

SECOND DIVISION

[G.R. No. 121275, August 07, 1997]

**CENTRO ESCOLAR UNIVERSITY, PETITIONER, VS. FIRST
DIVISION OF THE NATIONAL LABOR RELATIONS COMMISSION
AND MARIA C. ALBA, RESPONDENTS.**

DECISION

ROMERO, J.:

This is a special civil action for certiorari under Rule 65 of the Rules of Court which seeks to set aside the decision of the National Labor Relations Commission dated September 16, 1994 in NLRC Case No. 004668-93 entitled "Maria C. Alba vs. Centro Escolar University," which reversed the decision of the Labor Arbiter by finding herein petitioner liable for illegal dismissal.

Private respondent Maria C. Alba was hired by petitioner Centro Escolar University in July 1971 as Clinic Nurse of the Health Services Department. Seven years later, she was promoted as Clinic Nurse-in-Charge, and on December 6, 1979, she was appointed as Administrative Assistant/Senior Nurse. Six months later, she was promoted to Administrative Officer. On July 1, 1984, she was appointed Administrator of the Health Services Department. She occupied this position until she was notified of her dismissal on September 18, 1991.

On December 5, 1990, private respondent was placed under preventive suspension by petitioner as a result of a written complaint signed by eight of her staff citing her domineering behaviour.^[1] Private respondent filed her answer on December 10, 1990.^[2]

The investigating committee submitted its report to the Acting President of petitioner university recommending that the clinic be headed by a medical officer.^[3] On January 18, 1991 private respondent met with three of petitioner university's officials who later advised her to go on leave of absence without pay from January 16, 1991 to July 6, 1991 and thereafter go on retirement.

On January 31, 1991, private respondent once again met with CEU's Acting President. The latter reiterated her suggestion that private respondent should retire. On February 4, 1991, she was directed to go on leave without pay from January 16, 1991 to July 6, 1991, otherwise she would be considered AWOL.

When private respondent reported back to work on July 18, 1991, she was given a retirement form. She refused to accomplish said form and instead requested the university's Chairman of the Board to convene an administrative council.^[4] In a letter dated August 5, 1991, petitioner extended her preventive suspension until the administrative council convenes.^[5]

On September 18, 1991, private respondent was given a notice of termination.^[6]

Private respondent filed with the Labor Arbiter a complaint for illegal suspension, illegal dismissal, non-payment of salary, holiday pay, service incentive leave pay, and allowances and moral damages.

On November 27, 1992, Labor Arbiter Ramon Valentin Reyes rendered his decision^[7] dismissing the complaint upon finding that private respondent was dismissed for just cause with due process, and therefore not entitled to money claims except in the amount of P4,200.00. The judgment was without prejudice to private respondent's retirement benefits.^[8]

On appeal, the NLRC reversed the Labor Arbiter's decision and ordered private respondent's reinstatement. Respondent Commission's decision dated September 16, 1994 has the following dispositive portion:

"WHEREFORE, premises considered, the appealed decision is hereby REVERSED and SET ASIDE. The dismissal of the complainant as of December 6, 1990 is hereby declared illegal, and respondent CENTRO ESCOLAR UNIVERSITY is hereby ordered to:

1. Reinstatement the complainant MARIA C. ALBA to her former position without loss of seniority rights;
2. Pay the complainant MARIA C. ALBA her backwages from the time she was dismissed on December 6, 1990 until she is actually reinstated, computed at P14,000.00 a month (basic salary plus regular allowance) amounting, as of September 6, 1994 to P616,000.00;
3. Pay the complainant MARIA C. ALBA moral damages of P75,000.00 and exemplary damages of P75,000.00; and
4. Attorney's fees of 10% of the aggregate awards.

SO ORDERED."^[9]

Petitioner received a copy of the decision of NLRC on October 27, 1994.^[10] On November 26, 1994, petitioner filed a motion for reconsideration of said decision by registered mail.

No action was taken on this motion because it was never received by respondent Commission as evidenced by a Certification issued by the Record Officer of the Receiving Section, National Labor Relations Commission.^[11] In fact, since the decision was considered final and executory, a writ of execution was issued on February 23, 1995.^[12]

The instant petition is hereby dismissed.

Section 14, Rule VII of the New Rules of Procedure of the NLRC specifically provides that the aggrieved party may file a motion for reconsideration within ten (10)