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FIRST DIVISION

[G.R. NO. 146779, January 23, 2006]

RENATO S. GATBONTON, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, MAPUA INSTITUTE OF TECHNOLOGY AND JOSE CALDERON, RESPONDENTS.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court which seeks to set aside the Decision[1] dated November 10, 2000 of the Court of Appeals (CA) in CA-G.R. SP No. 57470, affirming the decision of the National Labor Relations Commission (NLRC); and the CA Resolution dated January 16, 2001, denying the motion for reconsideration.[2]

Petitioner Renato S. Gatbonton is an associate professor of respondent Mapua Institute of Technology (MIT), Faculty of Civil Engineering. Some time in November 1998, a civil engineering student of respondent MIT filed a letter-complaint against petitioner for unfair/unjust grading system, sexual harassment and conduct unbecoming of an academician. Pending investigation of the complaint, respondent MIT, through its Committee on Decorum and Investigation placed petitioner under a 30-day preventive suspension effective January 11, 1999. The committee believed that petitioner's continued stay during the investigation affects his performance as a faculty member, as well as the students' learning; and that the suspension will allow petitioner to "prepare himself for the investigation and will prevent his influences to other members of the community."[3]

Thus, petitioner filed with the NLRC a complaint for illegal suspension, damages and attorney's fees,[4] docketed as NLRC-NCR Case No. 01-00388-99.

Petitioner questioned the validity of the administrative proceedings with the Regional Trial Court of Manila in a petition for *certiorari* but the case *was* terminated on May 21, 1999 when the parties entered into a compromise agreement wherein respondent MIT agreed to publish in the school organ the rules and regulations implementing Republic Act No. 7877 *(R.A. No. 7877)* or the Anti-Sexual Harassment *Act*; disregard the previous administrative proceedings and conduct anew an investigation on the charges against petitioner. Petitioner agreed to recognize the validity of the published rules and regulations, as well as the authority of respondent to investigate, hear and decide the administrative case against him.[5]

On June 18, 1999, the Labor Arbiter rendered a decision, the dispositive portion of which reads:

> Wherefore, premises considered, the thirty day preventive suspension of complainant is hereby declared to be illegal. Accordingly, respondents are

directed to pay his wages during the period of his preventive suspension.

The rest of complainant's claims are dismissed.

SO ORDERED.[6]

Both respondents and petitioner filed their appeal from the Labor Arbiter's Decision, with petitioner questioning the dismissal of his claim for damages. In a Decision dated September 30, 1999, the NLRC granted respondents' appeal and set aside the Labor Arbiter's decision. His motion for reconsideration having been denied by the NLRC on December 13, 1999, petitioner filed a special civil action for *certiorari* with the CA.

On November 10, 2000, the CA promulgated the assailed decision affirming the NLRC decision, the dispositive portion of which reads:

> WHEREFORE, foregoing premises considered, the petition is hereby DENIED DUE COURSE and ORDERED DISMISSED, and the challenged decision and order of public respondent NLRC AFFIRMED.
>
> SO ORDERED.[7]

Petitioner filed a motion for reconsideration which the CA denied in its Resolution dated January 16, 2001.

Hence, the present petition based on the following grounds:

A

> THE COURT OF APPEALS GRAVELY ERRED IN FINDING THAT THE NLRC WAS NOT GUILTY OF GRAVE ABUSE OF DISCRETION IN RENDERING BOTH THE APPEAL DECISION AND THE NLRC RESOLUTION.

B

> THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE NLRC'S DISMISSAL OF PETITIONER'S CLAIM FOR DAMAGES.[8]

Petitioner finds fault in the CA's decision, arguing that his preventive suspension does not find any justification in the Mapua Rules and Regulations considering that at the time of his preventive suspension on January 11, 1999, the rules have not been promulgated yet as it was published only on February 23, 1999. Petitioner also contests the lack of award of damages in his favor.[9]

The petition is partly meritorious.

Preventive suspension is a disciplinary measure for the protection of the company's property pending investigation of any alleged malfeasance or misfeasance committed by the employee. The employer may place the worker concerned under preventive suspension if his continued employment poses a serious and imminent threat to the life or property of the employer or of his co-workers.[10] However, when it is determined that there is no sufficient basis to justify an employee's

preventive suspension, the latter is entitled to the payment of salaries during the time of preventive suspension.[11]

R.A. No. 7877 imposed the duty on educational or training institutions to "promulgate rules and regulations in consultation with and jointly approved by the employees or students or trainees, through their duly designated representatives, prescribing the procedures for the investigation of sexual harassment cases and the administrative sanctions therefor."[12] Petitioner's preventive suspension was based on respondent MIT's Rules and Regulations for the Implemention of the Anti-Sexual Harassment Act of 1995, or R.A. No. 7877. Rule II, Section 1 of the MIT Rules and Regulations provides:

> Section 1. Preventive Suspension of Accused in Sexual Harassment Cases. Any member of the educational community may be placed immediately under preventive suspension during the pendency of the hearing of the charges of grave sexual harassment against him if the evidence of his guilt is strong and the school head is morally convinced that the continued stay of the accused during the period of investigation constitutes a distraction to the normal operations of the institution or poses a risk or danger to the life or property of the other members of the educational community.

It must be noted however, that respondent published said rules and regulations only on February 23, 1999. In *Tañada vs. Tuvera*,[13] it was ruled that:

> ... all statutes, including those of local application and private laws, shall be published as a condition for their effectivity, which shall begin fifteen days after publication unless a different effectivity is fixed by the legislature.
>
> Covered by this rule are presidential decrees and executive orders promulgated by the President in the exercise of legislative powers whenever the same are validly delegated by the legislature or, at present, directly conferred by the Constitution. **Administrative rules and regulations must also be published if their purpose is to enforce or implement existing law pursuant also to a valid delegation.**
>
> Interpretative regulations and those merely internal in nature, that is, regulating only the personnel of the administrative agency and not the public, need not be published. Neither is publication required of the so-called letters of instructions issued by administrative superiors concerning the rules or guidelines to be followed by their subordinates in the performance of their duties.
>
> ...
>
> We agree that the publication must be in full or it is no publication at all since its purpose is to inform the public of the contents of the laws. (Emphasis supplied)

The Mapua Rules is one of those issuances that should be published for its effectivity, since its purpose is to enforce and implement R.A. No. 7877, which is a