

SECOND DIVISION

[G.R. No. 125735, August 26, 1999]

LORLENE A. GONZALES, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, FIFTH DIVISION, CAGAYAN DE ORO CITY, AND ATENEO DE DAVAO UNIVERSITY, RESPONDENTS.

DECISION

BELLOSILLO, J.:

By way of *certiorari* under Rule 65 of the Rules of Court petitioner seeks the nullification of the Decision of public respondent National Labor Relations Commission, Fifth Division, which reversed and set aside that of Executive Labor Arbiter Conchita J. Martinez.

Lorlene Gonzales, petitioner, has been a schoolteacher in the Elementary Department of private respondent Ateneo de Davao University (hereafter ATENEO) since 1974 assigned to teach Reading, Mathematics, Language and Pilipino in the Grade VI class, while ATENEO is an educational institution, a corporation duly organized under the laws of the Philippines, with principal address at Jacinto St., Davao City.

Sometime in 1991 Fr. Oscar Millar, S.J., Ateneo Grade School Headmaster, sent a letter dated 11 April 1991 informing petitioner Lorlene A. Gonzales of the complaints of two (2) parents for alleged use of corporal punishment on her students. Petitioner claimed that she was not informed of the identity of the parents who allegedly complained of the corporal punishment she purportedly inflicted in school-year 1990-1991. She likewise claimed that she was not confronted about it by private respondent ATENEO in 1991 and that it was only two (2) years after the complaints were made that she discovered, through her students and their parents, that ATENEO was soliciting complainants to lodge written complaints against her.

On 31 March 1993 she wrote a letter to Fr. Oscar Millar, S.J., demanding that she be formally informed of the complaint and be duly investigated.

On 9 June 1993 petitioner was informed of the composition of an investigative committee organized by Fr. Oscar Millar, S.J., to look into the alleged use of corporal punishment by petitioner in disciplining her students. It can be gleaned from the records that she was duly furnished with the rules of procedure, informed of the schedule of the hearings, and given copies of the affidavits executed by the students who testified against her.

Petitioner refused to take part in the investigation unless the rules of procedure laid down by the Committee be revised, contending that the same were violative of her right to due process. Petitioner specifically objected to the provision which stated: x x x 3) Counsel for Ms. Lorlene Gonzales shall not directly participate in the

investigation but will merely advise Ms. Gonzales x x x (par. 3).^[1]

But the Committee was steadfast in its resolve to adopt the aforementioned rules. In its letter dated 9 August 1993, private respondent informed petitioner that the rules of procedure to be applied were "substantially the same rules that were used in the investigation of a former Ateneo employee and therefore we are under legal advice not to change these rules."^[2] Over the objection of petitioner the Committee commenced with its investigation without petitioner's participation. Out of the twenty-two (22) invitations sent out by ATENEO to petitioner's students and their parents to shed light on the matter of corporal punishment allegedly "administered" by her, eleven (11) appeared and testified before the committee. The eleven (11) witnesses also executed written statements denominated as "affidavits."

On 10 November 1993 private respondent served a Notice of Termination on petitioner pursuant to the findings and recommendation of the Committee. Thereafter, petitioner received a letter from the president of ATENEO demanding her voluntary resignation a week from receipt of the letter, otherwise, she would be considered resigned from the service.

On 29 November 1993 petitioner filed a complaint before the Labor Arbiter for illegal dismissal. After trial, Executive Labor Arbiter Conchita J. Martinez found her dismissal illegal for lack of factual basis and ordered ATENEO to award petitioner separation pay, back wages and 13th month pay. In her decision, the Executive Labor Arbiter opined that although petitioner was afforded procedural due process respondent institution "failed to establish substantial evidence as to the guilt of the complainant of the offense charged"^[3] thus -

x x x the complainant was afforded procedural due process. There is convincing and sufficient evidence x x x showing respondent complied with the notice and hearing requirement x x x x.^[4]

After considering the evidence, arguments and counter-arguments of the parties, this office finds that the respondent failed to establish substantial evidence as to the guilt of complainant of the offense charged x x x x.^[5]

Complainant has sufficiently established that she is a very good teacher. She is equipped with the appropriate educational qualifications, trainings, seminars and work experiences. Such fact was affirmed by her present and former students, their parents, colleagues and the former headmaster of the grade school x x x x.^[6]

As a matter of fact, six (6) out of the nine (9) students and their parents/guardians have retracted and withdrawn their statements x x x x.^[7]

Both parties appealed to the NLRC which on 25 March 1996 reversed the decision of the Executive Labor Arbiter by declaring petitioner's dismissal valid and legal but added that since ATENEO offered petitioner her retirement benefits it was but proper that she be extended said benefits. Petitioner now seeks the reversal of the decision; hence, this petition.