

## **SECOND DIVISION**

**[ G.R. No. 189629, August 06, 2014 ]**

**DR. PHYLIS C. RIO, PETITIONER, VS. COLEGIO DE STA. ROSA-  
MAKATI AND/OR SR. MARILYN B. GUSTILO, RESPONDENTS.**

### **D E C I S I O N**

**PEREZ, J.:**

Before us is a Petition for Review filed under Rule 45 of the Revised Rules of Court, assailing the Decision<sup>[1]</sup> dated 21 May 2009 and Resolution<sup>[2]</sup> dated 18 September 2009 by the Honorable Court of Appeals (CA) in CA-G.R. SP No. 89502 which ruled on the legality of the dismissal of petitioner Dr. Phylis C. Rio (petitioner).

#### **The Facts**

Petitioner was hired by respondent Colegio De Sta. Rosa-Makati as a part-time school physician in June 1993. Petitioner was required to report for work for four (4) hours every week with a salary of P12,640.00 per month.

In February 2002 or after almost ten (10) years of service, petitioner received a Contract of Appointment from Sr. Marilyn B. Gustilo (respondent Gustilo), Directress/Principal, requiring petitioner to report from Monday to Friday, from 8:00 a.m. to 3:00 p.m., with a salary of P12,500.00 per month. Due to the substantial change in the work schedule and decrease in her salary, petitioner declined the Contract of Appointment.

On 24 June 2002, through a Memorandum from respondent Gustilo, petitioner was informed of a new work schedule. The Memorandum required petitioner to report daily during the work week, to wit: Mondays, Wednesdays, Fridays from 8:00 a.m. to 11:00 a.m.; Tuesdays and Thursdays at 1:00 p.m. to 4:00 p.m.

In opposition, petitioner wrote respondent Gustilo a letter refusing the unilateral change in her work schedule. In response, respondent Gustilo revised the new work schedule to every Tuesdays from 7:00 a.m. to 11:00 a.m.

In a letter dated 30 July 2002, respondent Gustilo charged petitioner and Mrs. Neneth Alonzo (Alonzo), the school nurse, of "grave misconduct, dishonesty and/or gross neglect of duty detrimental not only to the school but, principally, to the health and well-being of the pupils based on the Manual of Regulations for Private Schools and Section 94 (a) and (b) and Article 282 (a), (b) and (c) of the Labor Code." In the same letter, petitioner and Alonzo were preventively suspended for a period of thirty (30) days, effective 30 July 2002.

Petitioner was made to answer for the following: (1) nine (9) students have medical records for school years during which they were not in the school yet, thus could not

have been the subject of medical examination/evaluation; (2) seventy-nine (79) students of several classes/sections during certain school years were not given any medical/health evaluation/examination; and (3) failure to conduct medical/health examination on all students of several classes of different grade levels for the school year 2001-2002.<sup>[3]</sup>

Petitioner denied the charges through a letter to respondent on 2 August 2002. On 9 August 2002 petitioner filed a complaint for constructive dismissal and illegal suspension against respondents Colegio de Sta. Rosa-Makati and Gustilo before the Labor Arbiter.

Respondent Gustilo would later file a criminal complaint for falsification of private documents against petitioner before the Makati Prosecutors Office on 6 February 2003.

To investigate the charges against petitioner, respondent Gustilo created an investigation committee, which issued a Memorandum, instructing petitioner to appear before it on 30 August 2002.

On 8 October 2002, upon the recommendation of the investigation committee, the services of petitioner and Alonzo were terminated for their grave misconduct, dishonesty and gross neglect of duty.<sup>[4]</sup>

### **The Ruling of the Labor Arbiter**

Upon the filing of the parties' respective Position Papers, Labor Arbiter Manuel Manansala ruled in favor of petitioner and Alonzo, declaring that they were illegally dismissed. The pertinent portion of the disposition reads:

WHEREFORE, premises considered, judgment is hereby rendered:

1. Declaring respondent Colegio de Sta. Rosa guilty of illegal dismissal for the reasons above-discussed.
2. Directing respondent Colegio de Sta. Rosa to pay complainants Dr. Phylis C. Rio the sum of P259,836.27 and Neneth M. Alonzo the sum of P746,360.49 representing their backwages and severance pay for the reasons above-discussed as computed by the Examination and Computation Unit of this Arbitration Branch. x x x
3. Directing respondent Colegio de Sta. Rosa to immediately reinstate complainant Ma. Corazon P. Cruz to her former position without loss of seniority right with full backwages from the time of her unjust dismissal up to the time of her actual reinstatement. The initial backwages of complainant Cruz is P281,655.77 x x x.

x x x x

6. Reminding individual respondent Sr. Marilyn Gustilo in her capacity as Directress/Principal of respondent Colegio de Sta. Rosa to be

cautious in matters involving dismissal and/or termination from employment of the personnel of the school.<sup>[5]</sup>

Both parties appealed to the National Labor Relations Commission (NLRC). Petitioner, however, filed an appeal only to correct the computation of the award from P259,836.27 to P323,036.27.

### **The Ruling of the NLRC**

On 10 January 2005, the NLRC reversed the ruling of the Labor Arbiter and likewise denied petitioner's subsequent motion for reconsideration on 7 April 2005.<sup>[6]</sup> According to the NLRC, "[i]t must be stressed that complainants Rio and Alonzo were tasked with responsibilities vital to the health and safety of students. Their apparent lack of interest, concern and system in performing these tasks could very well earn dismissal from the service even if they had not preempted the school by filing charges prematurely."<sup>[7]</sup>

### **The Ruling of the Court of Appeals**

Aggrieved, petitioner filed a Petition for *Certiorari* with the CA, which the CA denied. According to the CA, assuming *arguendo* that petitioner's failure to conduct medical examinations on the scheduled dates were due to disruptions of various school activities, it only shows that petitioner is incapable of performing the tasks required of her.<sup>[8]</sup>

### **Our Ruling**

Hence, this Petition for Review, which, while it presents the need to look into the matter of petitioner's dismissal, goes into the question of whether or not the NLRC committed grave abuse of discretion in reversing the ruling of the Labor Arbiter, this being the issue in the petition for certiorari under Rule 65 before the CA. The ruling in *Mercado v. AMA Computer College-Parañaque City, Inc.*<sup>[9]</sup> citing *Protacio v. Laya Mananghaya & Co.*<sup>[10]</sup> is apropos:

As a general rule, in *certiorari* proceedings under Rule 65 of the Rules of Court, the appellate court does not assess and weigh the sufficiency of evidence upon which the Labor Arbiter and the NLRC based their conclusion. The query in this proceeding is limited to the determination of whether or not the NLRC acted without or in excess of its jurisdiction or with grave abuse of discretion in rendering its decision. **However, as an exception, the appellate court may examine and measure the factual findings of the NLRC if the same are not supported by substantial evidence. The Court has not hesitated to affirm the appellate court's reversals of the decisions of labor tribunals if they are not supported by substantial evidence.** [Underscoring supplied]

In *Montoya v. Transmed Manila Corporation*,<sup>[11]</sup> We laid down the manner of review