480 Phil. 609

FIRST DIVISION

[G.R. No. 152988, August 24, 2004]

CHIANG KAI SHEK COLLEGE, AND CHIEN YIN SHAO, PETITIONERS, VS. HON. COURT OF APPEALS; HON. NATIONAL LABOR RELATIONS COMMISSION; HON. COMMISSIONER VICTORIANO R. CALAYLAY, HON. PRESIDING COMMISSIONER RAUL T. AQUINO, AND HON. COMMISSIONER ANGELITA A. GACUTAN; AND MS. DIANA P. BELO, RESPONDENTS.

D E C I S I O N

DAVIDE JR., CJ.:

Assailed in this petition is the decision[1] of 12 October 2001, as well as the resolution[2] of 11 April 2002, of the Court Appeals in CA-G.R. SP No. 59996, which affirmed the decision[3] of 29 February 2000 of the National Labor Relations Commission (NLRC) declaring that Diana P. Belo was illegally dismissed as a teacher of petitioner Chiang Kai Shek College (CKSC).

The controversy began on 8 June 1992, when Ms. Belo, a teacher of CKSC since 1977, applied for a leave of absence for the school year 1992-1993 because her children of tender age had no *yaya* to take care of them. The then principal, Mrs. Joan Sy Cotio, approved her application. However, on 15 June 1992, Ms. Belo received a letter dated 9 June 1992 of Mr. Chien Yin Shao, President of CKSC, informing her of the school's existing policy; thus:

> Regarding your letter of request for leave of absence dated June 8, 1992, we would like to inform you of the existing policy of our school:
>
> > (1) We could not assure you of any teaching load should you decide to return in the future.
> >
> > (2) Only teachers in service may enjoy the privilege and benefits provided by our school. Hence, your children are no longer entitled to free tuition starting school year 1992-1993. [4]

Ms. Belo, nonetheless, took her leave of absence. On 8 July 1992, she learned that Laurence, one of her three children studying at the CKSC, was sent out of the examination room because his tuition fees were not paid. This embarrassing incident impelled Ms. Belo to pay, allegedly under protest, all the school fees of her children. [5]

In May 1993, after her one-year leave of absence, Ms. Belo presented herself to Ms. Cotio and signified her readiness to teach for the incoming school year 1993-1994. She was, however, denied and not accepted by Ms. Cotio. She then relayed the denial to Mr. Chien on 17 May 1993. On 21 July 1993, she received the reply of Mr.

Chien dated 1 July 1993 informing her that her confirmation to teach was filed late and that there was no available teaching load for her because as early as April 21 of that year, the school had already hired non-permanent teachers.[6]

Adversely affected by the development, Ms. Belo filed with the Labor Arbitration Office a complaint for illegal dismissal; non-payment of salaries, 13th month pay, living allowance, teacher's day pay; loss of income; and moral damages.

In his decision[7] of 18 October 1995, Labor Arbiter Donato G. Quinto, Jr., dismissed the complaint, reasoning that Ms. Belo was not dismissed but that there was simply no available teaching load for her. When in May 1993 she signified her intention to teach, the school had already acted on the applications or re-applications to teach of probationary teachers. The school's policies, which were articulated in Mr. Chien's letter of 9 June 1992 to Ms. Belo, were management prerogatives which did not amount to her dismissal. Said policies were also the consequences of her leave of absence and were not even questioned by her. The Labor Arbiter thus offered a Solomonic solution by directing the petitioners to give her a teaching load in the ensuing year 1996-1997 and the succeeding years without loss of seniority rights.[8]

On appeal[9] by the private respondent, the NLRC reversed the decision of the Labor Arbiter. It considered as misplaced the Labor Arbiter's utter reliance on Mr. Chien's letter to Ms. Belo enunciating the questioned school policies. It reasoned that if the school policy was to extend free tuition fees to children of teachers in school, then the petitioners must have considered her "already not in school or summarily dismissed or separated the very moment [she] applied for leave," for, otherwise, her children would have been granted that privilege. Thus, it directed the petitioners to immediately reinstate Ms. Belo to her former position with full back wages from the time of her dismissal up to her actual reinstatement. It, however, dismissed Ms. Belo's prayer for moral and exemplary damages and attorney's fees for lack of evidence that the petitioners acted in bad faith and malice.

Their motion for reconsideration having been denied,[10] the petitioners filed a petition for *certiorari* with the Court of Appeals contending that the NLRC gravely abused its discretion amounting to lack of jurisdiction in (a) overturning the factual determination of the Labor Arbiter despite the fact that Ms. Belo stated in her Notice of Appeal that she was appealing only on a pure question of law; (b) holding that Ms. Belo was constructively dismissed by the petitioners despite the uncontroverted evidence that she was not illegally dismissed; and (c) granting Ms. Belo monetary awards.

On 12 October 2001, the Court of Appeals found that far from abusing its discretion, the NLRC acted correctly when it ascertained that Ms. Belo was constructively dismissed. It declared as illegal, for being violative of Ms. Belo's right to security of tenure, the school policy that a teacher who goes on leave cannot be assured of a teaching load. The school should have set aside a teaching load for her after the expiration of her leave of absence. It would have been a different story, one indeed ripe for termination of her employment, had Ms. Belo failed to report for work. As for the school's contention that the NLRC was barred from resolving factual issues because of Ms. Belo's statement that she was appealing the case on a pure question of law, the Court of Appeals declared that such statement was a simple mistake in terminology, which is insufficient to deny an employee of her rights under the law.

In its resolution dated 11 April 2002, the Court of Appeals denied the motion for reconsideration for lack of merit.

Hence, on 11 June 2002,[11] petitioner CKSC and its president Mr. Chien filed the present petition. They claim that the Court of Appeals erred in affirming the NLRC decision which reversed the factual findings of the Labor Arbiter even if the said findings were amply supported by clear and uncontroverted evidence and had already attained finality, as Ms. Belo had appealed merely on a question of law. The Court of Appeals also erred in upholding the NLRC decision which failed to point out specifically the alleged particular portions of the records of the case, parties' respective position papers, and pleadings, much less particular testimonial and documentary evidence, that warrant the patently erroneous and baseless conclusion that there was a "clear case of constructive dismissal." The NLRC decision is in complete violation of Section 14, Article VIII of the Constitution, which provides: "No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the laws on which it is based." Likewise, the Court of Appeals has not only completely and arbitrarily ignored and disregarded the facts and issues raised as an issue before it, but also decided on the illegality of the school's policy, which was never raised before it or in any of the forums below. Anent the free tuition fee benefit extended to children of teachers in service in petitioner school, the same is a privilege granted not by law, but voluntarily by the said school. Hence, the petitioner school could determine the conditions under which said privilege may be enjoyed, such as, that only teachers in actual service can enjoy the privilege.

Amidst the convolution of issues proffered by the petitioners, the only issue that needs to be determined and on which hinges the resolution of the other issues is whether the Court of Appeals erred in affirming the NLRC decision that Ms. Belo was constructively, nay, illegally dismissed and is, therefore, entitled to reinstatement and back wages.

It must be noted at the outset that Ms. Belo had been a full-time teacher in petitioner CKSC continuously for fifteen years or since 1977 until she took a leave of absence for the school year 1992-1993. Under the Manual of Regulations for Private Schools, for a private school teacher to acquire a permanent status of employment and, therefore, be entitled to a security of tenure, the following requisites must concur: (a) the teacher is a full-time teacher; (b) the teacher must have rendered three consecutive years of service; and (c) such service must have been satisfactory.[12]

Since Ms. Belo has measured up to these standards, she therefore enjoys security of tenure. The fundamental guarantees of security of tenure and due process dictate that no worker shall be dismissed except for just and authorized cause provided by law and after due notice and hearing.[13]

We agree with the Court of Appeals that the NLRC did not commit any grave abuse of discretion in finding that Ms. Belo was constructively dismissed when the petitioners, in implementing their policies, effectively barred her from teaching for the school year 1993-1994. The three policies are (1) the non-assurance of a teaching load to a teacher who took a leave of absence; (2) the hiring of non-permanent teachers in April to whom teaching loads were already assigned when

Ms. Belo signified in May 1993 her intention to teach; and (3) the non-applicability to children of teachers on leave of the free tuition fee benefits extended to children of teachers in service.

Case law defines constructive dismissal as a cessation from work because continued employment is rendered impossible, unreasonable, or unlikely; when there is a demotion in rank or a diminution in pay or both; or when a clear discrimination, insensibility, or disdain by an employer becomes unbearable to the employee.[14]

When in the school year 1992-1993, the petitioners already applied to Ms. Belo's children the policy of extending free tuition fee benefits only to children of teachers in service, Ms. Belo was clearly discriminated by them. True, the policy was made known to Ms. Belo in a letter dated 9 June 1992, but, this only additionally and succinctly reinforced the clear case of discrimination. Notably, petitioners' statements of policies dated 13 March 1992 for the school year 1992-1993 did not include that policy; thus:

> To : All Teachers and Staff of Chiang Kai Shek College
>
> From : The President
>
> Pursuant to laws, rules and regulations promulgated by the proper government authorities of the Philippines, the following procedure are hereby issued for proper compliance of all concerned:
>
> 1. All teachers and staff who have rendered satisfactory service for a period of more than three (3) full consecutive years (e.g. those who started working in June, 1988 or before) are considered permanent employees and therefore need not re-apply for the forthcoming school year 1992-1993.
>
> 2. However, should any teacher or staff of permanent status wish to resign or to retire after this school year 1991-1992, he/she must file his/her written resignation or retirement application on or before March 28, 1992, so that the school will have sufficient time to make the necessary adjustments. Failure to file formal application on the part of the permanent employee shall be construed as consent to work for another school year.
>
> 3. All probationary employees (e.g. those who started working after June, 1988) who wish to continue their services in our school shall re-apply. Reapplications must be submitted on or before March 28, 1992. Failure to submit reapplication shall be construed as not interested to work for Chiang Kai Shek College in the coming school year 1992-1993.
>
> 4. All reapplications shall be acted upon and the decision of the administration will be conveyed to the employees concerned on or before April 21, 1992. [15]

It can be argued that the extension of free tuition fees to children of teachers in service was an informal policy or custom. If it were so, there would have been no

need to include this policy in the school's written statement of policies dated 12 March 1993, which reads:

> To : All Teachers and Staff of Chiang Kai Shek College
>
> From : The Office of the President
>
> Pursuant to laws, rules and regulations promulgated by the proper government authorities of the Philippines, the following procedure are hereby issued for proper compliance of all concerned:
>
> 1. All teachers and staff who have rendered satisfactory service for a period of more than three (3) full consecutive years (e.g. those who started working in June, 1989 or before) are considered permanent employees and therefore need not re-apply for the forthcoming school year 1993-1994.
>
> 2. However, should any teacher or staff of permanent status wish to resign, to retire, or to take a leave of absence after this school year 1992-1993, he/she must file his/her written application on or before March 27, 1993, so that the school will have sufficient time to make the necessary adjustments. Failure to file formal application on the part of the permanent employee shall be construed as consent to work for another school year.
>
>   In accordance with our school policy, employees not in service are not entitled to any benefit extended by our school.
>
> 3. All probationary employees (e.g. those who started working after June 1989) who wish to continue their services in our school shall re-apply. Reapplications must be submitted on or before March 27, 1993. Failure to submit reapplication shall be construed as not interested to work for Chiang Kai Shek College in the coming school year 1993-1994.
>
> 4. All reapplications shall be acted upon and the decision of the administration will be conveyed to the employees concerned on or before April 21, 1993.[16]

A cursory analysis of the petitioners' statements of policies dated 13 March 1992 and 12 March 1993 reveals that the lists of policies are essentially the same. Both are addressed to all teachers and staff of petitioner school. However, the policy "that employees not in service are not entitled to any benefit extended by the school" was not listed in the written statement of policies dated 13 March 1992. The policy made its maiden appearance in petitioners' statement of policies one year after or on 12 March 1993. It was, therefore, the policy of extending free tuition fees to children of teachers of the school, whether on service or on leave, which existed as a matter of custom and practice. That is why the school modified the privilege in written form.

Thus, when the petitioners retroactively applied the modified written policy to Ms. Belo, they considered her already a *teacher not in service*. The NLRC was correct when it reasoned as follows: "[I]f the school policy is to extend 'free tuition fees' to