



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**ST. JOSEPH ACADEMY OF  
 VALENZUELA FACULTY  
 ASSOCIATION (SJA VFA)-FUR  
 CHAPTER-TUCP,**

Petitioner,

- versus -

**ST. JOSEPH ACADEMY OF  
 VALENZUELA and DAMASO D.  
 LOPEZ,**

Respondents.

**G.R. No. 182957**

Present:

SERENO, C.J.,  
*Chairperson,*  
 LEONARDO-DE CASTRO,  
 BERSAMIN,  
 VILLARAMA, JR., and  
 REYES, JJ.

Promulgated:

**JUN 13 2013**

X-----X

**RESOLUTION**

**REYES, J.:**

St. Joseph Academy of Valenzuela Faculty Association-FUR Chapter TUCP (petitioner), in behalf of thirteen (13) of its members, filed the present petition<sup>1</sup> seeking review of the Decision<sup>2</sup> dated January 11, 2008 and Resolution<sup>3</sup> dated May 20, 2008 of the Court of Appeals (CA) in CA-G.R. SP No. 81647, which deleted the reinstatement and award of backwages portions in the Secretary of Labor and Employment's (SOLE) Decision<sup>4</sup> dated September 9, 2003.

<sup>1</sup> Rollo, pp. 3-27.

<sup>2</sup> Penned by Associate Justice Arcangelita M. Romilla-Lontok, with Associate Justices Mariano C. Del Castillo (now a member of this Court) and Romeo F. Barza, concurring; id. at 50-58.

<sup>3</sup> Id. at 60-61.

<sup>4</sup> Rendered by Secretary Patricia A. Sto. Tomas; id. at 30-48.

The dispute arose from a notice of strike filed by the petitioner against respondent St. Joseph Academy of Valenzuela (SJAV) for illegal termination and union busting. The SOLE assumed jurisdiction after the parties agreed to submit the case for voluntary arbitration.<sup>5</sup> Originally affected were nineteen (19) union members employed by SJAV as teachers. Four (4) of the members have already passed the teacher's board examinations, namely: (1) Reshiel R. Isagan; (2) Mary Grace C. Dimaunahan; (3) Novelyn I. Puyot; and (4) Elizabeth O. Nicol.<sup>6</sup> The SOLE ordered their reinstatement with full backwages up to the date of their actual reinstatement.<sup>7</sup>

The other 15 members are non-licensees. They are: (1) Lucita A. Marzan; (2) Ma. Erlinda H. Sarmiento; (3) Ma. Lourdes B. Alonzo; (4) Toni Socorro B. Eliseef (Eliseef); (5) Maureen F. Aliwalas; (6) Yvor Stanley A. Aquino; (7) Teresita M. Musa (Musa); (8) Luzviminda L. Cruz; (9) Glenda D. Pedrosa; (10) Ma. Theresa E. Oliveros; (11) Anna Lea C. Junsay; (12) Rebesita F. Ferry; (13) Bernadeth M. Salvador; (14) Maribeth S. Bandola; and (15) Jeneth W. Eugenio.<sup>8</sup> With regard to them, the SOLE ordered the reinstatement of those with a valid temporary or special permit with full backwages up to the date of their actual reinstatement. The SOLE, however, also ordered that they shall only serve for the remaining period corresponding to the period of validity of their permit.<sup>9</sup> The pertinent dispositive portion of the SOLE Decision provides:

WHEREFORE, foregoing premises being duly considered, x x x.

With respect to the fifteen (15) non-licensee teachers, only those who have submitted a valid temporary or special permit shall be reinstated to their former positions with full backwages computed from the time their compensation were withheld up to the date of their actual reinstatement. But they shall only serve for the remaining period corresponding to the period of validity of their permit.

x x x x

SO ORDERED.<sup>10</sup>

In ordering their reinstatement and the award of backwages, the SOLE ruled that even as probationary employees, the non-licensees still enjoy security of tenure and SJAV should have given them the opportunity to comply with the license requirement mandated by Republic Act (R.A.) No.

---

<sup>5</sup> Id. at 30.

<sup>6</sup> Id. at 32.

<sup>7</sup> Id. at 48.

<sup>8</sup> Id. at 32.

<sup>9</sup> Id. at 48.

<sup>10</sup> Id.

7836.<sup>11</sup> Hence, the SOLE concluded that SJAV “should retain their services and backwages x x x from April 1, 2003 up to the date they are reinstated to their former positions.”<sup>12</sup>

The CA, however, ruled that reinstatement is no longer possible inasmuch as it is the Department of Education, Culture and Sports that can assign the para-teachers<sup>13</sup> to schools as it may determine. Moreover, SJAV cannot be deprived of its right to choose its teachers and the positions have already been actually filled up.<sup>14</sup> The CA also deleted the award of backwages since, as found by the SOLE, there was no illegal dismissal committed by SJAV, the non-licensees not being its regular employees.<sup>15</sup>

The petitioner now beseeches the Court to restore the SOLE’s award of backwages and for the award of separation pay in lieu of reinstatement, anchored on grounds of “equity and compassionate justice.”<sup>16</sup> The petitioner admits that the non-licensees’ temporary or special permits have already expired, thus making reinstatement impossible; it, however, asks for the award of separation pay and backwages given the non-licensees’ years of service with SJAV, that they “somehow contributed” to the school’s progress and they have been efficient teachers.<sup>17</sup> The petitioner also stated that two (2) of the non-licensees, Eliseef and Musa, opted to pursue before the National Labor Relations Commission their claim for separation pay, which was decided by the Labor Arbiter in 2005 with the recommendation that “the federation dwell on the matter of complainants’ benefits in a supplemental pleading if only to call the attention of the division justices to whom the case is assigned for decision.”<sup>18</sup>

Expectedly, SJAV calls for the dismissal of the petition on the argument that since the non-licensees could not have become regular employees, then there can be no grant of backwages and reinstatement as it presupposes illegal termination of employees.<sup>19</sup>

---

<sup>11</sup> AN ACT TO STRENGTHEN THE REGULATION AND SUPERVISION OF THE PRACTICE OF TEACHING IN THE PHILIPPINES AND PRESCRIBING A LICENSURE EXAMINATION FOR TEACHERS AND OTHER PURPOSES.

<sup>12</sup> *Rollo*, p. 45.

<sup>13</sup> Under Section 26 of R.A. No. 7836, teachers who failed the licensure examination for professional teachers shall be eligible as *para-teachers* and be issued special or temporary permits by the Board [for Professional Teachers] and assigned by the DECS to schools it may determine under the circumstances.

<sup>14</sup> *Rollo*, p. 55.

<sup>15</sup> *Id.* at 56-58.

<sup>16</sup> *Id.* at 22.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 17.

<sup>19</sup> *Id.* at 106.

## **Review of labor cases under Rule 45 of the Rules of Court**

In *Phimco Industries, Inc. v. Phimco Industries Labor Association*,<sup>20</sup> the Court reiterated the basic approach in the review of CA decisions in labor cases, *viz*:

In a Rule 45 review, we consider the correctness of the assailed CA decision, in contrast with the review for jurisdictional error that we undertake under Rule 65. Furthermore, Rule 45 limits us to the review of questions of law raised against the assailed CA decision. In ruling for legal correctness, we have to view the CA decision in the same context that the petition for *certiorari* it ruled upon was presented to it; we have to examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, not on the basis of whether the NLRC decision on the merits of the case was correct. In other words, we have to be keenly aware that the CA undertook a Rule 65 review, not a review on appeal, of the NLRC decision challenged before it. This is the approach that should be basic in a Rule 45 review of a CA ruling in a labor case. In question form, the question to ask is: Did the CA correctly determine whether the NLRC committed grave abuse of discretion in ruling on the case?<sup>21</sup>

Applying the foregoing rule, the question now is whether the CA committed an error in deleting the award of backwages and reinstatement originally granted by the SOLE.

### **Reinstatement or payment of separation pay, and award of backwages proper only in cases of illegal dismissal**

Generally, the finding of illegal dismissal entitles an employee to the twin remedies of reinstatement and payment of backwages.<sup>22</sup> Article 279 of the Labor Code states, in part, that an employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. These twin remedies – reinstatement and payment of

---

<sup>20</sup> G.R. No. 170830, August 11, 2010, 628 SCRA 119.

<sup>21</sup> *Id.* at 132, citing *Montoya v. Transmed Manila Corporation*, G.R. No. 183329, August 27, 2009, 597 SCRA 334, 342-343.

<sup>22</sup> *Exodus International Construction Corporation v. Biscocho*, G.R. No. 166109, February 23, 2011, 644 SCRA 76, 92; *St. Luke's Medical Center, Inc. v. Notario*, G.R. No. 152166, October 20, 2010, 634 SCRA 67, 80; *Velasco v. NLRC*, 525 Phil. 749, 761-762 (2006).

backwages – make the dismissed employee whole who can then look forward to continued employment.<sup>23</sup>

[T]he law intends the award of backwages and similar benefits to accumulate past the date of the Labor Arbiter's decision until the dismissed employee is actually reinstated. But if, as in this case, reinstatement is no longer possible, **this Court has consistently ruled that backwages shall be computed from the time of illegal dismissal until the date the decision becomes final.** (Emphasis supplied)

X X X X

The basis for the payment of backwages is different from that for the award of separation pay. Separation pay is granted where reinstatement is no longer advisable because of strained relations between the employee and the employer. Backwages represent compensation that should have been earned but were not collected because of the unjust dismissal. The basis for computing backwages is usually the length of the employee's service while that for separation pay is the actual period when the employee was unlawfully prevented from working.<sup>24</sup>

In this case, the SOLE and the CA were one in ruling that there was no illegal dismissal committed by SJAV against the non-licensees. As both stressed by the SOLE and the CA, R.A. No. 7836 provides that no person shall engage in teaching and/or act as professional teacher unless he is a duly registered professional teacher, and a holder of a valid certificate of registration and a valid professional license or a holder of a valid special/temporary permit.<sup>25</sup> Obviously, aside from the finding that there was no illegal dismissal, the non-licensees cannot be reinstated since they do not possess the necessary qualification for them to be engaged in teaching and/or act as professional teachers. This conclusion binds the Court, especially in the absence of any circumstance that militates against such conclusion. The rule is that the findings of fact of the SOLE and the CA and the conclusions derived therefrom are generally binding on the Court if amply supported by evidence on record.<sup>26</sup>

Consequently, the Court finds that the CA did not commit an error in ruling that reinstatement is not possible. In the same light, the Court finds that the CA, likewise, did not commit an error in deleting the award of

---

<sup>23</sup> *Velasco v. NLRC*, 525 Phil. 749, 761-762 (2006), citing *Santos v. NLRC*, 238 Phil. 161, 167 (1987).

<sup>24</sup> *Aliling v. Feliciano*, G.R. No. 185829, April 25, 2012, 671 SCRA 186, 213, citing *Golden Ace Builders v. Talde*, G.R. No. 187200, May 5, 2010, 620 SCRA 283, 288.

<sup>25</sup> Section 26.

<sup>26</sup> *De La Salle University v. De La Salle University Employees Association (DLSUEA-NAFTEU)*, G.R. No. 169254, August 23, 2012, 679 SCRA 33, 53.

backwages. As previously stressed, payment of backwages and other benefits is justified only if the employee was illegally dismissed.<sup>27</sup>

**Award of financial assistance as a measure of social justice and equity**

Nevertheless, the Court, in exceptional cases, has granted financial assistance to legally dismissed employees as an act of “social justice” or based on “equity” so long as the dismissal was not for serious misconduct, does not reflect on the employee’s moral character, or would involve moral turpitude.<sup>28</sup> In *Nissan Motor Philippines, Inc. v. Angelo*,<sup>29</sup> the Court ruled that, inspired by compassionate and social justice, it has in the past awarded financial assistance to dismissed employees when circumstances warranted such an award. Meanwhile, in *Pharmacia and Upjohn, Inc. v. Albayda, Jr.*,<sup>30</sup> the Court held that an award to the employee of separation pay by way of financial assistance, equivalent to one-half (1/2) month’s pay for every year of service, is equitable. The Court, in *Pharmacia*, noted, among others, that although the employee’s actions constituted a valid ground to terminate his services, the same is not so reprehensible as to warrant complete disregard of his long years of service.

Similarly in this case, the dismissal of the 13 non-licensees<sup>31</sup> was due to their failure to possess teaching licenses. It was not due to any serious misconduct or infraction reflecting their moral character. Records also bear that they have been in the employ of SJAV from five (5) to nine (9) years,<sup>32</sup> and as observed by the SOLE, SJAV has not shown any dissatisfaction with their teaching services, “otherwise, x x x, it would not have kept them under its [employ] for such quite a period of time.”<sup>33</sup>

This being the case, the Court, in keeping with equity and social justice, grants the award of financial assistance to the 13 non-licensees equivalent to one-half (1/2) month’s pay for every year of service rendered with SJAV.

---

<sup>27</sup> *Lansangan v. Amkor Technology Philippines, Inc.*, G.R. No. 177026, January 30, 2009, 577 SCRA 493, 500.

<sup>28</sup> *Villaruel v. Yeo Han Guan*, G.R. No. 169191, June 1, 2011, 650 SCRA 64, 72-73; *Philippine Airlines, Inc. v. National Labor Relations Commission*, G.R. No. 123294, October 20, 2010, 634 SCRA 18, 46-47.

<sup>29</sup> G.R. No. 164181, September 14, 2011, 657 SCRA 520.

<sup>30</sup> G.R. No. 172724, August 23, 2010, 628 SCRA 544.

<sup>31</sup> Excluded are Eliseef and Musa.

<sup>32</sup> *Rollo*, p. 43.

<sup>33</sup> *Id.* at 45.

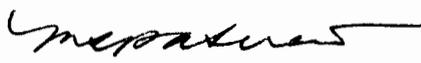
**WHEREFORE**, the petition is **PARTIALLY GRANTED**. The Decision dated January 11, 2008 and Resolution dated May 20, 2008 of the Court of Appeals in CA-G.R. SP No. 81647 are **MODIFIED** and respondent St. Joseph Academy of Valenzuela is hereby **ORDERED** to pay the thirteen (13) non-licensees financial assistance equivalent to one-half (1/2) month's pay for every year of service.

The case is remanded to the Department of Labor and Employment for proper computation of the award in accordance with this Decision.

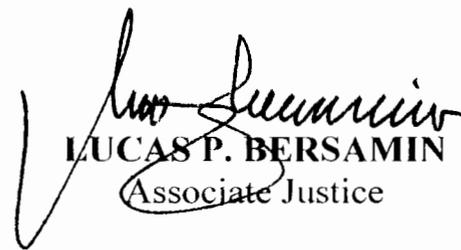
**SO ORDERED.**

  
**BIENVENIDO L. REYES**  
Associate Justice

**WE CONCUR:**

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice  
Chairperson

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

**CERTIFIED TRUE COPY:**

**EDGAR O. ARICHETA**  
Division Clerk of Court  
First Division

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice