

THIRD DIVISION

[G.R. No. 175283, March 28, 2008]

JACKQUI R. MORENO, Petitioner, vs. SAN SEBASTIAN COLLEGE-RECOLETOS, MANILA, Respondent.

D E C I S I O N

CHICO-NAZARIO, J.:

Assailed in this Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court is the Decision^[2] of the Court of Appeals dated 7 November 2006 in CA-G.R. SP No. 90083. The appellate court's Decision granted the Special Civil Action for *Certiorari* filed by respondent San Sebastian College-Recoletos, Manila (SSC-R), and annulled the Decision^[3] dated 23 November 2004 and the Resolution^[4] dated 31 March 2005 of the National Labor Relations Commission (NLRC) in NLRC-NCR-CA No. 037175-03.

The undisputed facts of the case are as follows:

Respondent SSC-R is a domestic corporation and an educational institution duly registered under the laws of the Philippines, located in C. M. Recto Avenue, Quiapo, Manila.

On 16 January 1999, SSC-R employed petitioner Jackqui R. Moreno (Moreno) as a teaching fellow. On 23 October 2000, Moreno was appointed as a full-time college faculty member.^[5] Then, on 22 October 2001, Moreno became a member of the permanent college faculty.^[6] She was also offered the chairmanship^[7] of the Business Finance and Accountancy Department of her college on 13 September 2002.

Subsequently, reports and rumors of Moreno's unauthorized external teaching engagements allegedly circulated and reached SSC-R. The Human Resource Department of the school thereafter conducted a formal investigation on the said activities. On 24 October 2002, the Department submitted its report, ^[8] which stated that Moreno indeed had unauthorized teaching assignments at the Centro Escolar University during the first semester of the School Year 2002-2003, and at the College of the Holy Spirit, Manila, during the School Years 2000-2001, 2001-2002 and the first semester of School Year 2002-2003.

On 27 October 2002, Moreno received a memorandum^[9] from the Dean of her college, requiring her to explain the reports regarding her unauthorized teaching engagements. The said activities allegedly violated **Section 2.2 of Article II of SSC-R's Faculty Manual**,^[10] which reads:

Administrative permission is required for all full-time faculty members to teach part-time elsewhere. If ever teaching permission is granted, the total teaching load should not exceed the maximum allowed by CHED rules and regulations. Faculty members are required to report all other teaching assignments elsewhere within two (2) weeks from start of the classes every semester.

On 28 October 2002, Moreno sent a written explanation^[11] in which she admitted her failure to secure any written permission before she taught in other schools. Moreno explained that the said teaching engagements were merely transitory in nature as the aforesaid schools urgently needed lecturers and that she was no longer connected with them. Moreno further stated that it was never her intention to jeopardize her work in SSC-R and that she merely wanted to improve her family's poor financial conditions.

A Special Grievance Committee was then formed in order to investigate and make recommendations regarding Moreno's case. The said committee was composed of Dean Abraham Espejo of the College of Law, as chairman, and Messrs. Dindo Bunag and Ramon Montierro, as members.

In a letter^[12] dated 11 November 2002, the grievance committee required Moreno to answer the following series of questions concerning her case, to wit:

1. Did you teach in other schools without first obtaining the consent of your superiors in SSC-R?
2. Did you ever go beyond the maximum limit for an outside load?
3. Did you ever truthfully disclose completely to your superiors at SSC-R any outside Load?
4. Do you deny teaching in CEU?
5. Do you deny teaching at Holy Spirit?

Moreno answered the above queries in a letter^[13] dated 12 November 2002. Moreno admitted she did not formally disclose her teaching loads at the College of the Holy Spirit and at the Centro Escolar University for fear that the priest administrators may no longer grant her permission, as prior similar requests had already been declined; that the Dean of her college was aware of her external teaching loads; that she went beyond the maximum limit for an outside load in the School Years 2000 until 2002, because she needed to support her mother and sister, her masteral studies, and her sister's canteen business, all of which coincided with the payment of the emergency loan from the SSC-R administrators that paid for her mother's illness; that she did not deny teaching part-time in the aforementioned schools; and that she did not wish to resign because she felt she deserved a second chance.

On the same day that Moreno sent her letter, the grievance committee issued its resolution,^[14] which unanimously found that she violated the prohibition against a full-time faculty having an unauthorized external teaching load. The majority of the grievance committee members recommended Moreno's dismissal from employment

in accordance with the school manual, but Dean Espejo dissented and called only for a suspension for one semester.

Thereafter, SSC-R sent a letter^[15] to Moreno that was signed by the College President, informing her that they had approved and adopted the findings and recommendations of the grievance committee and, in accordance therewith, her employment was to be terminated effective 16 November 2002.

Moreno thus instituted with the NLRC a complaint for illegal termination against SSC-R, docketed as NLRC-NCR Case No. 11-10077-02, seeking reinstatement, money claims, backwages, separation pay if reinstatement is not viable, and attorney's fees.

In the Decision^[16] dated 30 April 2003, Labor Arbiter Veneranda C. Guerrero dismissed Moreno's complaint for lack of merit, thus:

WHEREFORE, premises considered, judgment is hereby rendered dismissing the complaint for illegal dismissal for lack of merit. Respondent San Sebastian College-Recoletos is hereby ordered to pay complainant Jackqui R. Moreno the amount of NINE THOUSAND ONE HUNDRED FORTY THREE AND 75/100 PESOS (P9,143.75) representing her unpaid salaries.

All other claims are DISMISSED for lack of merit.

The Labor Arbiter ruled that Moreno's due acceptance of the appointment as a member of the Permanent Faculty meant that she was bound to the condition therein not to accept any outside teaching assignments without permission. Moreno's admission of her violation was likewise said to have rendered her liable for the penalty of dismissal as provided for in the SSC-R *Faculty Manual*. The Labor Arbiter held that SSC-R had adequately discharged the burden of proof imposed by law in dismissing Moreno. Except for her unpaid salary for fifteen (15) days, which was not controverted, the rest of Moreno's money claims were denied for being unsubstantiated.

On appeal by Moreno, the NLRC reversed the rulings of the Labor Arbiter in a Decision dated 23 November 2004, the relevant portion of which reads:

The four (4) applications for leave of absence adduced in evidence by the respondent [SSC-R] are all undated. If the absences indicated in the said documents were the only absences incurred by the complainant [Moreno] in her four-year tenure, it cannot be said that she had a poor attendance. In fact, the contrary would be true. On the other hand, it is conceded that in the yearly evaluation of the performance of teachers, she consistently landed among the five best teachers. Thus, neither can it be said that her moonlighting activities adversely affected her work performance. Likewise, the undisputed fact that she was asked to be the chairman of Business Finance and Accountancy for SY 2002-2003 should be considered. This last circumstance could only mean that she was very good at her job.

There are other extenuating circumstances that should have been taken

into consideration in determining the propriety of the penalty of dismissal meted upon the complainant. These circumstances are the fact that it was her first offense in four years of unblemished employment, and the fact that she candidly admitted her fault. x x x

Moreover, it is settled that the existence of some rules agreed upon between the employer and employee on the subject of dismissal cannot preclude the State from inquiring whether its rigid application would work too harshly on the employee. (*Gelmart Industries Phils. Inc. vs. NLRC*, 176 SCRA 295 cited in *Caltex Refinery Employees Association vs. NLRC*, 246 SCRA 271).

Thus, in the instant case, it must be concluded that the penalty of dismissal meted upon the complainant [Moreno] was too harsh and unreasonable under the circumstances. At most, a one-year suspension with a warning against the repetition of the same offense would have been more in keeping with the generally accepted principles of law.

WHEREFORE, the decision appealed from is hereby REVERSED. The respondent [SSC-R] is hereby ordered to REINSTATE the complainant [Moreno] to her former position, and to pay her full backwages counted from November 16, 2003 up to the date of her actual reinstatement.^[17]

SSC-R filed a Motion for Reconsideration^[18] of the NLRC Decision, which was denied for lack of merit in a Resolution^[19] dated 31 March 2005.

Thus, SSC-R instituted with the Court of Appeals a Petition for *Certiorari* under Rule 65 of the Rules of Court, with a prayer for the issuance of a temporary restraining order and/or a writ of preliminary injunction,^[20] docketed as CA-G.R. SP No. 90083, alleging grave abuse of discretion on the part of the NLRC.

In a Decision^[21] dated 7 November 2006, the appellate court granted the petition and annulled the Decision dated 23 November 2004, and Resolution dated 31 March 2005 of the NLRC. In reinstating the Decision of the Labor Arbiter dated 30 April 2003, the Court of Appeals ruled in this wise:

In the case at bar, there is clearly grave abuse of discretion on the part of the NLRC when it reversed the Decision of the Labor Arbiter. Its conclusions are highly prejudicial to the interests of herein petitioner [SSC-R], considering the glaring infractions committed by private respondent [Moreno], which she even expressly admitted.

x x x x

"Willful disobedience of the employer's lawful orders, as a just cause for dismissal of an employee, envisages the concurrence of at least two (2) requisites: the employee's assailed conduct must have been willful or intentional, the willfulness being characterized by a wrongful or perverse attitude; and the order violated must have been reasonable, lawful, made known to the employee and must pertain to the duties which he had been engaged to discharge.

The foregoing requisites are all present in this case. The prohibition against unauthorized outside teaching engagements found in the Faculty Manual and in private respondent's [Moreno] appointment letter are deemed reasonable under the circumstances. In fact, the petitioner's [SSC-R] policy is actually permissive since it allows other teaching engagements so long as its president approves of the same.

Concededly, this policy was made known to private respondent [Moreno] for as mentioned earlier, it is found not only in the Faculty Manual, but more importantly, it is explicitly stated in her appointment letter. By her own admission, it cannot be clearer that, in spite of her knowledge thereof, private respondent [Moreno] willfully disobeyed the said prohibition. When she accepted the teaching opportunities offered to her by other schools and altogether concealed the same from the petitioner [SSC-R], she risked being administratively held liable therefor. Thus, the excuses she raised upon the petitioner's [SSC-R] discovery of such concealment deserve scant consideration.

The policy is obviously in connection with the private respondent's [Moreno] duties as a faculty member. It is designed to ensure that the petitioner's [SSC-R] teaching staff is well fit to function accordingly, not only for its benefit, but chiefly, for the students who are under their care and instruction. Private respondent [Moreno] argues that notwithstanding her violations, her commitments with petitioner [SSC-R] were never compromised. Be that as it may, this fact cannot absolve her. She may be fit at the time when her infractions were revealed, but there is no assurance that her health would not deteriorate in time if she persists in carrying on a heavy workload.

x x x x

WHEREFORE, the instant petition is **GRANTED**. The 23 November 2004 Decision and the 31 March 2005 Resolution of the National Labor Relations Commission (Second Division) are hereby **ANNULLED and SET ASIDE**. The National Labor Relations Commission is permanently enjoined from executing its 31 March 2005 Resolution. The Decision of the Labor Arbiter dated 30 April 2003 is hereby **REINSTATED and AFFIRMED**.

Accordingly, Moreno now impugns before this Court the Court of Appeals Decision dated 07 November 2006 raising the following issues:

I.

WHETHER OR NOT THE DISMISSAL OF PETITIONER WAS PROPER AND LAWFUL.

II.

WHETHER OR NOT PETITIONER IS ENTITLED TO THE RELIEF SHE SEEKS