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THIRD DIVISION

[G.R. No. 137795, March 26, 2003]

COLEGIO DE SAN JUAN DE LETRAN – CALAMBA, PETITIONER, VS. BELEN P. VILLAS, RESPONDENT.

D E C I S I O N

CORONA, J.:

This is a petition for review on *certiorari* of the decision[1] of the former Eleventh Division[2] of the Court of Appeals affirming the decision[3] of Voluntary Arbitrator (VA) Apolonio S. Mayuga that respondent Belen P. Villas was illegally dismissed by petitioner Colegio de San Juan de Letran (School) and thus, entitled to reinstatement and full backwages.

The antecedent facts show that respondent Belen Villas was employed by the petitioner School as high school teacher in September 1985. On May 15, 1995, she applied for a study leave for six months, from June to December 31, 1995. In a letter dated June 2, 1995, Mrs. Angelina Quiatchon, principal of the high school department, told Villas that her request for study leave was granted for one school year subject to the following conditions:

1. The requested study leave takes effect on June 5, 1995 and ends on March 31, 1996;

2. The requested study leave involves no remuneration on the part of the School;

3. The documents that justify the requested study leave should be submitted upon return on April 1, 1996;

4. Faculty Manual – Section 40 Special Provisions on the Granting of Leave of Absence should be observed:

    a. Once proven beyond reasonable doubt during the period of the approved leave of absence that the faculty member shall engage himself in employment outside the institution, the administration shall regard the faculty member on leave as resigned;

    b. The maximum length of leave of absence that may be applied for by the faculty member and granted by administration is twelve (12) months. If, at the lapse of the period, the faculty member fails to

return for work, the administration shall regard the faculty member as resigned.[4]

Respondent alleged that she intended to utilize the first semester of her study leave to finish her masteral degree at the Philippine Women's University (PWU). Unfortunately, it did not push through so she took up an Old Testament course in a school of religion and at the same time utilized her free hours selling insurance and cookware to augment her family's income. However, during the second semester of her study leave, she studied and passed 12 units of education subjects at the Golden Gate Colleges in Batangas City. In response to the letters sent her by petitioner to justify her study leave, she submitted a certification from Golden Gate Colleges and a letter explaining why she took up an Old Testament course instead of enrolling in her masteral class during the first semester.

On June 3, 1996, the President and Rector of the School, Fr. Ramonclaro G. Mendez, O. P., wrote her, stating that her failure to enroll during the first semester was a violation of the conditions of the study leave and that the reasons she advanced for failure to enroll during the first semester were not acceptable, thus:

> In the first place, prudence dictates that you should have ascertained first that you are still eligible to study at PWU to finish your masteral degree before applying and securing the approval of your leave by the School. In the second place, you should have informed the School at once that you could not enroll in the first semester so that your leave could have been adjusted for only one-half (1/2) year. Thirdly, your engaging in some part-time business instead of studying in the first semester of your leave is sufficient justification for the School to consider you as resigned under the Faculty Manual. And lastly, your failure to study in the first semester of your study leave without informing the School beforehand constitutes deception, to say the least, which is not a good example to the other teachers.[5]

Her case was subsequently referred to the grievance committee, as provided for in the collective bargaining agreement, and the report was submitted on July 12, 1996, both to the union and the School. However, since the grievance committee could not reach a decision, the case was referred for voluntary arbitration.

Respondent then filed a case for illegal dismissal and the case was assigned to VA Mayuga who found that respondent was illegally dismissed, thus:

> WHEREFORE premises considered, we rule that complainant Mrs. BELEN P. VILLAS was illegally dismissed from her employment by respondent, and as prayed for, respondent COLEGIO DE SAN JUAN DE LETRAN-CALAMBA is hereby ordered to reinstate Mrs. Belen P. Villas to her former position or job in said school without loss of seniority and with full backwages and other monetary benefits effective the start of school year 1996-1997 up to the time she is reinstated.[6]

Upon denial of its motion for reconsideration, petitioner filed a petition for review with the Court of Appeals. This was denied. Thus, this petition for review. The sole issue is whether or not respondent's alleged violation of the conditions of the study grant constituted serious misconduct which justified her termination from petitioner School.

Petitioner alleges that the dismissal of respondent was lawful inasmuch as (a) the requirements of due process were followed and (b) she not only violated several lawful regulations but also breached her contractual obligations to the School. All this constituted a valid ground for her dismissal. In assailing the decision of the Court of Appeals, petitioner School basically questions the court *a quo*'s findings of fact on respondent's alleged violation of petitioner School's policy on study leave grants.

The petition has no merit.

Under the Labor Code, there are twin requirements to justify a valid dismissal from employment: (a) the dismissal must be for any of the causes provided in Article 282 of the Labor Code (substantive aspect) and (b) the employee must be given an opportunity to be heard and to defend himself (procedural aspect).[7] The procedural aspect requires that the employee be given two written notices before she is terminated consisting of a notice which apprises the employee of the particular acts/omissions for which the dismissal is sought and the subsequent notice which informs the employee of the employer's decision to dismiss him.[8]

In the case at bar, the requirements for both substantive and procedural aspects were not satisfied.

According to petitioner, respondent violated the following conditions of her study leave: (a) she failed to report for work on April 1, 1996, the day after the lapse of her leave period, which was violative of Section 40 of the Faculty Manual; (b) she failed to submit proof of her studies during the first semester of her leave period, suggesting that she was not enrolled during this period; and (c) she engaged in employment outside the School. In sum, petitioner School argues that the conduct of respondent breached not only the provisions of the study grant (which was a contractual obligation) but also the Faculty Manual. Respondent was thus guilty of serious misconduct which was a ground for termination.

We affirm the findings of the Court of Appeals that there was no violation of the conditions of the study leave grant. Thus, respondent could not be charged with serious misconduct warranting her dismissal as a teacher in petitioner School. Petitioner has failed to convince us that the three alleged violations of the study leave grant constituted serious misconduct which justified the termination of respondent's employment.

Misconduct is improper or wrongful conduct. It is the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies wrongful intent and not mere error of judgment.[9] Under Article 282 of the Labor Code, the misconduct, to be a just cause for termination, must be serious. This implies that it must be of such grave and aggravated character and not merely trivial or unimportant.[10] Examples of serious misconduct justifying termination, as held in some of our decisions, include: sexual harassment (the manager's act of fondling the hands, massaging the shoulder and caressing the nape of a secretary);[11] fighting within company premises;[12] uttering obscene, insulting or offensive words against a superior;[13] misrepresenting that a student is his nephew and pressuring and intimidating a co-teacher to change that student's

failing grade to passing.[14]

In this light, the alleged infractions of the respondent could hardly be considered serious misconduct.

With regard to respondent's alleged failure to report for work on April 1, 1996 and failure to enroll during the first semester, the Court of Appeals and the Voluntary Arbitrator found that she did in fact report for work on April 1, 1996 and that she was in fact enrolled during the first semester. Well–settled is the rule that the factual findings of the Court of Appeals are conclusive on the parties and are not reviewable by the Supreme Court. And they carry even more weight when the Court of Appeals affirms the factual findings of a lower fact-finding body, in this case the Voluntary Arbitrator.[15] Likewise, findings of fact of administrative agencies and quasi-judicial bodies which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only great respect but even finality. They are binding upon this Court unless there is a showing of grave abuse of discretion or where it is clearly shown that they were arrived at arbitrarily or in utter disregard of the evidence on record.[16]

Assuming *arguendo* that she did fail to report for work on April 1, 1996 and enroll during the first semester, the most respondent could be charged with was simple misconduct. In both instances, there was evidence of substantial compliance by respondent.

Her alleged failure to report for work exactly on April 1, 1996 is not equivalent to "failure to return for work," a sanctionable offense under the Faculty Manual. As correctly pointed out by the VA, petitioner failed to establish that there was a distinct and definite assignment that needed to be done personally by respondent, and specifically on April 1, 1996, which she failed to do on said date. Although we give credence to petitioner's argument that a private high school teacher still has work at the end of the schoolyear – to assist in the graduation preparations – and in the beginning of the school year – to assist in the enrollment – such tasks cannot be considered a teacher's main duties, the failure to perform which would be tantamount to dereliction of duty or abandonment. Besides, there is no disagreement that respondent reported for work on May 15, 1996 at which time petitioner School could have asked her to assist in the enrollment period. At most, respondent failed to help out during the preparations for graduation and this, to us, was not a significant reason for terminating or dismissing her from her job.

With regard to her alleged failure to enroll during the first semester, although we agree with the President and Rector, Fr. Mendez, that respondent should have first ascertained whether she was still eligible to study at the PWU before applying for a study leave,[17] such lapse was more of an error in judgment rather than an act of serious misconduct. If respondent intended to use her study leave for other unauthorized purposes, as petitioner would like us to believe, she would not have enrolled at the Golden Gate Colleges during the second semester. Yet she did, as borne out by the certification[18] prepared by the Registrar of Golden Gate Colleges.

Furthermore, we find that respondent did not violate the prohibition on engaging in employment outside the school as specified in her study leave grant and as provided in the Faculty Manual. Section 40 (a) of the Manual[19] states: