

## EN BANC

[ G.R. Nos. 123562-65, November 25, 2004 ]

**LEONORA A. GESITE, FE LAMOSTE, ADELAIDA MACALINDOG,  
AND GUIA C. AGATON, PETITIONERS, VS. THE COURT OF  
APPEALS, THE CIVIL SERVICE COMMISSION, AND THE  
SECRETARY OF THE DEPARTMENT OF EDUCATION, CULTURE AND  
SPORTS, RESPONDENTS.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

Before us is a petition for review on *certiorari* assailing the Decision<sup>[1]</sup> of the Court of Appeals dated November 22, 1995 and its Resolution<sup>[2]</sup> dated January 22, 1996 in CA-G.R. SP Nos. 37690 and 37705-07 entitled, "*Leonora A. Gesite, et al. vs. The Civil Service Commission and the Secretary of Education, Culture & Sports.*"

Petitioners are public school teachers of the E. de los Santos Elementary School in Manila.

Beginning March 1990, simmering unrest struck the ranks of the public school teachers in Metro Manila. They pressed for, among others, the immediate payment of their allowances, 13<sup>th</sup> month pay for 1989 arising from the implementation of the Salary Standardization Law, the recall of Order No. 39, Series of 1990, issued by the Department of Education, Culture, and Sports (DECS), directing the oversizing of classes and overloading of teachers, and the hiring of 47,000 new teachers. When their demands were not granted, the dissatisfied teachers resolved to take direct mass actions.

On September 17, 1990, a regular school day, about 800 teachers in Metro Manila did not conduct classes. Instead, they assembled in front of the DECS offices to air their grievances. When their representatives conferred with then DECS Secretary Isidro Cariño, he brushed aside their complaints, warning them they would lose their jobs for taking illegal mass actions. He then ordered the teachers to return to work within twenty-four (24) hours, otherwise they will be dismissed from the service. Meantime, he directed the DECS officials to initiate immediate administrative proceedings against those found obstinate.

The action of the DECS Secretary caused more teachers to join the protest action. These included the above-named four petitioners who did not report for work on September 19-21, 1990. Hence, the DECS Secretary filed administrative complaints against them for defying his return-to-work order. They were charged with grave misconduct, gross neglect of duty, gross violation of the Civil Service Law and Regulations, refusal to perform official duty, gross insubordination, conduct prejudicial to the best interest of the service, and absence without official leave.

Despite receipt of notice to file their answer within seventy-two (72) hours but not more than five (5) days, petitioners failed to do so. Consequently, they were deemed to have waived their right to controvert the charges. They were found guilty as charged and ordered dismissed from the service. Subsequently, this penalty was reduced to nine (9) months suspension for petitioners Adelaida Macalindong and Guia Agaton and six (6) months suspension for petitioners Leonora Gesite and Fe Lamoste.

Petitioners interposed an appeal to the Merit System Protection Board, but it was denied for lack of merit.

On appeal to the Civil Service Commission (CSC), the same was also denied. The CSC found that petitioners are liable for "conduct prejudicial to the best interest of the service" on the ground that they "acted without due regard to the adverse consequences of their action which necessarily resulted in the suspension and stoppage of classes, to the prejudice of the pupils/students to whom (they) were responsible." The CSC imposed upon them the penalty of six (6) months suspension without pay. Their respective motions for reconsideration were denied.

Hence, petitioners filed with this Court a special civil action for certiorari, which we referred to the Court of Appeals pursuant to Administrative Circular No. 1-95,<sup>[3]</sup> docketed therein as CA-G.R. SP Nos. 37690 and 37705-07.

On November 23, 1995, the Court of Appeals rendered a joint Decision dismissing the four (4) petitions, thus:

"WHEREFORE, in view of all the foregoing, the present petition for certiorari is DISMISSED for lack of merit; the assailed Resolutions issued by the respondent Civil Service Commission are hereby UPHELD.

SO ORDERED."<sup>[4]</sup>

Hence, the instant petition for review on *certiorari* raising the following grounds:

1. THE COURT OF APPEALS ERRED IN SUSTAINING THE DECISION OF THE CIVIL SERVICE COMMISSION FINDING THEM LIABLE FOR CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE WHEN THEY ONLY EXERCISED THEIR CONSTITUTIONAL RIGHT TO ASSEMBLE PEACEABLY TO AIR THEIR GRIEVANCES; and
2. THE COURT OF APPEALS ERRED IN DENYING PETITIONERS' PLEA FOR THE PAYMENT OF THEIR BACKWAGES COVERING THE PERIOD WHEN THEY WERE NOT ALLOWED TO TEACH.

In his comment on the petition, the Solicitor General alleged:

1. Petitioners who are all public school teachers form part of the Civil Service, hence their right to peaceful concerted activities, including the right to strike, is not absolute and the exercise thereof is subject to reasonable limitations provided by existing laws; and
2. The Court of Appeals did not err in affirming the Decision of the Civil Service Commission denying petitioners' prayer for payment of their backwages during

the period of their suspension from the service.

The sole controversial issue is whether petitioners, in joining the mass actions taken by the public school teachers, may be held liable for conduct prejudicial to the best interest of the service.

While petitioners admit their participation in the mass actions of the public school teachers in September to mid-October, 1990 which temporarily disrupted classes in Metro Manila, they assert, however, that they were not on strike. Rather, they were merely exercising their Constitutional right to peaceably assemble and petition the government for redress of their grievances.<sup>[5]</sup> Thus, they may not be penalized administratively.

The Solicitor General submits that although the Constitution recognizes the rights of government workers to organize, assemble and petition the government for redress of their grievances,<sup>[6]</sup> however, the exercise of these rights is not a license for them to engage in strikes, walkouts, and temporary work stoppages.

The question of whether the concerted mass actions launched by the public school teachers, including herein petitioners, in Metro Manila from September to the first half of October 1990 was a strike has long been settled. In *Bangalisan vs. Court of Appeals*,<sup>[7]</sup> this Court held:

"The issue of whether or not the mass action launched by the public school teachers during the period from September up to the first half of October, 1990 was a strike has been decided by this Court in a resolution, dated December 18, 1990, in the herein cited case of *Manila Public School Teachers Association, et al. vs. Laguio, Jr.* (G.R. Nos. 95445 & 95590, August 6, 1991, 200 SCRA 323). It was there held 'that from the pleaded and admitted facts, these 'mass actions' were to all intents and purposes a strike; they constituted a concerted and unauthorized stoppage of, or absence from, work which it was the teachers' duty to perform, undertaken for essentially economic reasons.'

It is an undisputed fact that there was a work stoppage and that petitioners' purpose was to realize their demands by withholding their services. The fact that the conventional term 'strike' was not used by the striking employees to describe their common course of action is inconsequential, since the substance of the situation, and not its appearance, will be deemed to be controlling (*Board of Education vs. New Jersey Education Association* (1968) 53 NJ 29, 247 A2d 867)."

Actually, petitioners here were not charged administratively because they engaged in strike. Former DECS Secretary Isidro Cariño filed administrative complaints against them because, as aptly held by the Court of Appeals, they were absent from classes from September 19-21, 1990, in violation of his return-to-work order. Their unauthorized absences disrupted classes and prejudiced the welfare of the school children.

It is relevant to state at this point that the settled rule in this jurisdiction is that employees in the public service may not engage in strikes, mass leaves, walkouts, and other forms of mass action that will lead in the temporary stoppage or