

**BAGUIO COLLEGES FOUNDATION, RAY DEAN SALVOSA AND
CORAZON CONCEPCION, PETITIONERS, VS. NATIONAL LABOR
RELATIONS COMMISSION, ALMA ANGIWAN, DANILO SORIANO AND
RESTITUTO C. RIVERA, ...**

G.R. No. 98043. May 26, 1993

Ponente: NOCON, J.

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NOCON, J.:

Petitioners appear to have followed the adage, “When in doubt, shoot first and ask questions later.” in issuing the questioned directive to its striking faculty employees. Encountering adverse decisions from both the Labor Arbiter[1] and the National Labor Relations Commission,[2] petitioners ask Us to reverse. Private respondents, however, state that petitioners are asking this Court to review findings of facts made by the NLRC and the Labor Arbiter. As the petition poses a rather new issue for this Court to rule upon, We have decided to review the findings of fact made by the NLRC and the Labor Arbiter.

Public respondent National Labor Relations Commission found the facts to be as follows:

“Complainants Alma Angiwan, Danilo Soriano and Restituto Rivera were hired respectively in November 1987, June 1978 and May 1982. Alma Angiwan is not a member of the Union while the latter two complainants are members of Kapisanan at Lakas ng mga Guro sa BCF-ALU which staged a strike on March 8, 1988.

On April 29, 1988, the Secretary of Labor and Employment Franklin M. Drilon issued an Order directing the striking employees to return to work at the opening of school year 1988-89 and for the school to accept them all under the same terms and conditions prior to the work stoppage.

On May 8, 1988, Baguio College Foundation, through its community newspaper, the ‘Gold Ore,’ directed all the striking employees to report to the office of Mrs. Corazon R. Concepcion, Vice-President for Administration of BCF, on May 14, 1988 between the hours of 8:00 o’clock a.m. to 10:00 o’clock a.m. That aside from the published directive, respondent Concepcion likewise issued written directive to the individual union members directing them to report to her office on said date and time (May 14, 1988 between 8 to 10 a.m.) ‘to signify their compliance with the order of the Secretary.’ Some union members, including the complainants who did not read the notice published in the newspaper (Gold Ore) and who did not receive the directive of Concepcion, failed to report to her (Concepcion) on the date and time set by her. Other union members who received their notices on time reported to Concepcion. They were required to enter her office one at a time. Inside her office, they were berated and chastised for participating in the strike. Concepcion also told them to look for another job and threatened them that she has a hand in the assignment of teaching loads.

That later, the complainants came to know of the directive of Concepcion. They went to her office with their letters signifying their intention to comply with the return to work order of the Secretary. However, Concepcion told them that she could no longer accommodate them because they reported only after or beyond the date and time indicated in her directive and that they violated her written directive. Subsequently, the

complainants received individual notices dated May 25, 1988, signed by respondent Ray Dean Salvosa, Executive Vice-President of BCF which states:

‘By failing to report to the V.P. for Administration Corazon R. Concepcion between 8:00 a.m. to 10:00 a.m. on May 14, 1988 despite notice, you willfully disobeyed the return to work order issued by the Hon. Franklin M. Drilon, Secretary of Labor last April 28, 1988, and therefore, your employment at Baguio Colleges Foundation as Faculty members is hereby terminated.’[3]

Claiming that their dismissals were illegal, private respondents filed complaints against petitioners with the Labor Arbiter. On January 8, 1990, Labor Arbiter Gambito rendered a joint decision in favor of private respondents with the dispositive portion reading as follows:

“WHEREFORE, in the light of the foregoing, judgment is hereby rendered ORDERING the respondents to reinstate Alma Angiwan, Danilo Soriano and Restituto Rivera to their former positions without loss of seniority rights and without reduction in their teaching loads prior to their dismissal and to pay their backwages effective at the opening of classes of school year 1988-1989 based on the minimum rate provided in RA 6640, aside from other benefits and privileges they may have been entitled to up to their actual reinstatement.

“Respondents are likewise ordered to pay P2,000.00 each to counsel for Angiwan and Soriano and counsel for Rivera as attorney’s fees.

“SO ORDERED.”[4]

Petitioners appealed to the National Labor Relations Commission. On November 29, 1990, public respondent NLRC issued its decision in favor of private respondents affirming en toto the Labor Arbiter’s decision.

Hence, this instant petition where petitioners claim that the public respondent committed serious and palpable error amounting to grave abuse of discretion in holding that:

1. they varied the tenor of the return--to-work order issued by the Honorable Secretary of Labor on April 29, 1988; and
2. the dismissal of private respondents Angiwan (who was employed on a probationary basis) and Soriano and Rivera (Both of whom were contractual employees) are illegal.

The Honorable Secretary of Labor’s April 29, 1988 Return-to-Work Order which spawned the illegal dismissal cases before the Labor Arbiter reads as follows:

““WHEREFORE, ABOVE PREMISES CONSIDERED, and pursuant to Article 263 (g) of the Labor Code, as amended, this Office hereby assumes jurisdiction over the entire labor dispute at Baguio Colleges Foundation. Accordingly, all members who are presently not rendering their usual work but are engaged in concerted activities are hereby enjoined from pursuing their activities to avert exacerbation of the situation and return to work at the opening of the school year 1988-89 and for the College to accept them all under the same terms and conditions prior to the work stoppage.”[5]

Petitioners claim that they were merely following said Order when they had published in the “Gold Ore,” a newspaper of general circulation in Baguio City and in Benguet Province, the following directive:

““Please be informed that the Secretary of Labor, the Hon. Franklin M. Drilon, has assumed jurisdiction over the labor dispute at BCF. Quoted below is the pertinent portion of the order that was issued by the Department of Labor and Employment last April 29, 1988 and received by BCF on May 5, 1988:

x x x x x

“In view of this, all striking employees are hereby directed to report to the office of the Vice President for

Administration, BCF, between the hours of 8 a.m. and 10:00 on Saturday, May 14, 1988 to signify their compliance with the Order of the Secretary.”[6]

Petitioners terminated the employment of private respondents who did not report as earlier ordered with a termination letter which reads as follows:

“By failing to report to the VP for Administration Corazon R. Concepcion between 8:00 A.M. and 10:00 A.M., on May 14, 1988 despite notice, you willfully disobeyed the return-to-work order issued by the Hon. Franklin M. Drilon, Secretary of Labor, last April 29, 1988, and, therefore, your employment at Baguio Colleges Foundation as faculty member is hereby terminated.”[7]

Petitioners claim that:

x x x The directive was issued not out of malice but in all good faith, not for expediency but due to necessity. Necessity because the opening of the ensuing school year was drawing nearer, and the school administrators needed to know how many of those striking teachers were coming back to teach. It was important for Your Petitioners to know who among those in its faculty roster were available for teaching assignment for the ensuing semester because the subjects-offerings for that semester would, as in other semesters past, have to be based on the availability of teachers. x x x.[8]

They also claim that:

“Public Respondent likewise charged Your Petitioners with having changed ‘the time frame set in the Order to only one day.’ (Resolution, Annex “B”, at p. 8). This is not correct. For, as can be seen from the evidence, the directive in question was published in the Gold Ore on May 8, 1988, and the date indicated therein for the striking teachers to report was May 14, 1988, or a period of six days - not one day.”[9]

Private respondents complain that petitioners should have first ascertained why they (private respondents) could not report on May 14, 1988 as directed. They claim that as soon as they have learned of said directive, they immediately reported to petitioner Concepcion and this was way before the start of classes of school year 1988-89.

The precedent case of *Union of Filipino Employees v. Nestle Philippines, Inc.*[10] leaves no doubt as to the character of the Secretary of Labor’s Assumption Order (i.e. return-to-work order) and the compliance required of the parties, as follows:

“UFE completely misses the underlying principle embodied in Art. 264(g) on the settlement of labor disputes and this is, that assumption and certification orders are executory in character and are to be strictly complied with by the parties even during the pendency of any petition questioning their validity. This extraordinary authority given to the Secretary of Labor is aimed at arriving at a peaceful and speedy solution to labor disputes, without jeopardizing national interests.

“Regardless therefore of their motives, or the validity of their claims, the striking workers must cease and/or desist from any and all acts that tend to, or undermine this authority of the Secretary of Labor, once an assumption and/or certification order is issued. They cannot, for instance, ignore return-to-work orders, citing unfair labor practices on the part of the company, to justify their actions. x x x.”[11] (Emphasis in the original)

Being executory in character, there was nothing for the parties to do but implement the same.

It could be the case that petitioner school had to know several weeks in advance, who of the striking teachers were available for teaching assignments for the school year 1988-89 “because the subject offerings x x x (would) have to be based on the availability of teachers”[12] but it would have been prudent for petitioner school to file with the Secretary of Labor a motion for clarification[13] of said assumption order and inform him of petitioner

school's peculiar requirements regarding the offering of subjects based on the availability of teachers which had to be determined way in advance of actual classes.

Not having done so and having dismissed private respondents for not reporting on the date the petitioner school had unilaterally determined, public respondent NLRC committed no grave abuse of discretion in ruling as follows:

“By directing striking employees to report on a fixed date and time prior (to) the opening of school year 1988-89, respondents-appellants have indeed varied the tenor of the Return-to-Work Order with the obvious effect of restrictively changing the time frame set in the Order to only one day. Nothing in the Order had authorized BCF, either indirectly or impliedly, to alter the period within which striking employees should report at a fixed date and time, much less clothe it with the power of dismissal over the striking employees who failed to report on the date it set.

“The return-to-work Order is clear and unambiguous. It admits (of) no further interpretation such as (what) the BCF would want to be read into it as part of its prerogative, (Rollo 60), which it, in turn, invokes to justify the dismissal of herein complainants. The publication of the directive in the community newspaper and the mailing of the same to the striking employees would not give any added significance to an obviously self-serving act.”[14]

The Court can only suspect something sinister in petitioners' actions which has been aptly pointed out by the Solicitor General in his Memorandum as follows:

“Moreover, the return to work order of the Secretary of Labor was issued on April 29, 1988. The first semester at BCF was to start in June 1988. The striking teachers were requested to report on May 14, 1988 between 8 to 10 A.M. only. Private respondents, however, did not receive the notice sent to them by petitioners. Neither were they able to read the publication of the notice in the Gold Ore.

“Despite the lack of notice, however, as soon as private respondents learned about the directive, they lost no time within a reasonable period before the start of second semester in going to the office of petitioner Concepcion to signify their intention to follow the return to work Order of the Secretary of Labor. However, petitioners stuck to May 14, 1988 between 8 to 10 A.M. as the cut-off period for signifying their intention to return to work. What can be inferred from this act of petitioners is that they really wanted private respondents removed from their employment at all costs such that they resorted to the ploy that since private respondents did not return to their respective work within the limited period set by petitioners, the former were automatically deemed to have abandoned their work or failed to follow a lawful order of their employer.”[15]

Not having found any grave abuse of discretion on the part of public respondent NLRC, its findings are conclusive on this Court as they are supported by substantial evidence.[16] Verily, We have to deny the petition.

We find no need to discuss petitioners' second issue as it is clear from petitioner Salvosa's letter that private respondents were dismissed for not reporting on the date petitioner school stated in its directive. The issue of the status of employment of private respondents was merely an afterthought to give some semblance of legality to the dismissal.

WHEREFORE, the questioned NLRC decision and resolution are hereby **AFFIRMED** with the clarification that the award of backwages is limited to a period of only **THREE (3) years**.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.

- [1] Joint Decision, NLRC Cases Nos. 01-06-50186-88, “Angiwan v. Baguio Colleges Foundation;” 01-06-50188--88, “Soriano v. Baguio Colleges Foundation;” and 01-07--50221-88, “Rivera v. Baguio Colleges Foundation,” promulgated January 8, 1990, penned by Hon. Rolando D. Gambito, Labor Arbiter.
- [2] Resolution promulgated November 29, 1990, Ponente, Bernardo, Commissioner; concurred in by Javier, Presiding Commissioner and Rayala, Commissioner.
- [3] NLRC Resolution, pp. 2-4; Rollo, pp. 45-47.
- [4] Labor Arbiter’s Decision, pp. 10-11; Rollo, pp. 40-41.
- [5] Labor Arbiter’s Decision, p. 2; Rollo, p. 33.
- [6] NLRC Resolution, p. 7; Rollo, p. 50.
- [7] Id.
- [8] Petition, p. 11; Rollo, p. 22.
- [9] Id.

[10] 192 SCRA 396 (1991).

- [11] At pp. 409-410.
- [12] Petition, p. 21; Rollo, p. 22.
- [13] Applying suppletorily the Revised Rules of Court as per Sec. 3, Rule I, Revised Rules of the NLRC, Nov. 5, 1986.
- [14] NLRC Resolution, p. 8; Rollo, p. 51.
- [15] Public Respondent’s Memorandum, pp 6-7; Rollo, pp. 163-164.
- [16] National Power Corporation v. Gutierrez, 193 SCRA 1 (1991).

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