

SECOND DIVISION

[G.R. No. 183572, April 13, 2010]

YOLANDA M. MERCADO, CHARITO S. DE LEON, DIANA R. LACHICA, MARGARITO M. ALBA, JR., AND FELIX A. TONOG, PETITIONERS, VS. AMA COMPUTER COLLEGE-PARAÑAQUE CITY, INC., RESPONDENT.

DECISION

BRION, J.:

The petitioners - Yolanda M. Mercado (*Mercado*), Charito S. De Leon (*De Leon*), Diana R. Lachica (*Lachica*), Margarito M. Alba, Jr. (*Alba, Jr.*), and Felix A. Tonog (*Tonog*), all former faculty members of AMA Computer College-Parañaque City, Inc. (AMACC) - assail in this petition for review on *certiorari* ^[1] the Court of Appeals' (CA) decision of November 29,

2007^[2] and its resolution of June 20, 2008^[3] that set aside the National Labor Relations Commission's (NLRC) resolution dated July 18, 2005.^[4]

THE FACTUAL ANTECEDENTS

The background facts are not disputed and are summarized below.

AMACC is an educational institution engaged in computer-based education in the country. One of AMACC's biggest schools in the country is its branch at Parañaque City. The petitioners were faculty members who started teaching at AMACC on May 25, 1998. The petitioner Mercado was engaged as a Professor 3, while petitioner Tonog was engaged as an Assistant Professor 2. On the other hand, petitioners De Leon, Lachica and Alba, Jr., were all engaged as Instructor 1.^[5] The petitioners executed individual Teacher's Contracts for each of the trimesters that they were engaged to teach, with the following common stipulation:^[6]

1. POSITION. The TEACHER has agreed to accept a non-tenured appointment to work in the College of xxx effective xxx to xxx or **for the duration of the last term that the TEACHER is given a teaching load** based on the assignment duly approved by the DEAN/SAVP-COO. [Emphasis supplied]

For the school year 2000-2001, AMACC implemented new faculty screening guidelines, set forth in its Guidelines on the Implementation of AMACC Faculty Plantilla.^[7] Under the new screening guidelines, teachers were to be hired or maintained based on extensive teaching experience, capability, potential, high academic qualifications and research background. The performance standards under

the new screening guidelines were also used to determine the present faculty members' entitlement to salary increases. **The petitioners failed to obtain a passing rating based on the performance standards; hence AMACC did not give them any salary increase.** [8]

Because of AMACC's action on the salary increases, the petitioners filed a complaint with the Arbitration Branch of the NLRC on July 25, 2000, for underpayment of wages, non-payment of overtime and overload compensation, 13th month pay, and for discriminatory practices. [9]

On September 7, 2000, the petitioners individually received a memorandum from AMACC, through Human Resources Supervisor Mary Grace Beronia, informing them that with the expiration of their contract to teach, their contract would no longer be renewed. [10] The memorandum [11] entitled "*Notice of Non-Renewal of Contract*" states in full:

In view of the expiration of your contract to teach with AMACC-Paranaque, We wish to inform you that your contract shall no longer be renewed effective Thirty (30) days upon receipt of this notice. We therefore would like to thank you for your service and wish you good luck as you pursue your career.

You are hereby instructed to report to the HRD for further instruction. Please bear in mind that as per company policy, you are required to accomplish your clearance and turn-over all documents and accountabilities to your immediate superior.

For your information and guidance

The petitioners amended their labor arbitration complaint to include the charge of illegal dismissal against AMACC. In their Position Paper, the petitioners claimed that their dismissal was illegal because it was made in retaliation for their complaint for monetary benefits and discriminatory practices against AMACC. The petitioners also contended that AMACC failed to give them adequate notice; hence, their dismissal was ineffectual. [12]

AMACC contended in response that the petitioners worked under a contracted term under a non-tenured appointment and were still within the three-year probationary period for teachers. Their contracts were not renewed for the following term because they failed to pass the Performance Appraisal System for Teachers (*PAST*) while others failed to comply with the other requirements for regularization, promotion, or increase in salary. This move, according to AMACC, was justified since the school has to maintain its high academic standards. [13]

The Labor Arbiter Ruling

On March 15, 2002, Labor Arbiter (*LA*) Florentino R. Darlucio declared in his decision [14] that the petitioners had been illegally dismissed, and ordered AMACC to reinstate them to their former positions without loss of seniority rights and to pay

them full backwages, attorney's fees and 13th month pay. The LA ruled that Article 281 of the Labor Code on probationary employment applied to the case; that AMACC allowed the petitioners to teach for the first semester of school year 2000-2001; that AMACC did not specify who among the petitioners failed to pass the PAST and who among them did not comply with the other requirements of regularization, promotions or increase in salary; and that the petitioners' dismissal could not be sustained on the basis of AMACC's "vague and general allegations" without substantial factual basis.^[15] Significantly, the LA found no "*discrimination in the adjustments for the salary rate of the faculty members based on the performance and other qualification which is an exercise of management prerogative.*"^[16] On this basis, the LA paid no heed to the claims for salary increases.

The NLRC Ruling

On appeal, the NLRC in a Resolution dated July 18, 2005^[17] denied AMACC's appeal for lack of merit and affirmed *in toto* the LA's ruling. The NLRC, however, observed that the applicable law is Section 92 of the Manual of Regulations for Private Schools (which mandates a probationary period of nine consecutive trimesters of satisfactory service for academic personnel in the tertiary level where collegiate courses are offered on a trimester basis), not Article 281 of the Labor Code (which prescribes a probationary period of six months) as the LA ruled. Despite this observation, the NLRC affirmed the LA's finding of illegal dismissal since the petitioners were terminated on the basis of standards that were only introduced near the end of their probationary period.

The NLRC ruled that the new screening guidelines for the school year 2000-20001 cannot be imposed on the petitioners and their employment contracts since the new guidelines were not imposed when the petitioners were first employed in 1998. According to the NLRC, the imposition of the new guidelines violates Section 6(d) of Rule I, Book VI of the Implementing Rules of the Labor Code, which provides that "in all cases of probationary employment, the employer shall make known to the employee the standards under which he will qualify as a regular employee at the time of his engagement." Citing our ruling in *Orient Express Placement Philippines v. NLRC*,^[18] the NLRC stressed that the rudiments of due process demand that employees should be informed beforehand of the conditions of their employment as well as the basis for their advancement.

AMACC elevated the case to the CA *via* a petition for *certiorari* under Rule 65 of the Rules of Court. It charged that the NLRC committed grave abuse of discretion in: (1) ruling that the petitioners were illegally dismissed; (2) refusing to recognize and give effect to the petitioner's valid term of employment; (3) ruling that AMACC cannot apply the performance standards generally applicable to all faculty members; and (4) ordering the petitioners' reinstatement and awarding them backwages and attorney's fees.

The CA Ruling

In a decision issued on November 29, 2007,^[19] the CA granted AMACC's petition for *certiorari* and dismissed the petitioners' complaint for illegal dismissal.

The CA ruled that under the Manual for Regulations for Private Schools, a teaching

personnel in a private educational institution (1) must be a full time teacher; (2) must have rendered three consecutive years of service; and (3) such service must be satisfactory before he or she can acquire permanent status.

The CA noted that the petitioners had not completed three (3) consecutive years of service (*i.e.* six regular semesters or nine consecutive trimesters of satisfactory service) and were still within their probationary period; their teaching stints only covered a period of two (2) years and three (3) months when AMACC decided not to renew their contracts on September 7, 2000.

The CA effectively found reasonable basis for AMACC not to renew the petitioners' contracts. To the CA, the petitioners were not actually dismissed; their respective contracts merely expired and were no longer renewed by AMACC because they failed to satisfy the school's standards for the school year 2000-2001 that measured their fitness and aptitude to teach as regular faculty members. The CA emphasized that in the absence of any evidence of bad faith on AMACC's part, the court would not disturb or nullify its discretion to set standards and to select for regularization only the teachers who qualify, based on reasonable and non-discriminatory guidelines.

The CA disagreed with the NLRC's ruling that the new guidelines for the school year 2000-2001 could not be imposed on the petitioners and their employment contracts. The appellate court opined that AMACC has the inherent right to upgrade the quality of computer education it offers to the public; part of this pursuit is the implementation of continuing evaluation and screening of its faculty members for academic excellence. The CA noted that the nature of education AMACC offers demands that the school constantly adopt progressive performance standards for its faculty to ensure that they keep pace with the rapid developments in the field of information technology.

Finally, the CA found that the petitioners were hired on a non-tenured basis and for a fixed and predetermined term based on the Teaching Contract exemplified by the contract between the petitioner Lachica and AMACC. The CA ruled that the non-renewal of the petitioners' teaching contracts is sanctioned by the doctrine laid down in *Brent School, Inc. v. Zamora* [20] where the Court recognized the validity of contracts providing for fixed-period employment.

THE PETITION

The petitioners cite the following errors in the CA decision: [21]

- 1) The CA gravely erred in reversing the LA and NLRC illegal dismissal rulings; and
- 2) The CA gravely erred in not ordering their reinstatement with full, backwages.

The petitioners submit that the CA should not have disturbed the findings of the LA and the NLRC that they were illegally dismissed; instead, the CA should have accorded great respect, if not finality, to the findings of these specialized bodies as these findings were supported by evidence on record. Citing our ruling in *Soriano v.*

National Labor Relations Commission,^[22] the petitioners contend that in *certiorari* proceedings under Rule 65 of the Rules of Court, the CA does not assess and weigh the sufficiency of evidence upon which the Labor Arbiter and the NLRC based their conclusions. They submit that the CA erred when it substituted its judgment for that of the Labor Arbiter and the NLRC who were the "*triers of facts*" who had the opportunity to review the evidence extensively.

On the merits, the petitioners argue that the applicable law on probationary employment, as explained by the LA, is Article 281 of the Labor Code which mandates a period of six (6) months as the maximum duration of the probationary period unless there is a stipulation to the contrary; that the CA should not have disturbed the LA's conclusion that the AMACC failed to support its allegation that they did not qualify under the new guidelines adopted for the school year 2000-2001; and that they were illegally dismissed; their employment was terminated based on standards that were not made known to them at the time of their engagement. On the whole, the petitioners argue that the LA and the NLRC committed no grave abuse of discretion that the CA can validly cite.

THE CASE FOR THE RESPONDENT

In their Comment,^[23] AMACC notes that the petitioners raised no substantial argument in support of their petition and that the CA correctly found that the petitioners were hired on a non-tenured basis and for a fixed or predetermined term. AMACC stresses that the CA was correct in concluding that no actual dismissal transpired; it simply did not renew the petitioners' respective employment contracts because of their poor performance and failure to satisfy the school's standards.

AMACC also asserts that the petitioners knew very well that the applicable standards would be revised and updated from time to time given the nature of the teaching profession. The petitioners also knew at the time of their engagement that they must comply with the school's regularization policies as stated in the Faculty Manual. **Specifically, they must obtain a passing rating on the Performance Appraisal for Teachers (PAST) - the primary instrument to measure the performance of faculty members.**

Since the petitioners were not actually dismissed, AMACC submits that the CA correctly ruled that they are not entitled to reinstatement, full backwages and attorney's fees.

THE COURT'S RULING

We find the petition meritorious.

The CA's Review of Factual Findings under Rule 65

We agree with the petitioners that, as a rule in *certiorari* proceedings under Rule 65 of the Rules of Court, the CA does not assess and weigh each piece of evidence introduced in the case. The CA only examines the factual findings of the NLRC to determine whether or not the conclusions are supported by substantial evidence whose absence points to grave abuse of discretion amounting to lack or excess of