

DR. CARMELITA U. CRUZ, PETITIONER, VS. HON. GUILLERMO C. MEDINA, HON. GABRIEL M. GATCHALIAN AND ROOSEVELT COLLEGES, INC., RESPONDENTS.*G.R. No. 73053. September 15, 1989*

Ponente: FERNAN, C.J.

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Petitioner, by way of a special civil action for certiorari, seeks to annul and set aside the resolution of the National Labor Relations Commission (NLRC) affirming the decision of the Labor Arbiter, dismissing petitioner's complaint for illegal dismissal from employment and for damages.

Petitioner Dr. Carmelita U. Cruz is a 1958 mathematics graduate of the University of the Philippines. She earned a doctoral degree in Mathematics Education from Centro Escolar University in 1977. She wrote several books in mathematics and statistics and likewise attended numerous seminars, workshops and conferences, either as a delegate, resource person or consultant. She rose from the ranks, starting out as a high school teacher in 1958 to college instructor and eventually Dean, until her services were terminated in 1984 by her employer and herein private respondent, Roosevelt Colleges, Inc.

The whole controversy started when in October 1983, Agro-Industrial Management and Consultancy, Inc. (AIMCON) submitted a proposal to Roosevelt Colleges, Inc., to start a Distance-Study Program leading to a Degree of Master of Arts in Education Teaching Elementary Agriculture (MAETEA). Roosevelt Colleges, Inc., in accepting the proposal, designated petitioner, being the Dean of the Institute of Education and Graduate School, to head the committee to work for the approval of the program with the Ministry of Education, Culture & Sports (MECS). The program which is a joint venture between AIMCON and Roosevelt Colleges, will have its own operational budget and a Board of Trustees composed of two representatives from Roosevelt Colleges, the College President and one other person. In view of this, petitioner was offered the post of Deputy Director as well as the second seat allotted to Roosevelt Colleges in the Program's Board of Trustees.

The Ministry of Education however, issued the authority to operate the Program on the condition that such shall only be an extension of the Graduate School of Roosevelt Colleges. The masteral degree was changed to Master of Arts in Education, Major in Elementary Agriculture (MAEMEA). Considering that she was already the Dean of Graduate School, a post higher than the Program's director, the offer to make petitioner as Deputy Director did not push through. During that time petitioner was receiving P4,330.50, including P1,747.50 representing remuneration for six (6) teaching loads.[1]

On September 26, 1984, pursuant to Resolution No. 5 of the Board of Trustees, the President of Roosevelt Colleges, Romeo P. de la Paz, sent petitioner a letter informing her, as follows:

" x x x the issue concerning the amount of remuneration or honorarium to be added to what you are presently receiving in view of the institution of the Agro-Forestry Program in the Institute of Education was discussed by the board yesterday. The final decision is given below:

"1) You will be given monthly honorarium equivalent to the amount you are now receiving for teaching 6 loads.

"2) This amount is chargeable to the Agro-Forestry Program and to be drawn from the Cashier's Office in Sumulong.

"3) This shall take effect as soon as the monthly remuneration you are receiving for teaching 6 loads ends.

"4) Effective the second semester of SY 84-85 you are not allowed to accept teaching assignment be it in the undergraduate or graduate programs.

"5) It is expected that you will devote more time to effective and efficient administration and supervision of the Institute of Education including the Agro-Forestry Program. x x x "[2]

In response to the above letter, petitioner Dr. Cruz sent a letter dated October 1, 1984, stating that:

" x x x with a few considerations to reckon with, I think it would be better that I, much to my regret, be no longer involved in the Agro-Forestry Program. x x x "[3]

In addition, she expressed her wish to retain her teaching loads citing professional reasons as well as her desire to be in constant contact with her students.

On October 8, 1984, President de la Paz informed Dr. Cruz of the Resolution of the Board, to wit: (a) that Dr. Cruz be required to appear in its next meeting to be held on 30 October 1984; (b) that Dr. Cruz is expected to continue functioning as Dean of Education including the new Agro-Forestry Program under the Institute of Education; and (c) that Dr. Cruz be directed to send to the Board within twenty-four (24) hours upon receipt of this communication her reply to these resolutions.[4] Dr. Cruz manifested her willingness to appear before the Board. In the meanwhile, President de la Paz informed the Board that he will go on leave until the issue in connection with Dr. Cruz shall have been resolved.

The Board held several meetings to thresh out this problem. During these meetings, Dr. Cruz reiterated her desire to retain her teaching loads in lieu of handling the Agro-Forestry Program. The Board on the other hand, remained firm on its stand to enforce Resolution No. 5. Several attempts were made to amicably settle the issue, but to no avail. A deadlock occurred. On October 19, 1984, the Board issued Dr. Cruz a letter terminating her services, the text to wit:

"Even before the receipt of your letter of October 16, 1984, the Board was aware of your intractable stand not to be involved in the Agroforestry Program unless your teaching loads are retained.

"The Board has been too patient with you aside from the fact that Dr. Isidro was unofficially designated to talk to you and clarify things to avoid misunderstanding. You are aware that the course of Master of Arts in Education in Teaching Elementary Agriculture is a part of the Graduate School of Education including the Institute of Education wherein you are the Dean. Your refusal to accept involvement in the said program, unavoidable as it is, is a defiant disregard of the Board's action, and leaves us no other recourse except to terminate your relationship with the school effective immediately."[5]

On November 16, 1984, Dr. Cruz filed a complaint for illegal dismissal in the National Labor Relations Commission (NLRC), National Capital Region. This case was assigned to Labor Arbiter Apolinar L. Sevilla. The parties were required to submit their respective position papers, supplemental pleadings and supporting documents, after which the case was deemed submitted for decision. On March 19, 1985, Labor Arbiter Sevilla rendered a decision[6] finding petitioner guilty of insubordination and thus dismissed petitioner's complaint for illegal dismissal for lack of merit. Dr. Cruz appealed to the National Labor Relations Commission which on June 26, 1985 promulgated a Resolution[7] dismissing petitioner's appeal and affirming the Labor Arbiter's decision in

toto. Not satisfied, petitioner filed a Motion for Reconsideration[8] on September 30, 1985 which was likewise denied on October 3, 1985.[9] Petitioner then filed a special civil action for certiorari[10] before Us on December 13, 1985. This was dismissed for lack of merit by the First Division in a Court resolution[11] dated July 7, 1986.

Still not satisfied, petitioner filed a Motion for Reconsideration[12] on August 8, 1986. On October 27, 1986, the Second Division to which the case was raffled on August 29, 1986 granted the motion for reconsideration and gave due course to the petition.[13] Said Second Division eventually became the present Third Division.

Petitioner raises the following issues:

"1) Whether or not the June 26, 1985 Resolution of the NLRC is replete with factual findings unsupported by substantial and credible evidence; and, therefore, not binding on and subject to review by the Honorable Supreme Court;

"2) Whether or not the 26 years of petitioner's continuous, efficient and devoted service to the private respondent should be taken into account in deciding the case;

"3) Whether or not the alleged loss of trust and confidence on the petitioner was validly justified so as to warrant her dismissal vis-a-vis her recent promotion and manifestation to handle the Program even without pay;

"4) Whether or not the petitioner could be dismissed from her position as Professor III, an ordinary employee when the basis of her dismissal was loss of trust and confidence on her as a Dean or managerial employee;

"5) Whether or not the petitioner was guilty of insubordination;

"6) Whether or not the petitioner is entitled to a writ of certiorari, annulling the NLRC Resolutions, and

"7) Whether or not the petitioner is entitled to damages and for how much." [14]

The primordial issue in this case is whether or not petitioner is guilty of insubordination resulting in loss of confidence sufficient to warrant a dismissal.

Before attempting to resolve this issue, the employment status of petitioner must first be looked into. Petitioner contends that she was divested of her Deanship of the Graduate School and retained as Dean in the Institute of Education. This is of no moment. The fact remains that she was a Dean, a position which is on the managerial level. In the case of *Metro Drug Corporation v. NLRC*, [15] this Court held that managerial personnel and other employees occupying positions of trust and confidence are entitled to security of tenure, fair standards of employment and the protection of labor laws. While it is true that the decision to dismiss or lay-off an employee is management's prerogative, it must be made without abuse of discretion, for what is at stake is not only the employee's position but also his means of livelihood. [16]

However, the rules on termination of employment, penalties for infractions and resort to concerted actions in so far as managerial employees are concerned are not necessarily the same as those for ordinary employees. [17] Employers, generally, are allowed a wider latitude of discretion in terminating the employment of managerial personnel or those of similar rank performing functions which by their nature require the employer's trust and confidence, than in the case of ordinary rank and file employees. [18]

With these principles in mind, we find no grave abuse of discretion committed by public respondents in ruling petitioner's dismissal legal. Considering the fact that she was holding a managerial position, her refusal to abide by the lawful orders of her employers would lead to the erosion of the trust and confidence reposed on her. Loss of confidence is a valid ground for dismissing an employee and proof beyond reasonable doubt is not required. All that is needed is for the employer to establish a sufficient basis for the dismissal of an employee. The grant of

teaching loads was only a privilege since as Dean, her first and primary function was to administer the particular college under her care and authority. Hence, the decision of Roosevelt Colleges to take away her six (6) teaching loads so that she can handle the Agro-Forestry Program, with the same pay is found to be reasonable and lawful. In the case of *Philippine Japan Active Carbon Corporation and Tokuichi Satofuka v. NLRC & Olga Quinanola*,^[19] We held that:

"It is the employer's prerogative, based on its assessment and perception of its employees' qualifications, aptitudes, and competence, to move them around in the various areas of its business operations in order to ascertain where they will function with maximum benefit to the company. An employee's right to security of tenure does not give him such a vested right in his position as would deprive the company of its prerogative to change his assignment or transfer him where he will be most useful. When his transfer is not unreasonable, nor inconvenient, or prejudicial to him, and it does not involve a demotion in rank or a diminution of his salaries, benefits, and other privileges, the employee may not complain that it amounts to a constructive dismissal."

While the Constitution is committed to the policy of social justice and the protection of the working class, it should not be supposed that every dispute will be automatically decided in favor of labor. Management also has rights, which, as such, are entitled to respect and enforcement in the interest of simple fair play. Although the Supreme Court has inclined more often than not toward the worker and has upheld his cause in his conflicts with the employer, such favoritism has not blinded the Court to the rule that justice is in every case for the deserving, to be dispensed in the light of the established facts and the applicable law and doctrine.^[20]

But considering that petitioner Cruz had spent the best years of her professional life in the service of the employer and that her work as a Dean and teacher was, as manifested by the "Faculty Evaluation Results By Students",^[21] beyond reproach, the ends of social and compassionate justice would be served if she will be given some equitable relief.

The grant of equitable relief in the form of separation pay finds support in a number of decisions promulgated by this Court. In the case of *Eduardo V. Reyes v. Minister of Labor and PACWOOD, Inc.*,^[22] this Court adopted the ruling in *Baby Bus, Inc. vs. Minister of Labor*,^[23] to wit:

"x x x it does not necessarily follow that if there is no illegal dismissal, then no award of separation pay may be made."

and in the case of *San Miguel Corporation v. Deputy Minister of Labor and Employment*,^[24] where this Court held that:

"x x x the trust and confidence in the private respondent having been lost, the respondent Regional Director acted correctly in allowing termination of employment but with retirement or separation benefits."

Furthermore, in the case of *Soco v. Mercantile Corporation of Davao*,^[25] We held that:

"Where an employee who had been dismissed for violation of company rules had been employed for 18 years, he may be afforded some equitable relief due to the past services rendered by him by granting him separation pay equivalent to one month salary for his every year of service to the company."

WHEREFORE, the decision of the National Labor Relations Commission (NLRC) is hereby affirmed with the modification that petitioner, Dr. Carmelita U. Cruz is hereby adjudged entitled to separation pay equivalent to one (1) month latest salary for every year of service. No pronouncement as to costs.

SO ORDERED.

Gutierrez, Jr., Bidin, and Cortes, JJ., concur.
Feliciano, J., on leave.

[1] Rollo, p. 34.

[2] Rollo, p. 39.

[3] Rollo, p. 40.

[4] Rollo, p. 43.

[5] Rollo, p. 48.

[6] Rollo, pp. 87-96, NLRC/NCR Case No. 11-4026-84.

[7] Rollo, pp. 120-137, by the Third Division composed of Guillermo C. Medina, Presiding Commissioner, Gabriel M. Gatchalian and Miguel B. Varela (abroad on official travel), Commissioners.

[8] Rollo, pp. 138-144.

[9] Rollo, p. 145.

[10] Rollo, pp. 2-19.

[11] Rollo, p. 226.

[12] Rollo, pp. 231-235.

[13] Rollo, p. 236.

[14] Rollo, pp. 258-259.

[15] G.R. No. 72248, July 22, 1986, 143 SCRA 132.

[16] International Harvester Macleod, Inc. v. Intermediate Appellate Court, G.R. No. 73287, May 18, 1987, 149 SCRA 641.

[17] Ibid., Metro Drug v. NLRC.

[18] Manila Midtown Commercial Corporation v. NUWHRAIN (Ramada Chapter), G.R. No. 57268, March 25, 1988, 159 SCRA 212.

[19] G.R. No. 83239, promulgated on March 8, 1989.

[20] Sosito vs. Aguinaldo Development Corporation, G.R. No. 48926, December 14, 1987, 156 SCRA 392.

[21] Rollo, pp. 59-60.

[22] G.R. No. L-48705, February 9, 1989.

[23] 158 SCRA 221 (1988).

[24] 126 SCRA 489 (1983).

[25] G.R. Nos. 53364-65, March 16, 1987.

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