

SECOND DIVISION

[G.R. No. 185058, November 09, 2015]

**JOVITA S. MANALO, PETITIONER, VS. ATENEO DE NAGA
UNIVERSITY, FR. JOEL TABORA AND MR. EDWIN BERNAL,
RESPONDENT.**

D E C I S I O N

LEONEN, J.:

At the core of the issue of constructive dismissal is the matter of whether an employer's action is warranted. Not every inconvenience, disruption, difficulty, or disadvantage that an employee must endure sustains a finding of constructive dismissal. When professionals and educators violate the ethical standards of the profession to which they belong and for which they train students, educational institutions employing them are justified in relieving them of their teaching posts and in taking other appropriate precautionary or punitive measures.

This resolves a Petition for Review on Certiorari^[1] praying that the assailed April 30, 2008 Decision^[2] and October 7, 2008 Resolution^[3] of the Court of Appeals Former Special First Division in CA-G.R. No. 74899 be reversed and set aside, and that the December 13, 2000 Decision^[4] of Labor Arbiter Jesus Orlando M. Quiñones (Labor Arbiter Quiñones) be reinstated.

In his December 13, 2000 Decision, Labor Arbiter Quiñones ruled that petitioner Jovita S. Manalo (Manalo) was constructively dismissed. He ordered that Manalo be reinstated to her former position, that the applicable increases to her salary and benefits be effected, and that attorney's fees be paid to her. However, Labor Arbiter Quiñones denied Manalo's prayer for moral and exemplary damages.^[5]

Labor Arbiter Quiñones' Decision was sustained by the National Labor Relations Commission Second Division in its March 26, 2002 Resolution.^[6] In its August 30, 2002 Resolution,^[7] the National Labor Relations Commission denied the Motion for Reconsideration of respondents Ateneo de Naga University, Fr. Joel Tabora, S.J. (Fr. Tabora) and Edwin P. Bernal (Bernal).

In its assailed April 30, 2008 Decision, the Court of Appeals reversed and set aside the ruling of Labor Arbiter Quiñones and of the National Labor Relations Commission and dismissed Manalo's Complaint.^[8] In its assailed October 7, 2008 Resolution, the Court of Appeals denied Manalo's Motion for Reconsideration.^[9]

Manalo was a regular and permanent full-time faculty member of the Accountancy Department of Ateneo de Naga University's College of Commerce. She was employed on June 3, 1993 and was granted permanent status in 1996. As recounted by Manalo in the Position Paper she filed before the Labor Arbiter, she taught

subjects such as "Auditing Theory, Auditing Practice, Financial Accounting, [and] Elementary Accounting."^[10] In the Reply to respondents' Position Paper which she, too, filed before the Labor Arbiter, Manalo similarly acknowledged that in 1994, she taught subjects in Ateneo de Naga University's Economics Department (*i.e.*, International Trade and Philippine Economic Development), albeit insisting that she did not have the required aptitude and competence.^[11]

Manalo was also a part-time Manager of the Ateneo de Naga Multi-Purpose Cooperative (Cooperative) before it was evicted from holding office inside campus in 1999.^[12]

In her Position Paper, Manalo recounted that during her stint as Cooperative Manager, she came into conflict with Bernal, Dean of Ateneo de Naga University's College of Commerce. Bernal supposedly charged Manalo with various offenses as regards the management of the Cooperative before the Cooperative's Board of Directors. The Board of Directors dismissed Manalo on the basis of these charges. However, on November 30, 1999, Manalo's dismissal was recalled by the Cooperative's General Assembly.^[13]

Manalo further recounted that on December 14, 1999, Bernal wrote to Fr. Tabora, Ateneo de Naga University President, recommending the termination of her employment on the grounds of serious business malpractice, palpable dishonesty, and questionable integrity.^[14]

Acting on the charges against Manalo, Fr. Tabora constituted a Grievance Committee. The Grievance Committee later found Manalo guilty and recommended her dismissal.^[15] As recounted in the Comment filed by respondents before this court, Manalo's offenses were: "fraud in issuance of official receipts, collection of cash without documented remittance to the cooperative, use of inappropriate forms of documents cash receipts, 16 instances of bouncing checks issued by the cooperative . . . fraud in the issuance of an official receipt, unauthorized cash advances[.]"^[16]

Acting on the Grievance Committee's recommendation as the University President had the "final say on the matter,"^[17] Fr. Tabora instead opted to transfer Manalo to teach Economics in the Department of Social Sciences of Ateneo de Naga University's College of Arts and Science.^[18]

Alleging that her transfer constituted constructive dismissal, Manalo filed a Complaint^[19] on April 3, 2000.

On December 13, 2000, Labor Arbiter Quiñones rendered the Decision^[20] finding that Manalo was constructively dismissed. He faulted the action taken on Manalo's case for being anchored on "private affairs . . . which clearly has [sic] no bearing on the employment relationship between [Ateneo de Naga University] and [Manalo]." ^[21] He similarly faulted a Manalo's transfer to teach Economics—a subject that she was supposedly not qualified to teach—as unduly burdensome, inconvenient, and even embarrassing, and construed it as a badge of constructive dismissal.^[22]

Labor Arbiter Quiñones ordered that Manalo be reinstated to her former position in the Accountancy Department, that the increases in salaries and benefits effected during the pendency of the case be applied to Manalo, and that Ateneo de Naga University pay her attorney's fees. However, noting that Manalo failed to show that respondents acted out of manifest bad faith, he denied Manalo's prayer for moral and exemplary damages.^[23] The dispositive portion of Labor Arbiter Quiñones' Decision reads:

WHEREFORE, in view of the foregoing, and finding complainant Jovita S. Manalo to have been constructively dismissed, judgment is hereby rendered against respondents Ateneo de Naga University, Fr. Joel Tabora, S.J., and Mr. Edwin P. Bernal, as follows:

- a. Respondent Ateneo de Naga University is ordered, upon receipt of this decision, to immediately reinstate complainant to her former position as faculty member of the Accountancy Department, College of Commerce, without loss of seniority rights and other privileges, or at the option of respondent, effect payroll reinstatement;
- b. Payment of complainant's salaries as part of full backwages provided under Article 279 of the Labor Code, is deemed moot and academic, it being admitted on record that complainant's salaries have been regularly deposited with complainant's ATM account with Equitable PCIBank for the period that complainant stopped working with respondents, which as of the date of this decision should amount to Php 108,869.40;
- c. Additionally, respondent Ateneo de Naga University is ordered to effect and pay complainant's additional annual across the board increase equivalent to six percent (6%) of complainant's monthly salary, allowances, and other benefits or their monetary equivalent computed from the time her compensation was withheld from her up to the time of her actual reinstatement or payroll reinstatement, as the maybe [sic], as part of complainant's full backwages provided under Article 279 of the Labor Code;
- d. Respondent Ateneo de Naga University is ordered to pay complainant ten percent (10%) of the total amount awarded representing attorney's fees.

All other claims and charges are dismissed for lack of merit.

SO ORDERED.^[24]

Manalo and respondents appealed before the National Labor Relations Commission.
^[25]

Labor Arbiter Quiñones' Decision was affirmed in toto by the National Labor Relations Commission Second Division in its March 26, 2002 Resolution.^[26] In its August 30, 2002 Resolution,^[27] the National Labor Relations Commission denied respondents' Motion for Reconsideration.

Respondents then filed a Petition for Certiorari before the Court of Appeals.^[28]

On April 30, 2008, the Court of Appeals rendered the assailed Decision.^[29] It reversed and set aside the rulings of Labor Arbiter Quiñones and of the National Labor Relations Commission and ordered Manalo's Complaint dismissed. The Court of Appeals noted that there was ample factual basis for Manalo's transfer, and that such transfer was well within the scope of Ateneo de Naga University's prerogatives as an employer and as an educational institution.

In its assailed October 7, 2008 Resolution,^[30] the Court of Appeals denied Manalo's Motion for Reconsideration.

Aggrieved, Manalo filed the present Petition.^[31] She assails the supposed impropriety of the Court of Appeals' ruling that set aside the findings of Labor Arbiter Quiñones and of the National Labor Relations Commission. She insists that their findings are conclusive and binding on the Court of Appeals and that alternative findings could not have been the basis for reversing their rulings.^[32] She insists that she was constructively dismissed and anchors this conclusion on how it was supposedly improper for the Ateneo de Naga University to transfer her based on actions imputed to her in her capacity as Cooperative Manager and not in her capacity as a member of the University's faculty.^[33]

For resolution are the following issues:

First, whether the Court of Appeals was in error for entertaining alternative findings to those made by Labor Arbiter Quiñones and the National Labor Relations Commission; and

Second, whether the shift in petitioner Jovita S. Manalo's teaching load from mainly Accountancy subjects to Economics subjects constituted constructive dismissal.

Petitioner's argument that the findings of a Labor Arbiter and of the National Labor Relations Commission are so binding on the Court of Appeals that they are practically immutable require a Clarification of the procedural parameters of judicial review of decisions of the National Labor Relations Commission. As this court's resolution of the present Petition itself proceeds from actions taken by the Court of Appeals, the same procedural parameters delineate what is permissible in this review.

As clarified in *St. Martin Funeral Homes v. National Labor Relations Commission*,^[34] judicial review of decisions of the National Labor Relations Commission is permitted. However, this review is through a petition for certiorari (*i.e.*, special civil action for certiorari) under Rule 65 of the Rules of Court, rather than through an appeal. Moreover, although this court has concurrent jurisdiction with the Court of Appeals as regards petitions for certiorari, such petitions are filed before the Court of

Appeals (following, of course, the National Labor Relations Commission's denial of the appropriate Motion for Reconsideration), rather than directly before this court. This is consistent with the principle of hierarchy of courts. It is only from an adverse ruling of the Court of Appeals that a party may come to this court, which shall then be by way of a petition for *review* on certiorari (i.e., appeal by certiorari) under Rule 45 of the Rules of Court.^[35]

In *Odango v. National Labor Relations Commission*^[36] this court explained that a special civil action for certiorari is an extraordinary remedy that is allowed "only and restrictively in truly exceptional cases."^[37] Consistent with this, the remedy of a writ of certiorari may be used only when there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law. Nevertheless, this requirement has been relaxed in cases where what is at stake is public welfare and the advancement of public policy.^[38]

So too, parties who avail themselves of such a remedy are not at liberty to assail an adverse ruling on grounds of their own choosing. Rather, a petition for certiorari is "confined to issues of jurisdiction or grave abuse of discretion."^[39] Its sole office is "the correction of errors of jurisdiction including the commission of grave abuse of discretion amounting to lack or excess of jurisdiction."^[40]

A petition for certiorari under Rule 65 is an original action. It is independent of the action that gave rise to the assailed ruling. In contrast, a petition for *review* on certiorari under Rule 45 is a mode of appeal. Thus, it is a continuation of the case subject of the appeal. It follows then that it cannot go beyond the issues that were properly the subject of the original action from which it arose.

The nature, parameters, and framework of judicial review of decisions of the National Labor Relations Commission both by this court and by the Court of Appeals were exhaustively and deftly discussed in this court's Decision in *Brown Madonna Press v. Casas*:^[41]

Mode of review in illegal dismissal cases

The present petition involves mixed questions of fact and law, with the core issue being one of fact. This issue — from which the other issues arise — relates to the nature of Casas' termination of employment relationship with BMPI. Did she voluntarily resign from, or abandon her work at, BMPI, or was she summarily dismissed by Cabangon?

This question of fact is an issue that we cannot resolved [sic] in a Rule 45 petition, except in the course of determining whether the [Court of Appeals] correctly ruled in determining that the [National Labor Relations Commission] did not commit grave abuse of discretion. In other words, the question we ask in resolving the present case is not whether Casas abandoned her work or was illegally dismissed; instead, we ask whether the [Court of Appeals] erred in not finding grave abuse of discretion in the [National Labor Relations Commission's] decision finding that Casas was dismissed from work.