



Republic of the Philippines  
**Supreme Court**  
Manila

**SECOND DIVISION**

**COLEGIO DE SAN JUAN DE  
LETRAN-CALAMBA,**

Petitioner,

**G.R. No. 190303**

Present:

CARPIO, J.,  
Chairperson,  
BRION,  
DEL CASTILLO,  
PEREZ, and  
PERLAS-BERNABE, JJ.

- versus -

**ENGR. DEBORAH P. TARDEO,**  
Respondent.

Promulgated:

JUL 09 2014

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**RESOLUTION**

**PEREZ, J.:**

This is a Petition for Review on *Certiorari* filed pursuant to Rule 45 of the Revised Rules of Court, assailing the 13 July 2009 Decision<sup>1</sup> rendered by the Special Second Division of the Court of Appeals in CA-G.R. SP No. 107077. In its assailed decision, the appellate court affirmed the 5 January 2009 Decision<sup>2</sup> of the Office of the Voluntary Arbitrator of the Department of Labor and Employment, San Pablo City, Laguna, finding petitioner Colegio De San Juan De Letran-Calamba (petitioner) liable for backwages for illegally suspending Engr. Deborah P. Tardeo (respondent) from employment.

<sup>1</sup> Penned by Associate Justice Portia Aliño Hormachuelos with Associate Justices Arcangelita M. Romilla Lontok and Myrna Dimaranan Vidal, concurring. *Rollo*, pp. 26-40.

<sup>2</sup> Presided by Voluntary Arbitrator Bienvenido E. Devera. *CA rollo*, pp. 22-38.

In a Resolution<sup>3</sup> dated 12 November 2009, the Court of Appeals refused to reconsider its earlier decision.

*The Facts*

Petitioner is an educational institution created and existing under Philippine laws with principal office at *Brgy. Bucal*, Calamba City, Laguna. Respondent, on the other hand, was employed as a full-time faculty member of the petitioner since 1985. In August 2006, respondent was elected as Union President of Letran-Calamba Faculty and Employees Association (LECFEA) and served in such capacity until she was suspended from work in 2008.

Respondent’s suspension arose from her request for Faculty Development Program and Fund Assistance submitted for consideration of petitioner. In a Letter<sup>4</sup> dated 25 March 2008, addressed to Vice-President for Academic Affairs Dr. Rhodora Odejar, respondent manifested her intention to participate in the 30<sup>th</sup> National Physics Seminar Workshop Convention in Siquijor State College. In connection therewith, she requested for fund assistance in the amount of ₱17,000.00, broken down as follows:

Congress/Seminar Fee	₱ 1,200.00
Transportation	10,000.00
Allowance	1,200.00
Accommodation	4,000.00
Workshop Kit	600.00
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	₱ 17,000.00 <sup>5</sup>

Attached to her request was a two-page invitation allegedly downloaded from Philippine Physics Society’s (PPS) website which detailed the supposed expenses in the upcoming convention. The foregoing request was recommended for approval by the Dean for College of Engineering, Engr. Delfin Jacob (Jacob) and the Human Resource Director, Prof. Dulce Corazon T. Barraquio.

During pre-audit, the Vice-President for Finance and concurrently Letran’s Controller Rodolfo Ondevilla (Ondevilla) noted that the supporting

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<sup>3</sup> *Rollo*, pp. 42-43.  
<sup>4</sup> *CA rollo*, p. 52.  
<sup>5</sup> *Id.* at 53.

document appended to respondent's request was altered. While the documents appeared to have been taken from the PPS website, significant portions thereof were missing which led him to conclude that the said parts were deliberately omitted by respondent.<sup>6</sup> The missing portion reads:

The registration fee is P1,200.00. This covers seminar kit, certificates, snacks, membership fee, Philippine Physics Journal, one dinner, and an educational trip. x x x Food costs P50.00 upwards per meal.<sup>7</sup>

It was gathered from the missing portions that respondent requested for the amount of ₱600.00 for the workshop kit when the same was already covered by the registration fee as it appears in the PPS website.<sup>8</sup>

Consequently, Ondevilla disapproved respondent's request for fund assistance on the ground that her fund request was significantly higher compared to the amount requested by another faculty member who also wanted to participate in the same convention. While respondent requested for the disbursement of the amount of ₱17,000.00, a certain Delorino only asked for ₱11,000.00. It was noted that after the convention, Delorino's actual expense was only ₱10,754.00.<sup>9</sup>

Convinced that the misrepresentation committed by respondent constitutes a grave offense, Jacob convened the Committee of Discipline to investigate the matter pursuant to the mandate of the Faculty Handbook of 2006.

In a Letter<sup>10</sup> dated 28 May 2008, respondent was informed that she is under investigation for dishonesty and serious misconduct and was given the opportunity to defend herself.

During the hearing, respondent raised as a defense her good faith in omitting some parts of the PPS invitation and asserted that she found no reason to attach the said portions since those are not applicable to her.

After investigation, the Committee of Discipline found that respondent is guilty of dishonesty and serious misconduct and meted out the

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<sup>6</sup> Id. at 55-56.

<sup>7</sup> Id. at 60.

<sup>8</sup> Id. at 65-66.

<sup>9</sup> Id. at 65-68.

<sup>10</sup> Id. at 69.

penalty of suspension for one semester starting 19 August 2008 up to 20 December 2008. The Committee of Discipline found that respondent's guilt was established by her own admission that she deleted certain portions from the invitation before attaching it to her fund request, and by the apparent disparity between the amount requested by the respondent from that of another faculty member who also applied for fund assistance for the same purpose.<sup>11</sup>

Feeling aggrieved, respondent assailed the adverse decision of the Committee of Discipline to the Office of the Voluntary Arbitrator arguing that she was denied of her right to due process when she was not allowed to confront Ondevilla in person during the hearing. In her Complaint for Illegal Suspension, respondent argued that she was unlawfully deprived of her salary and her economic and social benefits under the Collective Bargaining Agreement (CBA) when petitioner hastily suspended her from employment. Respondent finally claimed that petitioner was guilty of unfair labor practice when, after her suspension from her job, she was prevented from entering the school premises to perform her task as President of LECFEA.

In a Decision<sup>12</sup> dated 5 January 2009, the Office of the Voluntary Arbitrator declared the suspension of respondent from employment illegal after finding that there was no direct evidence to prove that respondent maliciously altered the invitation attached to her fund request.

Unsatisfied, petitioner elevated the adverse ruling of the Office of the Voluntary Arbitrator to the Court of Appeals by filing a Petition for Review.<sup>13</sup>

On 31 July 2009, the Court of Appeals rendered a Decision<sup>14</sup> affirming the ruling of the Office of the Voluntary Arbitrator and declared respondent's suspension from employment unlawful. According to the appellate court, there was no substantial evidence to prove that respondent was guilty of serious misconduct or even of simple misconduct when she omitted a portion of the PPS invitation. In validating the findings of the Office of the Voluntary Arbitrator, the Court of Appeals ruled that the serious misconduct of which respondent is accused of has not been sufficiently, definitively and convincingly shown, and thus declared that to

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<sup>11</sup> Id. at 248-255.

<sup>12</sup> Id. at 22-38.

<sup>13</sup> Id. at 2-19.

<sup>14</sup> *Rollo*, pp. 26-40.

suspend an employee on mere suspicions and innuendos, without substantial proof of his alleged misconduct would result in unfairness and injustice.

The Court of Appeals refused to reconsider its earlier Decision in a Resolution<sup>15</sup> dated 12 November 2009.

Unrelenting, petitioner filed the instant Petition for Review on *Certiorari*<sup>16</sup> before the Court assailing the Court of Appeals' Decision and Resolution by raising the following issues:

### *The Issues*

[I].

WHETHER OR NOT [RESPONDENT] COMMITTED DISHONESTY AND SERIOUS MISCONDUCT IN KNOWINGLY SUBMITTING A MATERIALLY ALTERED DOCUMENT TO SUPPORT HER FUNDING REQUEST;

[II].

WHETHER OR NOT [PETITIONER] RESPECTED AND OBSERVED RESPONDENT'S RIGHT TO DUE PROCESS BEFORE DECIDING TO SUSPEND HER FROM WORK; [AND],

[III].

WHETHER OR NOT THE DECISION TO AWARD DAMAGES TO [RESPONDENT] WITHOUT GIVING [PETITIONER] THE CHANCE TO BE HEARD VIOLATED THE LATTER'S RIGHT TO DUE PROCESS.<sup>17</sup>

### *The Court's Ruling*

Petitioner contends that during the hearing before the Committee of Discipline, respondent admitted that she altered a portion of the PPS invitation by knowingly deleting some information. Petitioner argues that such alteration was done by respondent in order to hike up her expenses for the convention from the actual and official fees as detailed by the organizers in their website. It insists that such deletion was effected in order to justify her fund request for workshop kit in the amount of ₱600.00 when in fact it is already covered by the seminar fee of ₱1,200.00. Contrary to the ruling of

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<sup>15</sup> Id. at 42-43.

<sup>16</sup> Id. at 3-21.

<sup>17</sup> Id. at 9-10.

the appellate court that respondent was not guilty of dishonesty, petitioner claims that the deleted portion was necessary in order to conceal her falsification.<sup>18</sup>

Banking on the findings of the appellate court, respondent, on the other hand, argues that her act of omitting a portion of the invitation would not amount to serious misconduct or even simple misconduct when ranged against the standards of existing jurisprudence. While respondent concedes that she did attach some parts of the invitation to her fund request, she maintains that it was done in good faith and it was not intended to cause damage to petitioner. Respondent claims that her suspension was part of the management's scheme to preclude her from performing her functions as the Union President and exclude her from the CBA negotiation since her suspension coincided with the contract negotiation period for CBA 2008-2013.<sup>19</sup>

The petition is devoid of merit.

The Office of the Voluntary Arbitrator and the Court of Appeals are one in holding that respondent was not guilty of serious misconduct when she omitted a portion of the invitation, and, in effect, declared respondent's suspension from employment for one semester, unlawful. For failing to adduce substantial evidence to prove that respondent was guilty of serious misconduct, both bodies held that respondent's suspension from employment is unwarranted.

Misconduct is defined as improper and wrongful conduct. It is the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies wrongful intent and not mere error in judgment. Of course, ordinary misconduct would not justify the termination of the services of an employee. The law is explicit that the misconduct should be serious. It is settled that in order for misconduct to be serious, it must be of such grave and aggravated character and not merely trivial or unimportant. As amplified by jurisprudence, the misconduct must (1) be serious; (2) relate to the performance of the employee's duties; and (3) show that the employee has become unfit to continue working for the employer.<sup>20</sup>

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<sup>18</sup> Id. at 3-21.

<sup>19</sup> Id. at 143-152.

<sup>20</sup> *Philippine National Bank v. Velasco*, 586 Phil. 444, 461-462 (2008).

Under Article 282 of the labor Code, the misconduct, to be just cause for termination, must be serious. This implies that it must be of such grave and aggravated character and not merely trivial or unimportant. Examples of serious misconduct justifying termination, as held in some of our decisions, include: sexual harassment (the manager's acts of fondling the hands, massaging the shoulder and caressing the nape of the secretary); fighting within company premises, uttering obscene, insulting or offensive words against a superior; misrepresenting that a student is his nephew and pressuring and intimidating a co-teacher to change a student's failing grade to passing.<sup>21</sup>

Although respondent was not terminated from employment but was merely suspended from work for one semester or equivalent to 101 days school days, her infraction should still be measured against the foregoing standards considering that the charge leveled against her is serious misconduct.

A cursory reading of the records reveals no reason for us to depart from the findings of the Court of Appeals. Well-settled is the rule that the factual findings of the Court of Appeals are conclusive on the parties and are not reviewable by the Supreme Court. And they carry even more weight when the Court of Appeals affirms the factual findings of a lower fact-finding body, in this case the Voluntary Arbitrator. Likewise, findings of fact of administrative agencies and quasi-judicial bodies which have acquired expertise because their jurisdiction is confined to specific matters are generally accorded not only great respect but even finality. They are binding upon this Court unless there is a showing of grave abuse of discretion or where it is clearly shown that they were arrived at arbitrarily or in utter disregard of the evidence on record.<sup>22</sup>

As correctly pointed out by the appellate court, there is no substantial evidence to prove that in not including a portion of the invitation to her fund request, respondent acted in malicious and contemptuous manner with the intent to cause damage to the petitioner. In other words, there is no basis for the allegation that respondent's act constituted serious misconduct that warrants the imposition of penalty of suspension. Indeed, considering the fact that before the act complained of, respondent has been rendering service untarnished for 23 years, it is not easy to conclude that for ₱600.00, respondent would willfully and for wrongful intentions omit portions of the documents taken from the PPS website. In other words, as found by the

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<sup>21</sup> *Colegio de San Juan de Letran-Calamba v. Villas*, 447 Phil. 692, 699 (2003).

<sup>22</sup> *Id.* at 700.

Voluntary Arbitrator and the Court of Appeals, there is no substantial proof of petitioner's allegation of malicious conduct against respondent.

The Court recognizes the right of the employers to discipline its employees for serious violations of company rules after affording the latter due process and if the evidence warrants.<sup>23</sup> Such right, however, should be exercised in consonance with sound discretion putting into mind the basic elements of justice and fair play.

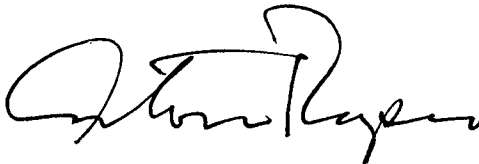
**WHEREFORE**, premises considered, the petition is **DENIED**. The assailed Decision and Resolution of the Court of Appeals are hereby **AFFIRMED**.

**SO ORDERED.**



**JOSE PORTUGAL PEREZ**  
Associate Justice

WE CONCUR:



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson


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*The University of the Immaculate Conception v. National Labor Relations Commission*, G.R. No. 181146, 26 January 2011, 640 SCRA 608, 620.




  
**ARTURO D. BRION**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice


#### ATTESTATION

I attest that the conclusions in the above Resolution were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson, Second Division

#### CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Resolution were 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