

JOSEFINA B. CALLANGAN, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND GREGORIO ARANETA UNIVERSITY FOUNDATION, RESPONDENTS.

G.R. No. 83268. January 31, 1989

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

This petition for certiorari seeks to annul the decision dated January 28, 1988 of the respondent NLRC and its resolution dated March 21, 1988 reversing the decision rendered on December 29, 1986 by the Labor Arbiter in Case No. NLRC-NCR-4-1289-86 which ordered the Gregorio Araneta University Foundation ("GAUF" for brevity) to pay petitioner: (a) her salaries as Director for Non-Academic Affairs from the date of her dismissal on July 1, 1983 up to her reinstatement in the summer of 1984, minus the sum of P32,978.40 which she had received from GAUF, and (b) P15,000 as damages.

The petitioner, as complainant in Case No. NLRC-NCR-4-1289-86 alleged that she was hired by respondent university in 1971 as a faculty member. On June 8, 1981, she was designated as Director for Non-Academic Affairs for a term of two years (up to June 8, 1983) with a salary of P4,119 per month. Her appointment provided as follows:

"Dear Mrs. Callangan:

"This to inform you of your ad interim designation to the position of Director of Administrative Affairs, for a term of two years effective June 8, 1981, subject to confirmation by the Board of Trustees.

"This designation shall supersede your previous appointment. It is understood, however, that if your aforementioned designation is not renewed after its termination, you shall be reverted to your previous status as full-time faculty member of the Institute of Arts and Sciences, with the rank and pay in accordance with the classification and pay plan for faculty members." (Rollo, p. 13.)

In October, 1982, an administrative case was lodged against the petitioner by the respondent university. On June 14, 1983, the Ad Hoc Investigating Committee that was created to investigate the matter, after due hearing, rendered a decision finding the petitioner guilty of all the charges against her and recommended her dismissal from the service. Petitioner immediately appealed to the GAUF Board of Trustees praying, among other things, for the suspension of the termination of her services as Director for Non-Academic Affairs pending a review of her case by the Board of Trustees.

On June 30, 1983, despite her request, petitioner's services as Director for Non-Academic Affairs were terminated by the university following the expiration of her term of office as such on June 8, 1983. Thereupon, the university abolished the office of Director for Non-Academic Affairs allegedly in line with its retrenchment program.

On November 28, 1983, following her execution of a waiver which reads as follows:

"I solemnly state that if I shall be exonerated I will not file any damage suit against the GAUF.

(Sgd)

JOSEFINA CALLANGAN

November 28, 1983."

(p. 19, Rollo.)

the Board of Trustees exonerated petitioner from the administrative charges against her and recommended her reinstatement as a faculty member. However, it was only in April 1984 that she was given teaching assignments.

On April 8, 1986, petitioner filed a complaint for backwages and damages against the respondent university with the Labor Arbiter who rendered a decision on December 29, 1986, the dispositive portion of which reads:

"WHEREFORE, premises considered, the respondent is hereby directed to pay complainant her salaries as Director for Non-Academic Affairs from the date of her unjust dismissal on July 1, 1983 up to her reinstatement in the summer of 1984 minus P32, 978. 40, the amount she already received from the respondent.

"Respondent is likewise ordered to pay complainant P15,000.00 as damages." (p. 12, Rollo.)

The university appealed to the NLRC. On January 28, 1988, the NLRC rendered the assailed decision reversing the Labor Arbiter and dismissing the case for lack of merit.

In reversing the decision of the Labor Arbiter, the NLRC explained as follows:

"After a judicious review of the facts and law of the case, We find GAUF's appeal impressed with merit.

"There is sufficient justification and reason for the termination of complainant-appellee's services. GAUF stands on firm legal ground when it dismissed complainant-appellee. She was not summarily or arbitrarily dismissed. Complainant-appellee was dismissed only after due investigation of the serious charges filed against her. The investigation conducted by an independent body and complainant-appellee was given all the time and opportunity to defend herself. Complainant-appellee's claim that she was dismissed due to the 'arbitrary, whimsical, unjust and erroneous' decision of the investigating committee is baseless. She was accorded due process and cannot claim to be framed-up. She was found guilty on the basis of substantial evidence submitted by third parties.

"Complainant-appellee was dismissed not only on the basis of the findings of the Ad Hoc Committee but also because of the expiration of her two-year term of office as Director for Non-Academic Affairs. Her appointment as Director for Non-Academic Affairs is a valid contract duly entered into by both parties. It was signed by complainant-appellee as a manifestation of her conformity to the terms and conditions thereof. It is, therefore, the law between the parties.

"Moreover, complainant-appellee's office was also abolished by virtue of the retrenchment program of GAUF. There is no question as to the legality of the retrenchment program. In fact, several offices were also abolished upon the expiration of their term of office." (Rollo, pp. 17-18.)

Petitioner has filed this petition for certiorari alleging that:

1. the respondent NLRC acted in excess of its jurisdiction, and with grave abuse of discretion, amounting to lack of jurisdiction in arrogating unto itself the prerogative of the Board of Trustees of respondent University;
2. the respondent NLRC's decision reversing the Labor Arbiter is not in accord with the facts of the case and the

applicable law and jurisprudence;

3. the decision of the respondent NLRC would in effect cause the termination for the second time of petitioner's services, even as a faculty member, again in derogation of the express orders and management prerogative that had been exercised by the GAUF Board of Trustees; and

4. there is no appeal, nor any other plain speedy and adequate remedy available to petitioner.

The Court finds the petition meritorious. Petitioner's appointment as Director for Non-Academic affairs explicitly stated that if her designation would not be renewed after its termination, she would be reverted to her previous status as a full-time faculty member. Thus, when the Board of Trustees of the GAUF exonerated her on November 23, 1983 from the charges filed against her, and ordered her immediate reinstatement as a faculty member, the petitioner should have received her salaries as such without loss of seniority rights and other benefits. In view of the delay in giving her a teaching assignment, she is entitled to payment of backwages from the time she ceased to be the Director for Non-Academic Affairs on June 30, 1983, until she was given teaching assignments in April 1984, as well as moderate damages for the unexplained five-month delay in implementing the order of reinstatement on November 28, 1983. Her promise not to sue the university for damages upon her exoneration from the administrative charges against her did not preclude her right to be indemnified for the unjustified delay in reinstating her, for the promise was made on the assumption that she would be immediately reinstated to her teaching position in the university, hence, the serious anxiety and deprivation she suffered during her period of joblessness are compensable.

WHEREFORE, the petition for certiorari is granted. The decision of the NLRC is hereby set aside while that of the Labor Arbiter dated December 29, 1986 is modified as follows: The respondent Gregorio Araneta University Foundation is ordered to pay the complainant her salaries as a full-time faculty member from the termination of her appointment as Director for Administrative Affairs on June 8, 1983 up to her reinstatement in April 1984 minus the sum of P32,978.40 which she had received from the respondent. The award of damages to the petitioner is reduced to P5,000 only. Costs against the private respondent.

SO ORDERED.

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

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