back salaries in favor of subject public school teachers is hereby deleted. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.

[1] Fourteenth Division; composed of Associate Justices: Salome A. Montoya (ponente and chairman); Godardo A. Jacinto and Demetrio G. Demetria.

[2] "SUBJECT: RETURN TO WORK ORDER

Under civil service law and rules, strikes, unauthorized mass leaves and other forms mass actions by civil servants which disrupt public services are strictly prohibited.

Those of you who are engaged in the above-mentioned prohibited acts are therefore ordered, in the interest of public service, to return to work within 24 hours from your walkout otherwise dismissal proceedings shall be instituted against you" (Quoted in the Decision of the Court of Appeals, Rollo, p. 39 of G.R. No. 128559.)

[3] Annex "C", Rollo, p. 63 of G. R. No. 130911.

[4] Rollo, p. 44 of G.R. No. 128559.

[5] Rollo, pp. 133-134 of G.R. No. 128559.

[6] 308 SCRA 781, p.787.

[7] 305 SCRA 303.

[8] Id., pp. 311-312.

[9] Supra, p. 788.

[10] De la Cruz vs. Court of Appeals, 305 SCRA 303, p. 310; citing: Moreno, Phil. Law Dictionary, 1988 Ed., p. 902 and Government vs. Jalandoni, 49 O.G. 1840.

[11] Id., citing: Santiago vs. Valenzuela, 78 Phil, 397 (1947).

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