

SECOND DIVISION

[CA-G.R. SP No. 131238, May 30, 2014]

**IMMACULATE CONCEPTION PAROCHIAL SCHOOL AND/OR REV.
FR. REY O. AMANTE, PETITIONERS, VS. NATIONAL LABOR
RELATIONS COMMISSION AND ELIZABETH R. REMO,
RESPONDENTS.**

DECISION

SALAZAR-FERNANDO, J.:

Before this Court is a Petition for Certiorari^[1] under Rule 65 of the 1997 Revised Rules of Civil Procedure assailing the Decision^[2] dated April 30, 2013 and Resolution^[3] dated July 22, 2013 of public respondent National Labor Relations Commission, Second Division, in NLRC LAC No. 02-000860-13 NLRC NCR Case No. 05-06661-12 entitled "Elizabeth R. Remo, Complainant, versus Immaculate Concepcion (sic) Parochial School and/or Rey O. Amante, Respondents.", the decretal portions of which read:

Decision dated April 30, 2013 -

"WHEREFORE, premises considered, the Complainant's appeal is hereby declared with merit, the assailed decision is hereby REVERSED and SET ASIDE, and a new one promulgated, declaring Complainant illegally dismissed. Respondents are hereby ordered to reinstate Complainant to her former position without loss of seniority rights and privileges and to pay her:

1. backwages from March 19, 2012 up to Complainant's reinstatement	– P295,365.00
2. proportionate 13th month pay for the period January to March 19, 2012	– 4,398.33
3. 10% attorney's fees	– <u>29,976.33</u>
TOTAL	–
AWARD	<u>P329,739.66</u>
The rest of the claims are	

hereby DISMISSED for
lack of
merit.
SO
ORDERED.”

Resolution dated July 22, 2013 -

“WHEREFORE, the motion for reconsideration is denied for lack of merit.

NO FURTHER MOTION OF SIMILAR NATURE SHALL BE ENTERTAINED.

SO ORDERED.”

The facts are:

On May 2, 2012, private respondent Elizabeth R. Remo (“Remo” for brevity) filed a complaint for illegal dismissal with prayer for reinstatement, payment of backwages and other benefits, moral and exemplary damages and attorney's fees against petitioners Immaculate Conception Parochial School (“ICPS” for brevity) and Rev. Fr. Rey O. Amante (“Amante” for brevity) before the NLRC National Capital Regional Arbitration Branch.

Private respondent Remo averred in her Position Paper^[4] that: in June 1990, private respondent Remo was hired by petitioner ICPS as a teacher and at the time she was illegally dismissed, she was occupying the position of subject area coordinator with a monthly salary of P20,300.00; on July 21, 2011, after the flag raising ceremony, a third-year high school student, James Christian Gungon (“Gungon” for brevity), who was part of cyber bullying incident was instructed to face the crowd composed of school administrators, faculty, staff, and students, and have a self-affirmation and promise to be better person after his participation in a “Facebook” involving teacher Daguro; and she had no idea why Gungon was instructed to do so; she heard her co-teachers, Priscila Martinez (“Martinez” for brevity) and Carmencita Centeno (“Centeno” for brevity) say, “O ayan ha me mga susunod pa na magsasalita” and “O ayan makinig kayo mabuti ha tungkol yan sa pambabastos sa teacher”, respectively; Gungon was hesitant and his voice was unclear when he apologized publicly for maligning teacher Federico Daguro (“Daguro” for brevity) on Facebook, and promised that he would become a better person; her son, Menard Jason, was also involved in and disciplined for “cyber bullying” Daguro; after the flag ceremony, she went to her office to check on her son's sanction paper and found nothing that required the students to make a public apology for their involvement in the incident; from her office, she proceeded to the classroom where her student inquired as to why certain students were directed by the school to speak after the flag ceremony and she responded that Gungon offended Daguro; she advised them, before proceeding to her lecture, to be more circumspect in posting remarks on Facebook; after her class, she went to the office where she saw the principal, Estrelita M. Gatchalian (“Gatchalian” for brevity) who informed her that the parent of Jara, a student, went to the prefect of students' office and told Gatchalian that her students were inquiring what really transpired immediately after the flag ceremony; Gatchalian told her that it was wrong for her to share with her students the information about the cyber bullying of Daguro on Facebook; in response, she told Gatchalian that the latter should have allowed the faculty members to know what was happening and teach them how to react/respond to students' queries; they had a heated conversation, when Gatchalian told her that she need not know

everything; Gatchalian's parting words to her were: "sige pupunta na ako sa klase ko, payapain mo ang loob mo, wag kang mag-isip ng di maganda, di kasali ang anak mo sa mga magpa-public apology"; after the said heated exchange she was tensed as she placed the books she was carrying on her desk and created a noise in the presence of faculty members Centeno, Ariel Pacaldo ("Pacaldo" for brevity) and Marquicias; on August 10, 2011, she received a memorandum^[5] from the Ad Hoc Committee requiring her to explain what really transpired during her confrontation with Gatchalian; on August 12, 2011, she submitted her written response^[6] to the said memorandum; on August 16, 2011, she requested^[7] in writing from petitioner Amante, Director of petitioner ICPS, to furnish her with a copy of Gatchalian's letter-complaint, but to no avail; she also inquired if the persons chosen to compose the Ad Hoc Committee know how to conduct an investigation and if they could render a fair judgment in her case since all of the committee members were Gatchalian's subordinates; she surprisingly found out that aside from Gatchalian, the FAST^[8] Club-ICPS also lodged a complaint^[9] against her on July 28, 2011; she was not furnished with a copy of FAST Club-ICPS' complaint, and it was only in March 2012 when she saw a copy of the same attached to the resolution issued by petitioner Amante; she submitted herself to the proceedings notwithstanding the fact that the members of the committee were FAST Club-ICPS officers and FAST Club-ICPS was one of the complainants against her; as directed, on August 26, 2011, she submitted herself to oral interrogation without facing her accusers or hearing the testimonies of witnesses; on October 25, 2011, petitioner Amante called her and Gatchalian to a meeting and urged them to settle their differences; she humbly asked for Gatchalian's forgiveness during their heart to heart talk and thought that everything was resolved after their meeting with petitioner Amante; she was shocked when the Grievance Committee called her and the complainants (Gatchalian and FAST Club-ICPS) on November 17, 2011; the ensuing discussion lasted for four (4) hours; the penalty of either termination, voluntary resignation, suspension or demotion or public apology could be imposed upon her for offending co-faculty members Daguro and Gallardo, among other offenses; the Grievance Committee suggested to her to do a public apology, which is the least penalty; she did not immediately respond and agree to the recommendation of the Grievance Committee because she needed time to decide on whether to heed it; she approached Daguro and Regina Gallardo ("Gallardo" for brevity) and asked about the particular acts that she did to them which called for her apology; Daguro and Gallardo told her that she did not do anything offensive to them, thus, she only needed to apologize to Gatchalian which she already did on October 25, 2011; on November 28, 2011, she manifested in her letter^[10] to petitioner Amante her sentiments regarding the grievance proceedings; on December 17, 2011, petitioner Amante called her to a meeting after the Christmas party of petitioner ICPS; she met petitioner Amante on her way out of the school and explained to him that she could not attend the scheduled meeting because she needed to go home to attend to the delivery of goods which came from Pampanga; no meeting was called on November 29, 2011; she informed petitioner Amante that she could not attend the meeting called on December 17, 2011 and suggested its rescheduling on December 20, 2011; she communicated to petitioner Amante that she could not attend the December 20, 2011 meeting because her daughter was confined at the hospital the day before; and on March 19, 2012, she received from the office of petitioner Amante a Resolution^[11] dismissing her for grave misconduct and unethical behavior.

On the other hand, petitioners ICPS and Amante averred in their Position Paper^[12] that: Gungon, together with some third-year high school students of petitioner ICPS, created a Facebook account named "Daguro Playboy Negrito" with Daguro's picture appearing on the profile photo; the creation of the said Facebook group account and the unsavory comments posted on it caused public humiliation and embarrassment to Daguro prompting the Office of Prefect of Students to conduct an investigation of the incident and treat it as cyber bullying which is constitutive of the offense of disrespect to school authority as appearing in their student manual; the twenty-seven (27) students who were listed as members of the said group account and their parents were called for investigation; among those who were listed members of the said social networking site group account was private respondent Remo's son, Menard Jason, who made the most unsavory remark; private respondent Remo sent Gallardo to appear for Menard Jason before the Office of the Prefect of Students despite the reminder that Gallardo was neither Menard Jason's legal guardian nor authorized representative; Gungon's parents proposed that Gungon be required to make a public promise and self-affirmation to become a better person before the school community instead of being expelled for disrespect to school authority and they accepted it; on July 21, 2011, during the flag ceremony, Gungon made his public promise and affirmation to become a better person, which was erroneously called a public apology; the message delivered by Gungon could hardly be understood due to the poor public address system; since private respondent Remo never attended the parents' meetings with the Prefect of Students despite her son's involvement in the incident and the fact that she is a faculty member of petitioner ICPS, she had no idea of Gungon's message and why the students involved in the cyber bullying incident would undergo a special values formation seminar; on July 21, 2011, at around 9:10 o'clock in the morning, their school principal Gatchalian went to the subject coordinators' office to ring the bell for the next class; but Gatchalian was reminded by private respondent Remo that it was not yet time to ring it to, which she heeded; while waiting for the right time, Gatchalian engaged in a light conversation with private respondent Remo, but it became heated when the latter talked about Gungon's message during the flag ceremony; private respondent Remo told Gatchalian that she heard from some of her co-faculty members that certain students were also required, like Gungon, to make a statement in front of the school community during the next flag ceremony; private respondent Remo asked Gatchalian if her son, Menard Jason, would be the next to make a public apology (sino ang isusunod niyo, ang anak ko?); Gatchalian assured private respondent Remo that there was no such agenda; private respondent Remo insisted angrily that Gungon was made to stand in front of other students because of the Facebook incident and she discussed the matter in her class despite her admission that she did not hear clearly and understand Gungon's message; Gatchalian reminded private respondent Remo that such matter is best left confidential and should not be discussed in class; private respondent Remo insisted her erroneous belief that the matter ceased to be confidential when Gungon apologized publicly; private respondent Remo angrily shouted ("pabalik-balik na lang sinasabi mo") at Gatchalian when the latter reiterated that such matter should not have been discussed in class; private respondent Remo shouted and shrieked at Gatchalian scandalously, disrespectfully and hysterically; she banged chairs and tables in the presence of some minor students despite being told to calm down; were it not for the timely intervention of some teachers, private respondent Remo almost attacked Gatchalian physically; private respondent Remo habitually simply addressed Gatchalian as "Ate Liz" and never addressed the latter as "Ma'am" despite the latter's authority and stature as a school principal; private respondent Remo