

## SECOND DIVISION

[ G.R. No. 102612, June 19, 1997 ]

**MANUEL L. QUEZON UNIVERSITY AND AMADO C. DIZON,  
PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION  
AND LYDIA A. NAVARRO, RESPONDENTS.**

### D E C I S I O N

**TORRES, JR., J.:**

Teaching is a high aspiration, but the regard for the teacher, it has been said - "is a lost tradition." The case before us is about a faculty member who sought to retire expecting to savor the fruits of her calling after years of toil.

In this Petition for Certiorari under Rule 65, of the Revised Rules of Court, petitioners Manuel L. Quezon University (MLQU, for brevity) and its President Amado C. Dizon seek the reversal of the November 7, 1991 Decision<sup>[1]</sup> of the National Labor Relations Commission (NLRC, for brevity) in NLRC NCR CASE NO. 00-11-06417-90, directing the petitioners to pay the private respondent Lydia A. Navarro, retirement pay in addition to moral and exemplary damages.

Lydia A. Navarro was a faculty member of the petitioner MLQU for thirteen years, that is, from November 7, 1977 until the first semester of schoolyear 1990-1991, having taught in the University's College of Arts and Sciences, College of Law, and the School of Graduate Studies.

On September 20, 1990 she wrote to the university, informing them of her intention to retire from teaching, due, allegedly, to a "heart condition of bloody cardiac". Also in the said letter,<sup>[2]</sup> she requested that she be allowed to avail of retirement benefits, either under the school's retirement plan or as provided under existing law.

On October 30, 1990, the university, through its president Amado C. Dizon disapproved the private respondent's application for retirement,<sup>[3]</sup> for the reason that at the age of sixty years, and with only 13 years of service, she was not qualified to retire under the school's retirement plan, which fixes the retirement age of its employees at 65 years with at least 10 years of continuous service, or at 60 years of age provided she had already served the school for 20 years.

On December 5, 1990, private respondent contested the disapproval of her application by filing with the National Labor Relations Commission - NCR Arbitration Branch against the petitioners a complaint<sup>[4]</sup> for non-payment of retirement benefits, with prayer for an award of moral and exemplary damages.

After the parties submitted their respective position papers and supporting evidence, Labor Arbiter Cresencio Iniego rendered a decision,<sup>[5]</sup> stating that private

respondent is entitled to P18,322.00 of retirement benefits, besides moral and exemplary damages amounting to P400,000.

The dispositive portion of the said Decision reads:

"WHEREFORE, judgment is hereby rendered finding complainant entitled to retirement benefit and/or termination pay in the amount of P18,322.00; finding complainant entitled to moral damages in the amount of P300,000.00; finding complainant entitled to exemplary damages in the amount of P100,000.00; and finding complainant entitled to attorney's fees of 10% from the total monetary award.

SO ORDERED."

According to the Labor Arbiter; under the prescription in Article 287 of the Labor Code, as it is worded at that time that "in case of retirement, the employee shall be entitled to receive such retirement benefits as he may have earned under existing laws and any collective bargaining or other agreement;" and under the provision of Policy No. 25 of the Department of Labor and Employment, allegedly fixing the retirement age of employees of educational institutions at 60 years; and due to the private respondent's failing health, the private respondent should be awarded retirement pay amounting to at least one month salary, or one-half month salary for every year of service. The fact that the retirement plan of the petitioner university sets the minimum retirement age at 60 years provided the employee has rendered 20 years of service with the university is of no moment, as "the retirement plan cannot be substituted for or reduce the retirement benefits available under the law."

[6]

On appeal by the petitioners, the NLRC affirmed the Labor Arbiter's pronouncements with the modification that moral and exemplary damages due to the private respondent were reduced to P50,000 and P30,000 respectively, as "moral damages are not intended to enrich the complainant at the expense of the defendant, but are awarded only to enable the injured parties to obtain means, diversions or amusements that will serve to alleviate their moral sufferings."

Dissatisfied with this ruling, petitioners elevated to us by way of certiorari praying for the reversal of the abovementioned decision.

Specifically, the petitioners submit:

"RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN FINDING RESPONDENT NAVARRO TO BE ENTITLED TO BENEFITS UNDER THE MLQU RETIREMENT PLAN NOTWITHSTANDING HER LACK OF QUALIFICATIONS THEREFOR.

"RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN FINDING THAT RESPONDENT NAVARRO IS OF ILL-HEALTH AND MAY, THEREFORE, AVAIL OF RETIREMENT BENEFITS, NOTWITHSTANDING HER FAILURE TO PROVE

THE SAME.

"RESPONDENT NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN UPHOLDING THE PROPRIETY OF IMPEADING THE PRESIDENT AS PARTY-RESPONDENT NOTWITHSTANDING THE ABSENCE OF ANY ALLEGATION WHICH WOULD ESTABLISH PERSONAL AND INDEPENDENT LIABILITY."<sup>[7]</sup>

At the outset, the fact that no motion for reconsideration was filed by the petitioner with the NLRC is unmistakably reflected in the records of this case. No explanation of such lapse has been offered by the petitioner, except for its narration of instances when the Court has allowed petitions for certiorari to proceed, despite the absence of the requisite Motion for Reconsideration in the Commission. Simply stated, the present petition is dismissible as a Motion for Reconsideration of the NLRC's decision is a condition sine qua non before a petition for certiorari under Rule 65 of the Rules of Court may proceed.

Significantly, in *Labudahon vs. National Labor Relations Commission*, we stated-

"The New Rules of Procedure of the National Labor Relations Commission mandate that a motion for reconsideration of any order, resolution or decision of the Commission must be filed within ten (10) calendar days from receipt of such order, resolution or decision. If no motion for reconsideration is filed, the NLRC's order, resolution or decision shall become final and executory after ten (10) calendar days from receipt thereof. xxx petitioner's failure to file a motion for reconsideration, for whatever reason, is a fatal procedural defect that warrants the dismissal of his present petition. (G.R. No. 112206. Dec. 11, 1995, 251 SCRA 129)

The first argument raised by the petitioners poses a decisive issue in this controversy. Is the private respondent, at sixty years of age, entitled to retirement and other benefits?

At the time private respondent applied for retirement, the applicable law was Section 287 of the Labor Code, which reads:

"Article 287. Retirement. - Any employee may be retired upon reaching the retirement age established in the collective bargaining agreement or other applicable employment contract.

In case of retirement, the employee shall be entitled to receive such retirement benefits as he may have earned under existing laws and any collective bargaining or other agreement."<sup>[8]</sup>

In implementation of the foregoing, the Department of Labor issued the following rules, thus, Rule 1, Book VI of the Implementing Rules of the Labor Code provides:

"Section 13. *Retirement*. - In the absence of any collective bargaining agreement or other applicable agreement concerning terms and conditions of employment which provides for retirement at an older age, an employee may be retired upon reaching the age of sixty (60) years.

Section 14. *Retirement benefits*. - (a) An employee who is retired pursuant to a bona-fide retirement plan or in accordance with the applicable individual or collective agreement or established employer policy shall be entitled to all the retirement benefits provided therein or to termination pay equivalent at least to one-half month salary for every year of service, whichever is higher, a fraction of at least six (6) months being considered as one whole year.

(b) Where both the employer and the employee contribute to the retirement plan, agreement or policy, the employer's total contribution thereto shall not be less than the total termination pay to which the employee would have been entitled had there been no such retirement fund. In case the employer's contribution is less than the termination pay the employee is entitled to receive, the employer shall pay the deficiency upon the retirement of the employee.

(c) This Section shall apply where the employee retires at the age of sixty (60) years or older."

It is argued by the petitioners that under the said provisions, the existence, and quiet acceptance by the private respondent, of the retirement plan then enforced by the university among its employees discount the operation of the provisions of the Labor Code and its implementing rules, specifically, in their providing for a legal retirement age at 60 years.

The provisions of Article III of the petitioner university's retirement plan are allegedly controlling in determining the private respondent's entitlement to retirement benefits, thus:

#### **"PERSONS ENTITLED TO RETIREMENT PRIVILEGES**

a) All faculty members and employees who attain the age of 65 years while employed with the Manuel L. Quezon Educational Institution, Inc., provided that they have rendered at least ten (10) years of continuous service.

b) Those who have not attained the age of 60 years, but who have rendered at least twenty (20) years of continuous service to the Manuel L. Quezon Educational Institution, Inc. at the date of retirement.

This plan does not apply to members of the Board of Regents, the President, the Executive Officer and the Treasurer, whose retirement shall be determined by the Board of Regents without prejudice to their retirement under this plan as members of the faculty."<sup>[9]</sup>

According to the petitioner, the provisions of the law providing for legal retirement age at 60 years is applicable only in the absence of any agreement or company policy relative to retirement age. The clear language of the foregoing provisions of law hardly leaves any doubt that the Labor Code finds no application to the case at bar. To bolster this submission, Policy Instruction No. 25 issued by the Department of Labor is cited:

**POLICY INSTRUCTION NO. 25**

TO: All Concerned

SUBJECT: RETIREMENT IN PRIVATE

EDUCATIONAL INSTITUTIONS

For purposes of applying the retirement provisions of the Labor Code in private educational institutions, and in consideration of the unique characteristics and peculiar problems and work situations of such institutions, the following rules are hereby issued for the information and guidance of all concerned:

I - If there is a retirement plan under a collective bargaining agreement or employer policy in private educational institutions, any teacher and/or employer who retires or is retired from the service pursuant to the same shall be entitled to all the retirement benefits provided therein.

II - In the absence of any such company policy or collective bargaining agreement providing for a retirement plan for teachers and other employees in private educational institutions, any teacher and/or employee may retire or be retired from the service upon reaching the age of sixty (60) years and shall be paid the equivalent of at least one month salary or one-half month salary for every year of service, whichever is higher, a fraction of at least six (6) months being considered as one whole year.

This issuance shall take effect immediately.

DONE in the City of Manila, this 1st day of June 1977.

(Sgd.) AMADO G. INCIONG

Acting Secretary

On the other hand, aside from the fact that petitioners failed to file a motion for reconsideration of the NLRC Decision as aforesaid, private respondent relies on the validity of the respondent Commission's ruling, as "the retiring employee is given the option to either avail of the benefits of the retirement plan or seek the grant of