

THIRD DIVISION

[CA-G.R. SP NO. 131583, November 17, 2014]

CECILIA B. LAPIRA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (2ND DIVISION), ASIAN MARITIME INSTITUTE OF MARITIME STUDIES (AIMS) AND ARLENE ABUID PADERANGA, RESPONDENTS.

DECISION

DE GUIA-SALVADOR, R., J.:

Assailed in this *Petition for Certiorari* under Rule 65 of the 1997 Rules of Civil Procedure are the Resolutions issued by the Second Division of public respondent National Labor Relations Commission in NLRC LAC No. 03-001075-13, viz: (a) the Resolution^[1] dated May 23, 2013, which reversed the Decision^[2] dated February 8, 2013 of Labor Arbiter Remedios L.P. Marcos in NLRC NCR Case NO. 07-10075-12^[3] which in turn granted petitioner Cecilia Lapira's Complaint for illegal dismissal; and (b) the Resolution^[4] dated June 28, 2013 which denied her motion for reconsideration of the May 23, 2013 Resolution.

The Facts

Petitioner Cecilia Lapira ("**Lapira**") had been a regular faculty member of private respondent Asian Institute of Maritime Studies ("**AIMS**") for about fifteen (15) years.^[5] Aside from being a faculty member, she also held various other positions in AIMS such as property management officer, lecturer, and Deputy for Administration Philippine Coast Guard Auxiliary Squadron, 129th Squadron.^[6]

On November 2, 2011, Lapira received a Memorandum dated October 28, 2011 from Marites C. Avance ("**Avance**"), Director of the Human Resources Division ("**HRD**") of AIMS,^[7] stating that she would be preventively suspended for thirty (30) days while under investigation for serious acts of misconduct.^[8] This prompted Lapira to approach Commander Fernando P. Abuid ("**Abuid**"), the Vice President for Administration and source of the memorandum, to ask for a copy of the complaint lodged against her.^[9]

On November 9, 2011, Lapira received another Memorandum from Avance, which charged her with an offense against integrity with a penalty of dismissal.^[10] Lapira filed a written explanation concerning both memoranda, stating that she had never received any oral or written complaint from the students nor their parents, and denying having been involved in any offense related to money and integrity in her fifteen (15) years of service in AIMS.^[11]

Later on, Lapira received a Memorandum dated January 24, 2012, suspending her

for five (5) days effective immediately with a warning that a penalty of dismissal would be imposed if she would be proven guilty in the future of another offense regarding integrity.^[12] Lapira suspected that the issuance of the Memorandum was just a plot concocted by private respondents to pave the way for her dismissal without circumventing the requirements of due process.^[13] She further posited that she could not even recall any complaint filed by any student or parent against her, and that there was no formal investigation conducted by the appropriate body at AIMS.^[14] Lapira added that she could only recall having been part of a meeting held on November 22, 2011 at the office of the HRD along with other officers of the school, during which she was directed to prepare five (5) instruction guides for the Math and Drawing subjects, and three hundred (300) examination questionnaires.^[15] According to her, except for the presence of the administration officers, no minutes of the meeting was recorded. She asserted that she was not notified during the meeting that she was under administrative investigation or that a complaint had been lodged against her.^[16]

Aggrieved, Lapira approached Arlene Paderanga ("**Paderanga**"), AIMS' school president and individual respondent in this case. Paderanga supposedly informed her that there was no investigation conducted. Lapira argued that since there was no investigation, the suspension order of five (5) days was illegal. Paderanga refused to respond to such contention and just told Lapira that she will look into the matter.^[17] Consequently, Ronel M. Gillesania ("**Gillesania**"), the Academic Director of AIMS, issued a Memorandum dated February 29, 2012 which required Lapira to submit a written explanation on the claims of some students regarding her improper conduct. Lapira tendered her written explanation.^[18]

On June 4, 2012, a Notice of Resolution was issued by Avance (noted by Abuid) directing Lapira's immediate dismissal. Her salary as of the time of her dismissal was P28,160.00 per month.^[19]

Private respondents, on the other hand, affirmed that they hired Lapira on June 16, 1997 as a part-time faculty member, and that she was assigned administrative duties which eventually earned her the status of being a monthly paid faculty member. They also acknowledged that Lapira received numerous awards during its Foundation Day celebrations,^[20] and that she was granted regular employment status after she received her degree of Master of Arts in Education, Major in Educational Management, from the *Pamantasan ng Lungsod ng Pasay* in 2006.^[21]

In May 2008, Lapira was linked to an incident known as the "Lemery Outing Investigation" while she was then the Head of Property Management Office. Despite the President's disapproval of the outing, according to private respondents, she still proceeded with the trip using the company vehicle and the personal vehicle of the Vice President for Administration without the latter's prior approval. For this, she was charged with grave abuse of discretion, neglect of duty, loss of trust and confidence and lack of foresight and judgment. The Human Resource and Development Office ("**HRDO**") investigated the incident and found Lapira guilty of the offense, and penalized her with a five-day suspension. Such incident became part of Lapira's record with AIMS.^[22]

In November 2011, the HRDO was informed of another incident regarding

unauthorized collection of payments from students, involving Lapira and another teacher, Engr. Danilo Patacsil ("**Patacsil**"), who were then both faculty members of the Marine Engineering Department. The HRDO conducted an investigation and issued a Memorandum to Lapira apprising her of the charge. In turn, Lapira sent a letter explanation dated November 17, 2011 addressed to the HRD Director. The HRDO then issued Lapira a Notice of Hearing scheduled on November 22, 2011. [23]

During the hearing, Lapira said that Patacsil was going to hold an off-campus training which required a fee from those who want to join. Lapira affirmed that she dealt with a student looking for Patacsil while he was out of the office. She advised the student that he could leave the payment with her and that she would issue an acknowledgment receipt. In short, she facilitated a transaction involving money in behalf of Patacsil. After reviewing the facts of Lapira's case, the Investigating Panel unanimously found that she failed to observe protocol in dealing with payments concerning trainings, taking into consideration her knowledge of the procedure of the school and the length of service she had rendered. [24]

In order to prevent any controversy, AIMS made it clear to its employees that no employee should directly transact with students in receiving payments and that all such payments must be coursed through the Finance Office. Since Lapira admitted that she facilitated a transaction with a student despite knowledge of the mentioned protocol, she was ordered suspended for five (5) working days with a warning that any future infraction involving an offense related to integrity would necessitate the imposition of dismissal from service, if she would be adjudged guilty. [25] The Notice of Resolution dated January 24, 2012 was served and received by petitioner Lapira. [26]

On April 23, 2012, the HRDO received an endorsement from the Academic Director's Office to resolve and investigate new charges of unauthorized payment collection against Lapira. The allegation was based on a statement made by a student named Ace Joseph V. Manalo ("**Manalo**") through the Customer Concerns Form, which detailed that he paid P1,500.00 to pass the subject "Draw 222 L2" then being handled by Lapira. Manalo further identified Patacsil as the middleman who facilitated the transaction in Lapira's behalf. Despite the said payment, Manalo still failed the subject. [27]

Alexander S. Dimalaluan, the Quality Assurance Department Head who handles the processing of Customer Concerns Form, [28] confirmed the imputation against Lapira. The case was then forwarded to Gillesania, the Academic Director, as the personnel involved is under his office's jurisdiction. Gillesania conducted further inquiry and was able to gather written statements of other students who reported that they knew of the incident of unauthorized payments in exchange for a passing grade. Moreover, a review of a previous Summary Result of Exit Interview conducted for the graduating students of BS Marine Engineering revealed instances of unauthorized payment collection. [29]

On February 9, 2012 the Academic Director's Office sent a Memorandum to Lapira, requiring her to submit a written explanation with regard to the serious charges of unauthorized collection. She submitted her written explanations dated March 15, 2012 and April 12, 2012, denying all the accusations, but without submitting

evidence to support her denial.^[30]

In order to resolve the foregoing case, the Investigation Panel composed of the HRD Unit Head, the HRD Director, the Academic Director and the Vice President for Administration, was convened. Two (2) of the student-complainants willingly executed notarized affidavits to prove the truthfulness of their statements.^[31] The identities of the student-complainants were protected to safeguard them against possible retaliation from Lapira and her colleagues who happen to be members of the faculty as well.^[32] After a review of all documents and evidence presented, the Investigation Panel found Lapira guilty of giving grades to students not based solely on scholastic performance. Pursuant to the Manual of Regulations for Private Higher Education of 2008, such act constituted grave misconduct. Based on the AIMS Employee Handbook, offenses against integrity by committing an act that brings to question the positive values and morals of the employee to the detriment of the school's image would merit a penalty of dismissal.^[33]

On June 4, 2012, the HRDO, guided by the decision of the Investigating Panel, issued to Lapira the Notice of Resolution and the Notice of Termination of Service. She accepted the Notice of Resolution but refused to sign the Notice of Termination of Service.^[34]

On July 27, 2012, private respondent AIMS received a copy of the Summons to appear before Labor Arbiter Remedios L.P. Marcos for mandatory conciliation/mediation conference based on Lapira's Complaint.^[35] As they failed to arrive at an amicable settlement, the Labor Arbiter required both parties to submit their respective Position Papers and other pleadings.

The Labor Arbiter's Decision

On February 8, 2013, the Labor Arbiter rendered a Decision in favor of Lapira, holding that AIMS failed to prove by substantial evidence that Lapira committed grave misconduct and unauthorized collection of payments. The dispositive portion of the Labor Arbiter's Decision states:

"WHEREFORE, premises considered, judgment is hereby rendered as follows:

- 1) Declaring complainant Cecilia B. Lapira to have been illegally dismissed from employment;
- 2) Ordering respondents Asian Institute of Maritime Studies and Arlene Abuid Paderanga to jointly and severally pay complainant Cecilia B. Lapira the following:

a) backwages from date of her illegal dismissal on June 4, 2012 up to finality of this decision, which is provisionally computed as of the date of this decision in the amount of **P230,067.20**; and

b) separation pay of one month pay for every year of service or in the amount of **P450,560.00**.

All other claims are dismissed for lack of merit.

SO ORDERED."^[36]

Private respondents appealed the Decision of the Labor Arbiter with the National Labor Relations Commission ("**NLRC**"), seeking for its reversal.

The NLRC Decision

On May 23, 2013, the NLRC issued a Resolution which reversed the Decision of the Labor Arbiter and dismissed Lapira's complaint. It held that the affidavits submitted by the student-complainants are more credible and should be given more weight compared to the general denial of Lapira which was unsubstantiated by evidence. The NLRC added that Lapira could have presented an affidavit by Engr. Patacsil to refute the allegations of the student-complainants but she failed to do so. It further ruled that private respondents observed procedural due process before dismissing Lapira, because she was served with Memoranda informing her of the serious acts of misconduct imputed against her, given an opportunity to be heard, and issued with the Notice apprising her of the verdict of the school, as well as the Notice informing her of her dismissal. The dispositive portion of the Resolution states:

"WHEREFORE, premises considered, the Appeal is hereby **GRANTED**. The Decision dated February 8, 2013 is hereby **REVERSED**. The Complaint dated July 4, 2012 is hereby **DISMISSED** for lack of merit.

SO ORDERED."^[37]

Aggrieved by the Resolution of the NLRC, Lapira filed a Motion for Reconsideration, which was denied in a Resolution dated June 28, 2013. On September 3, 2013, Lapira filed this Petition for *Certiorari*, praying for the reversal of the assailed NLRC Resolutions and further seeking for her reinstatement without loss of seniority rights, and the award of backwages and other damages.

The Issues

In urging the grant of this Petition for *Certiorari*, Lapira raised these six (6) issues:

"I.

THAT THE HONORABLE PUBLIC RESPONDENT NLRC HAD COMMITTED PALPABLE ERROR, GRAVE ABUSE OF DISCRETION AND ARBITRARINESS WHEN IT MISAPPRECIATED AND MISAPPLIED THE FACTS AND PIECES OF EVDENCE VIS-À-VIS THE LAW AND EXISTING JURISPRUDENCE ON THE MATTER WHEN IT