

THIRD DIVISION

[G.R. No. 178837, September 01, 2014]

COLEGIO DE SAN JUAN DE LETRAN, PETITIONER, VS. ISIDRA DELA ROSA-MERIS RESPONDENT.

D E C I S I O N

PERALTA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Revised Rules of Court which seeks to review, reverse and set aside the Decision^[1] of the Court of Appeals (CA), dated January 29, 2007 and its Resolution^[2] dated May 25, 2007, in the case entitled *Isidra Dela Rosa-Meris v. National Labor Relations Commission, Letran College-Manila, Fr. Edwin Lao, Angelita Delos Reyes, Mansueto Elorpe and Marilou Tolentino*, docketed as CA-G.R. SP No. 92933.

The facts of the case are as follows:

Petitioner Colegio De San Juan de Letran is a religious educational institution operated by the Order of Preachers.^[3] Respondent Isidra Dela Rosa-Meris was hired by petitioner in January 1971 as a probationary trial teacher; then, she steadily climbed up the ranks until she became Master Teacher in June 1982.^[4] However, her stint with petitioner temporarily ended when she resigned in March 1991.^[5] Seven years later, respondent returned to petitioner as Junior Teacher C in the Elementary Department for the period of February up to April 1998.^[6] On October 21, 1999, she was hired again as a substitute teacher, wherein she acted as such until her eventual termination on October 3, 2003.^[7]

The rift between petitioner and respondent began on September 10, 2003, when several parents of the Preparatory (*Prep*) pupils who were under the class of respondent went to the Principal's Office to lodge a complaint against respondent, alleging the following: (1) respondent has been too indifferent and unprofessional in addressing their concerns; and (2) the pupil who landed in the top of the Honor Roll, Louis Ariel Arellano, seemed not to be the best pupil in class.^[8] Relying on such theories, said parents then asked for the formula in the computation of the general average.^[9]

On even date, petitioner conducted an investigation relative to the parents' concerns by gathering respondent's class records as well as her students' test papers and report cards.^[10] The investigation revealed certain discrepancies in the entries of grades in respondent's Dirty Record Book (*Dirty Records*) as against her Clean Record Book (*Clean Records*).^[11] Specifically, the alleged discrepancies consisted of the following:

Name of Student	Subject	Grade	
		Per Dirty Records	Per Clean Records
Arellano, Louis Ariel	P.E.	88	90
	Music & Arts	87	90
	Writing	86	88
Baysic, Matthew Edison	P.E.	85	88
	Music & Arts	85	88
	Writing	81	85
Laurel, Pete Andrei	P.E.	86	84
Pavia, Jeremy Jasper	P.E.	87	88
	Music & Arts	87	88
	Writing	85 instead of 88 (with erasures)	
De Leon, Zachary	P.E.	87	89
	Music & Arts	87	89
	Writing	82	89
Yralao, Francis Miguel	Writing	88 instead of 85	
Lapitan, Christian Keith	Writing	86 instead of 88 (with erasures)	
McGarry, John Vincent	Writing	86 instead of 88 (with erasures) [12]	

It was further discovered that there were erasures on certain grades of the above-named pupils which appeared in the Clean Records.[13]

Taking action on the matter, petitioner sent respondent a letter dated September 12, 2003 which detailed the parents' complaints and the aforementioned discrepancies. [14] Respondent was given seventy-two (72) hours from receipt thereof within which to explain why she should not be charged with tampering with school records in violation of petitioner's Elementary Faculty Manual.[15]

Respondent, however, refused to receive said letter, prompting petitioner to send

the same by registered mail and by LBC Express.^[16] As certified by LBC Express, the memo was delivered to respondent on September 23, 2003.^[17]

According to respondent, upon her receipt of the aforesaid letter, she approached the Principal, Angelita M. De Los Reyes, and asked that the complaints of the parents be reduced to writing.^[18] However, respondent never received such written complaint.^[19] Respondent further alleged that on October 2, 2003, she was summoned to the Office of Rev. Fr. Edwin A. Lao, O.P., who blatantly asked her why she tampered with her students' grades, of which she vehemently denied.^[20] Fr. Lao informed her that while her performance as a teacher is excellent, she could no longer continue with her employment with petitioner since her conduct towards her co-teachers is unpleasant.^[21] At that instance, Fr. Lao terminated her employment effective October 3, 2003.^[22]

On the other hand, petitioner averred that respondent offered no explanation despite receipt by mail of the letter dated September 12, 2003.^[23] According to Fr. Lao, on October 2, 2003, he arranged a conference with respondent during which the former explained to her why she should give her side on the charge contained in the letter dated September 12, 2003.^[24] Respondent was even advised by Fr. Lao to give a written explanation of why she tampered her class records; otherwise, she would be terminated without further investigation as her refusal will be taken as a waiver of her right to be heard.^[25] Despite the admonition of Fr. Lao, respondent still refused to give her side in writing.^[26] Hence, Fr. Lao served her with a copy of the termination letter dated September 29, 2003, but still, respondent refused to receive it.^[27] Accordingly, the matter was forwarded to the Head of the Human Resource Division, Ms. Nimfa Maduli, who attempted to serve the letter of termination to respondent on the same date.^[28] However, respondent relentlessly refused to receive and affix her signature thereon.^[29] Instead, she asked Ms. Maduli not to require her to receive the termination letter as she may consider filing a resignation letter.^[30] She promised Ms. Maduli that she will return the following day to inform her of her decision.^[31] However, she did not return and stopped reporting to the school then.^[32]

On October 6, 2003, respondent instituted a Complaint for illegal dismissal and damages before the Labor Arbiter (LA) claiming that she was dismissed without cause and in violation of her right to due process.^[33] For its part, petitioner claimed that respondent was dismissed for just cause since tampering with school records to favor one student over another constitutes serious misconduct; moreover, in the case of respondent, a teacher who is supposed to be a role model of the students.^[34]

Weighing the respective positions of the parties, the LA rendered a Decision^[35] dated May 14, 2004, finding the dismissal of respondent valid and legal, thus:

That complainant had indeed tampered the grades of some of her students, is evidenced by the Dirty Records which, if compared with the Clean Records will reveal the discrepancy. During the hearing of March 24, 2004, the respondents presented the original copies

of the Dirty Records and Clean Records for examination, and this Labor Arbiter personally saw the alterations or discrepancies, the details of which were narrated by the respondents in their position paper.

Complainant justifies the alterations by saying that the students made significant improvements from the time she finished with her dirty records up to the time she filled up the clean records, which allegedly was within the first grading period. We are not persuaded. Complainant could not have started and finished recording the grades earlier than the end of the first grading period which was on August 15, 2003, because the results of the examinations are not yet known at that time. Logically, the grades would have to be recorded after the end of the first quarter.

Complainant's pretense that the alterations were done because of significant improvements on the part of the students concerned does not also persuade us. ***If there were improvements as complainant suggests, it should not reflect on the first quarter, considering that the first quarter had already ended. Any improvement should reflect on the second quarter because it was during that time when the supposed improvement took place. Moreover, it is unbelievable that in such a short period of time, the students had shown a very significant improvement that would justify such a big adjustment on their grades.***

We cannot also give credence to the complainant's pretense that the Dirty Record is a mere rough draft. ***The Dirty Record is the repository of the student's performance as of the time it happened. It is the Dirty Record where grades gotten during recitations, quizzes or projects are written. The Clean Record is a mere transcription of the entries in the Dirty Record, and therefore, the Dirty Record must be free from alterations.*** As pointed out by the respondents, the Dirty Record is an official record which respondent School requires its teachers to submit to the Principal at the end of the school year. This is to be used as reference just in case questions or complaints about grades would be raised in the future. To ensure that there are no alterations, the Dirty Records are even subjected to examination by the Coordinators. ***In this case, there is reasonable ground to believe that the alterations were done after the same had been examined by the Coordinator, otherwise, the discrepancies would have easily been noticed by the Coordinator.*** x x x.^[36]

In view thereof, respondent appealed the aforesaid Decision to the National Labor Relations Commission (NLRC), which rendered a Decision^[37] on February 28, 2005, declaring that respondent failed to "exercise the necessary degree of prudence in rating the academic performance of her pupils."^[38] Nonetheless, the NLRC found the conduct of respondent as "one which does not involve moral turpitude."^[39] Accordingly, "a penalty less severe than dismissal is appropriate."^[40] The NLRC, thus, held:

WHEREFORE, premises considered, the decision under review is hereby **MODIFIED** by ordering the respondent Letran College of Manila, to pay the complainant, separation benefits, in lieu of reinstatement **WITHOUT BACKWAGES**, at the rate of one-month salary for every year of service.

All other claims are **DISMISSED** for lack of merit.

SO ORDERED.^[41]

Not surprisingly, both parties moved for reconsideration. In its Decision^[42] dated November 18, 2005, the NLRC made a complete turn-about of its previous stance ruling that respondent's appeal was not perfected due to lack of certification of non-forum shopping; and in any case, dismissal of the appeal is still warranted, considering that respondent committed serious misconduct – an act of dishonesty, which justified her dismissal from service.^[43] The *fallo* of the Decision reads:

WHEREFORE, our decision dated February 28, 2005 is hereby, **RECONSIDERED** and **SET ASIDE**. The decision of the Labor Arbiter dated May 14, 2004 is hereby **AFFIRMED** *in toto*.

SO ORDERED.^[44]

Dissatisfied, petitioner then filed a Petition for *Certiorari* with the CA on the ground that the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction: (1) when it ruled that respondent's appeal was not perfected due to lack of certification of non-forum shopping; (2) when it reconsidered its previous finding that petitioner had not acted in bad faith on the basis of unfounded and insignificant claim; (3) when it affirmed respondent's dismissal in spite of the fact that it is not for a just or authorized cause and without due process; and (4) when it denied respondent's motion for reconsideration on the alleged ground that it was not verified.^[45]

On May 30, 2000, the CA rendered a Decision^[46] finding respondent's petition meritorious, the dispositive portion of which states:

WHEREFORE, the Petition is hereby **GRANTED**. The Decisions dated 28 February 2005 and 18 November 2005 of the National Labor Relations Commission are **REVERSED** and **SET ASIDE**, with a new one entered finding illegal the dismissal from service of petitioner Isidra Dela Rosa-Meris. Accordingly, Letran College-Manila is hereby ordered to pay her separation pay equivalent to one month salary for every year of service in lieu of reinstatement, plus full backwages, without deduction or qualification, counted from the date of dismissal until the finality of this decision, including other benefits she is entitled to under the law.

SO ORDERED.^[47]