

MANUEL L. QUEZON UNIVERSITY ASSOCIATION AND/OR CANDIDO SAQUIN, JOSE LETRERO, REMIGIO SAMPANA, MAXIMO MANEZ, ROMEO RODRIGUEZ, ROMULO NATANAWAN, AND OTHERS ENUMERATED IN ANNEXES A...

G.R. No. 82312. April 19, 1989

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

In this petition for certiorari, the MLQ University Faculty Association and some named teachers seek a review of the Orders dated November 18, 1987 and February 17, 1988 of respondent Undersecretary Dionisio C. Dela Serna of the Department of Labor and Employment (DOLE).

On April 24, 1979, petitioners, for themselves and in representation of other faculty members of the MLQ University, too numerous to be named in the title of the case, but who are listed in Annexes A & B of the union's position paper (Annex B), filed against respondent University before the Regional Director of Region IV of the DOLE, a complaint for unpaid salary differentials based on P.D. No. 451 which was promulgated on May 11, 1974 and which authorized the Secretary of Education and Culture to regulate the imposition of tuition and other school fees. Pursuant to P.D. 451, the MLQ University was authorized by the Bureau of Higher Education to increase its tuition fees by 15% for the school years 1974-1975, 1975-1976, and 1977-1978, provided that 60% of the increment should be used to increase the salaries of both the faculty and non-faculty employees of the school.

The petitioners alleged that the University failed to fully comply with P.D. No. 451 because it gave them an increase of only fifty centavos. (P0.50) per lecture hour, instead of at least P2.11 per lecture hour, for the school year 1974-1975 and at least P2.15 per lecture hour, for school years 1975-1976 and 1977-1978. Their complaint was docketed as LRC Case No. RX FSO-4-541-79 (Annex. A). Their "correct share" of the 60% tuition increase was computed in Annexes C & D of their position paper (pp. 41-46, Rollo).

On October 22, 1979, twenty-five (25) of the complainants dropped out of the case alleging lack of interest.

On January 25, 1980, the MLQU Teachers and Allied Workers Union (NATAW), et al. intervened to join cause with the complainants.

Director Pucan of the DOLE National Capital Region, issued an order on June 15, 1983, upholding the complainants' claim for salary differentials, but he found that their claims which accrued before April 24, 1976, and those of the intervenors which accrued before January 25, 1977, or more than three (3) years before the filing of their complaints, had already prescribed. Hence, he directed the University to pay the complainants and intervenors their unprescribed salary increase differentials from April 24, 1976, and January 25, 1977, respectively, as follows:

"WHEREFORE, premises considered, respondent is hereby directed to pay the individual complainants belonging to MLQU Faculty Association who did not renounce the latter as their representative, their

unprescribed salary increase differential of P1.65 per lecture hour from April 24, 1976 to the end of school year 1975-1976 and from 1977-1978 and the individual intervenors belonging to MLQU Teachers and Allied Workers Union (NATAW) their salary increase differential of P1.65 per lecture hour from January 25, 1977 to the end of the school year 1977-1978. However, the case is hereby dismissed for having become moot and academic, insofar as the twenty-five (25) individual complainants who filed the motion to dismiss dated October 22, 1979 are concerned." (Annex C, p. 47, Rollo)

The petitioners received the order on June 22, 1983 and filed a motion for reconsideration on July 25, 1983. Their motion for reconsideration was treated as an appeal. On December 12, 1984, Deputy Minister of Labor Leogardo dismissed the appeal for having been filed beyond the ten-day reglementary appeal period provided in Article 223 of the Labor Code. He declared the Order of June 15, 1983 final and unappealable (Annex G, pp. 79-82, Rollo).

Petitioners asked for the reconsideration of Deputy Minister Leogardo's order (Annex H).

On December 6, 1985, Deputy Minister Leogardo somersaulted by reinstating the appeal and increasing the pay differentials awarded to the petitioners in the following manner:

"WHEREFORE, let the Order of this Office, dated 12 December 1984 be, as it is hereby, affirmed with modification in that respondent Manuel L. Quezon Educational Institution, Inc. is hereby ordered:

"1. To pay the individual complainants belonging to the MLQU Faculty Association, who did not renounce the latter as their representative, the aggregate amount of P3.26 as salary differential per hour from April 25, 1976 up to the end of school year 1975-1976 and for the school year 1976-1977 and also the aggregate amount of P4.91 as salary differential per hour from the school year 1977-1978 and thereafter;

"2. To pay the individual intervenors belonging to the MLQU Teachers and Allied Workers Union (NATAW) the aggregate amount of P3.26 as salary differential per hour from January 26, 1977 up to May 1977 and also the aggregate amount of P4.91 as salary differential per hour from the school year 1977-1978 and thereafter; and

"3. To adjust the salary rates of the individual complainants/intervenors based, on the above increases in salary differentials." (Annex I, pp. 92-95, Rollo)

Both the University and the complainants filed motions for reconsideration of the above Order.

In an order dated November 18, 1987 (Annex K), Undersecretary of Labor and Employment Dionisio Dela Serna annulled Deputy Minister Leogardo's order of December 6, 1985 (Annex I) because the complainants' motion for reconsideration of the Regional Director's Order dated June 15, 1983 (Annex C) was filed out of time, therefore, the order had become final, and Deputy Minister Leogardo who so ruled in his order of December 12, 1984 (Annex G), should not have entertained the complainants' motion for reconsideration of his Order.

Petitioners filed a motion for reconsideration of the Undersecretary's Order but it was denied on February 17, 1988 for lack of merit (Annex M). Hence, this petition for certiorari wherein they allege that respondent Undersecretary Dela Serna gravely abused his discretion:

1. in declaring that the appeal of the complainants from Director Severino M. Pucan's Order dated June 15, 1983 was filed out of time;
2. in annulling Deputy Minister Leogardo's Order dated December 6, 1985 increasing the pay differentials of the petitioners;
3. in holding that the petitioners' claims for pay differentials for the school year 1974-1975 and 1975 up to April 23, 1976 had prescribed despite their written extrajudicial demands to, and acknowledgment of the obligation by,

the respondent MLQU; and

4. in excluding the twenty-five (25) faculty members similarly situated and equally involved in this case from enjoying or receiving the benefits thereof.

The petition is devoid of merit.

Petitioners' contention that their appeal was made within the reglementary period of ten working days from the receipt of Director Pucan's Order dated June 15, 1983 was refuted by the records showing that they received the order on June 22, 1983. The ten-day period to appeal expired on July 2, 1983. Their first motion for extension of time (which the Director did not grant) was filed on July 8, 1983, or six (6) days late. Their motion for reconsideration or appeal was filed on July 25, 1983, or 33 days after they received the Regional Director's Order.

All their arguments tending to prove that their appeal was taken within ten (10) working days are futile for, as early as July 1982, this Court had ruled in *Vir-Jen Shipping & Marine Services, Inc. vs. NLRC*, 115 SCRA 347 (and reiterated in *RJL Martinez Fishing Corp. vs. NLRC*, 127 SCRA 454; *John Clement Consultants vs. NLRC*, 157 SCRA 635) that "the shortened (appeal) period of ten days fixed by Article 223 of the Labor Code contemplates calendar days and not working days" (*Vir-Jen Shipping*, supra).

Furthermore, petitioners' contention that the respondent Undersecretary Dela Serna gravely abused his discretion in annulling Deputy Minister Leogardo's Order dated December 6, 1985 is not well taken. Since petitioners' motion for partial reconsideration of Director Pucan's Order dated June 15, 1983 was filed, late, that order became final and unappealable. Deputy Minister Leogardo had no jurisdiction to entertain their late appeal.

Neither did the Undersecretary err in holding that petitioner's claims for pay differentials accruing prior to April 24, 1976 had prescribed because the claims therefor were filed only on April 24, 1979 or more than three (3) years after the cause of action accrued. This Court ruled in *Cebu Institute of Technology vs. Ople*, G.R. No. 58870, April 15, 1988, that:

"The three-year period within which to file actions involving money claims arising out of an employer-employee relationship fixed by Article 292, of the Labor Code as amended (now Art. 291) equally applies to claims for incremental proceeds arising from tuition fees under P.D. 451. Money claims arising from employer-employee relations fall under the coverage of Article 292 of the Labor Code."

The petitioners contend that the prescriptive period on their claims for salary differentials for the school years 1974-1975 and 1975-1976 was interrupted by their written demand on the University and the latter's admission of the obligation. Indeed, Article 1155 of the Civil Code provides that "the prescription of actions is interrupted when they are filed before the court, when there is a written extrajudicial demand' by the creditors, and when there is any written acknowledgment of the debt by the debtor."

However, the argument will avail them nothing for the records shows that their written demand (Annex A), as well as the University president's reply thereto (Annex A-1), were both written on November 4, 1974. Thereafter, the three-year prescriptive period resumed running and expired on November 4, 1977. It was not interrupted by the complaint which they wrote to President Marcos on August 8, 1977 (Annex B), for, as provided in Article 1155, the claim should be filed "before the court," or addressed to the debtor, the University. To recover their salary differentials for the school years 1974-75 and 1975-76, the petitioners should have filed their claims on or before November 4, 1977. Regional Director Pucan did not err in holding that their claims had already prescribed when their complaint (NLRC Case No. NCR-FSD-4-541-79) was filed on April 24, 1979.

The ten-year prescriptive period fixed in Article 1144 of the Civil Code may not be invoked by the petitioners for the Civil Code is a law of general application, while the prescriptive period fixed in Article 292 of the Labor Code

(now Art. 291) is a special law applicable to claims arising from employer-employee relations (*De Joya vs. Lantin*, 19 SCRA 893; *Lagman vs. City of Manila*, 17 SCRA 579; *Philippine Trust Co. vs. Macuan*, 54 Phil. 655).

There is no discrimination in the exclusion of the twenty-five (25) faculty members (who dropped out) from the benefits awarded to the petitioners in the decision dated June 15, 1983. Their exclusion fully accords with the prayer of their motion to dismiss that they be excluded as plaintiffs in the case. It may be assumed that they had good and valid reasons for filing that pleading. Why counsel for the petitioners insists on bringing them in when they want to be left out, is, to Our mind, a case of "being more popish than the pope."

WHEREFORE, the petition is dismissed for lack of merit. Costs against the petitioners.

SO ORDERED.

Narvasa, (Chairman), Gancayco, and Medialdea, JJ., concur.

Cruz, J., no part.

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