

THE UNIVERSITY OF THE PHILIPPINES AND CONCEPCION D. ANONAS, PETITIONERS, VS. COURT OF INDUSTRIAL RELATIONS, ET AL., RESPONDENTS.

G.R. No. 15416. April 28, 1960

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

This is a petition for certiorari with preliminary injunction to annul certain orders of the respondent Court of Industrial Relations and to restrain it from farther proceeding in the action for unfair labor practice pending before it on the ground of lack of jurisdiction. Giving due course to the petition, this Court ordered the issuance of the writ of preliminary injunction prayed for without bond.

The action for unfair labor practice in the court below was, upon complaint of the respondent labor union and its complaining members, Fabiana Borines, Epifania Abijay and Alicia Ebalo, filed by an acting prosecutor of the Industrial Court against herein petitioners University of the Philippines and Concepcion Anonas, the matron and officer-in-charge of the UP Women's South Dormitory at the University compound in Diliman, Quezon City. The complaint alleged that said University and matron discriminated against the three aforementioned union members in regard to their hire and tenure of employment by not "reappointing" them in retaliation to their demands for better working conditions.

Answering the complaint, the petitioners University and Concepcion Anonas, through counsel, denied the charge of unfair labor practice and alleged that the employment of the complaining union members as helpers in the UP Women's South Dormitory was temporary and that they were not reappointed because of negligence in the performance of their duties, insubordination and disloyalty, as found by an investigating committee. Thereafter, before the case could be heard, the said petitioners filed a motion to dismiss the case on the ground of lack of jurisdiction, it being alleged that the University of the Philippines is an agency of the State performing governmental functions, and that, at any rate, it is a non-profit organization and therefore not subject to the operation of Republic Act No. 875. The motion, however, was denied. Entering appearance as counsel for herein petitioners, the Solicitor General filed a motion for reconsideration of the court's order denying the motion to dismiss, but the Industrial Court in banc resolved to deny it for having been filed beyond the 5-day reglementary period as provided for by its rules. Reconsideration of that resolution having been also denied, petitioners brought the case to this Court through the present petition for certiorari, contending that the University of the Philippines does not fall under the jurisdiction of the Court of Industrial Relations, and that, furthermore, the complaint does not state a cause of action.

We find the petition to be meritorious.

The University of the Philippines was established "to provide advanced instruction in literature, philosophy, the sciences, and arts, and to give professional and technical training." (Act 1870, sec. 2) Performing as it does a legitimate government function, the University is maintained by the Government. It declares no dividends, and is,

obviously, not a corporation created for profit but an institution of higher education and therefore not an industrial or business organization. In the case of *Boy Scouts of the Philippines vs. Araos* (102 Phil., 1080), this Court held that—

"* * * our labor legislation from Commonwealth Act. No. 103, creating the Court of Industrial Relations, down through the Eight-Hour Labor Law, to the Industrial Peace Act, was intended by the Legislature to apply only to industrial employment and to govern the relations between employers engaged in industry and occupations or for purposes of profit and gain, and their industrial employees, but not to organizations and entities which are organized, operated, and maintained not for profit or gain, but for elevated and lofty purposes, such as, charity, social service, education and instruction, hospital and medical service, tile encouragement and promotion of character, patriotism and kindred virtues in the youth of the nation, etc.

"In conclusion, we find and hold that Rep. Act No. 875, particularly, that portion thereof, regarding labor disputes and unfair labor practices, does not apply to the Boy Scouts of the Philippines, and consequently, the Court of Industrial Relations had no jurisdiction to entertain and decide the action or petition filed by respondent Araos. * * *"

The above ruling has been reiterated in our decision in the recent case of *University of Santo Tomas vs. Villanueva, etc., et al.* (106 Phil., 4S9; 57 Off. Gaz. [11] 1966) and in the case cited therein. Following the said ruling, it is obvious that the Industrial Court has no jurisdiction to hear and determine the complaint for unfair labor practice filed against herein petitioners.

In addition to the patent lack of jurisdiction of the respondent court, the complaint for unfair labor practice should be dismissed for failure to state a valid cause of action. According to the said complaint, petitioner Concepcion Anonas "notified said complainants that she had lost her confidence in them, for which, reason, she did not recommend the renewal of their appointments which were supposed to be made on June 1, 1956." It also alleged that the refusal of petitioner Anonas "to recommend the reappointment of the three complainants-employees was just a mere retaliation * * *." It clearly appearing upon the face of the complaint that the complaining union members were merely temporary employees whose period of employment has terminated, their separation from the service is, therefore, justified. Settled is the rule that, one who holds a temporary appointment has no fixed tenure of office and as such his employment can be terminated at the pleasure of the appointing power, there being no need to show that the termination is for cause. (*Mendez vs. Ganzon*, 101 Phil., 48; 53 Off. Gaz., [15] 4835; *University of the Philippines, et al. vs. CIR, et al.*, 104 Phil., 986; 55 Off. Gaz., [27] 5012.)

In view of the foregoing, the petition for certiorari is granted. The orders complained of are set aside and the complaint for unfair labor practice against the petitioners is dismissed, with costs against respondents other than the respondent court.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, and Endencia, JJ., concur.

Concepcion, J., I dissent for the reasons set forth in my opinion in *Boy Scouts of the Philippines vs. Araos*, supra. Barrera, J., took no part.

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