**SUPREME COURT**
**SECOND DIVISION**

**CATHEDRAL SCHOOL OF TECHNOLOGY and SR. APOLINARIA TAMBIEN, RVM,**
***Petitioner*,**

***-versus-***

**G.R. No. 101438**
**October 13, 1992**

**NATIONAL LABOR RELATIONS COMMISSION and TERESITA VALLEJERA,**
***Respondents*.**
**x----------x**

# D E C I S I O N

**REGALADO, *J.*:**

The *Certiorari* jurisdiction of the Court is once again invoked to annul the resolution of the National Labor Relations Commission (NLRC)[1] in NLRC-RAB Case No. 10-0600948-89, promulgated on June 24, 1991, affirming the decision of the labor arbiter with modifications under the following decretal portion:

> "WHEREFORE, the decision of the Labor Arbiter below is AFFIRMED subject to the following MODIFICATIONS:

1) Ordering respondent Cathedral School of Technology to pay complainant full backwages equivalent to six (6) months at the rate of P2.316.00 a month (instead of P1,958.00 or P3,916.00 for two months) which was her latest salary prior to termination, or the aggregate amount of P13,899.00 without qualification or deduction;

2) Directing respondent Cathedral School of Technology to pay complainant separation pay for two (2) months in the sum of P4,632.00 on the basis of her latest salary of P2,316.00 a month prior to termination; and

3) Decreeing the payment of attorney's fee(s) equivalent to 10% of the total monetary award."

The records disclose that in February, 1981, private respondent Teresita Vallejera sought admission as an aspirant to the Congregation of the Religious of Virgin Mary (RVM), upon the recommendation of Archbishop Patrick Cronin. In order to observe the life of a religious, she came to live with the sisters of the congregation and received free board and lodging at the house of the nuns. During the period of her aspirancy and in return for her accommodations, she volunteered to assist as a library aide in the library section of the Cathedral School of Technology, an educational institution run by the RVM sisters. In return for her work as such, she was given a monthly allowance of P200.00.

Private respondent had a change of heart in later years and confessed to the sisters that she was no longer interested in becoming a nun. She pleaded, however, to be allowed to continue living with the sisters for she had no other place to stay in, to which request the sisters acceded and, in exchange therefor, she voluntarily continued to assist in the school library.

On January 29, 1988, private respondent formally applied for and was appointed to the position of library aide with a monthly salary of P1,171.00. It was at around this time, however, that trouble developed. The sisters began receiving complaints from students and

employees about private respondent's difficult personality and sour disposition at work.

Before the opening of classes, or more specifically on June 2, 1989, private respondent was summoned to the Office of the Directress by herein petitioner Sister Apolinaria Tambien, RVM, shortly after the resignation of the school's Chief Librarian, Heraclea Nebria, on account of irreconcilable differences with said respondent, for the purpose of clarifying the matter. Petitioner also informed private respondent of the negative reports received by her office regarding the latter's frictional working relationship with co-workers and students and reminded private respondent about the proper attitude and behavior that should be observed in the interest of peace and harmony in the school library.

Private respondent resented the observations about her actuations and was completely unreceptive to the advice given by her superior. She reacted violently to petitioner's remarks and angrily offered to resign, repeatedly saying, "OK, I will resign. I will resign." Thereafter, without waiting to be dismissed from the meeting, she stormed out of the office in discourteous disregard and callous defiance of authority.

On separate occasions thereafter, petitioners sent at least three persons to talk to and convince private respondent to settle her differences with the former. Private respondent, however, remained adamant in her refusal to submit to authority. On June 15, 1989, Sister Apolinaria sent a Letter[2] formally informing private respondent that she had a month from said date or until July 15, 1989 to look for another job as the school had decided to accept her resignation. Private respondent then filed a complaint for illegal deduction and underpayment of salary, overtime pay and service incentive pay.[3] On July 19, 1989, she was prevented from entering the school premises by one Sister Virginia Villamino in view of her dismissal from the service as per the aforestated letter of June 15, 1989. Consequently, private respondent amended her complaint to include illegal dismissal.[4]

Conversely, private respondent contends that on February 11, 1981, she was hired as a library aide by petitioner school with a monthly salary of P200.00 but was provided with free board and lodging. Her

salary was gradually increased so that by 1986, she was already receiving P1,171.00 per month and by June, 1988, her monthly salary was P1.386.00. Inexplicably, this was reduced to P1,227.00 in July. 1988, which amount she continued to receive until May 31, 1989, when it was raised to P2,316.00. However, private respondent alleges that on June 2, 1989, she was forced by petitioner school directress to tender her resignation but she refused. She was informed that her services would be terminated effective July 15, 1989 through the letter dated June 15, 1989.

Private respondent nonetheless insists that she continued to report for work, but on July 17, 1989 and thereafter she could not find her daily time record, so she just requested a fellow employee to sign a piece of paper to show that she reported for work. On July 19, 1989, she was barred from entering the school due to the fact that she had already been dismissed. She requested that she be furnished a copy of the termination paper but she was told that the letter or June 15, 1989 served that purpose. Hence, her complaint for illegal dismissal.[5]

Petitioner, as respondent in the proceedings below, in its manifestation and answer of July 25, 1989[6] specifically denied all of private respondent's allegations as complainant therein. The subsequent acrimonious exchanges containing opposing contentions of the parties on practically every substantive and procedural aspect of the controversy clearly exhibited that the prospect of arriving at an amicable settlement of the case was practically nil if not completely impossible.

Pursuant to the labor arbiter's order of August 14, 1989,[7] the parties filed their respective position papers with corresponding annexes. Additionally, in the course of the proceedings, on motion of petitioners and over the objection of private respondent, the latter was cross-examined by petitioner's counsel.

On May 21, 1990, the labor arbiter rendered a decision in favor of private respondent, holding that she was illegally dismissed for lack of clue process, in that she was summarily dismissed without a hearing being conducted in order to afford her an opportunity to present her side. The complementary adjudication was to the effect that private respondent was not entitled to reinstatement with

backwages, but the payment of separation pay was ordered as an appropriate remedy under the circumstances, to wit:

> "WHEREFORE, in view of all the foregoing, judgment is hereby entered ordering respondent Cathedral School of Technology to pay complainant Teresita Vallejera separation pay consisting of two months salary in the sum of P3,916 00 and underpayment in the sum of P2,961.00. Respondent is likewise ordered to pay attorney's fees in the sum of P500.00.
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> "The rest of the claims are dismissed for lack of merit."[8]

On appeal, the NLRC affirmed the labor arbiter's decision, with the modifications stated at the outset of this opinion, on the rationale that while petitioners had valid reasons to terminate the services of private respondent, the dismissal was nonetheless illegal for lack of due process, hence the award of backwages, separation pay and attorney's fees. It is this holding of public respondent, which is sought to be set aside in the present recourse on the issue of whether or not the NLRC committed grave abuse of discretion in ordering the payment of said monetary claims where the dismissal is illegal for denial of due process but there is a finding of a valid ground for termination.

Public respondent correctly observed that before ruling on the legality or illegality of the dismissal, the matter of the existence of an employer-employee relationship must first be clearly settled for such finding is determinative of and subsumes the claims raised in connection with the charge of illegal dismissal. After assessing the pleadings and evidence of the parties, public respondent found reason to approve and adopt the labor arbiter's findings on the point, thus:

> "After a careful and exhaustive evaluation of the opposing stances of the parties taken together with their evidences, this Branch finds and so holds that complainant Teresita Vallejera was a regular employee of respondent, Cathedral School of Technology. And as intimated earlier, the resolution of the issue of employer-employee relationship will plays (sic) a decisive role in the other claims of complainant. The finding that the complainant was a regular employee of respondents is

predicated on the fact that her assignment as a library aide was necessary and/or desirable in the business of the respondents which was operating an educational institution. Necessity and/or desirability is the gauge mandated by Art. 280 of the Labor Code as amended in determining the status of an employee. Needless to say a library aide is practically indispensable in running a school. Her status, however, as a regular employee should not date back to her first connection with the school on February 11, 1981. It should only start from January 30, 1988. This becomes immediately apparent from Exh. '4' of respondent's position paper. In this document which is a letter application of complainant, she applies for the position of library aide. Simple logic will therefore show that she herself did not consider herself to be a regular employee prior to said date because why should she apply for the position if she already had an appointment and was already functioning as such a regular employee? In short, complainant prior to January 29, 1988 was a library aide of respondent only on a volunteer basis. The deduction that complainant was a regular worker from January 30, 1988 is also bolstered by the fact that respondent Sr. Ma. Apolinaria Tambien herself, in her letter dated June 15, 1989 (Annex 'E', complainant's position paper) admitted that she and complainant were employer and employee, and we quote:

> 'So, before it will be too late for a possible scandal that might issue between us (employer and employee) at this time of the school year, I'm giving you this alternative-freedom to find a better place to live and work in.'

"January 29, 1988 plays a very significant date in this case because on this date complainant applied to be appointed as a regular library aide. She therefore was divesting herself of her voluntary status as such. And respondents who despite receipt of said letter-application continued to employ her is (sic) deemed to have waived the voluntariness of complainant's services. From January 20, (sic, 30) 1988, therefore, complainant became a regular worker. To rule otherwise would be the height of injustice as it would result in unjust enrichment on the part of respondent. Moreover, if respondent did not wish

to hire complainant, then it should have done so upon receipt of said letter-application."[9]

The existence of an employer-employee relationship is essentially a factual question[10] and the respondent commission's findings thereon are accorded great weight and respect and even finality when the same are supported by substantial evidence.[11] We find no reason to overrule the same.

An evaluative review of the records of this case nonetheless supports a finding of a just cause for termination. The reason for which private respondent's services were terminated, namely, her unreasonable behavior and unpleasant department in dealing with the people she closely works with in the course of her employment, is analogous to the other "just causes" enumerated under the Labor Code, as amended:

> "ARTICLE 282. Termination by employer. — An employer may terminate an employment for any of the following just causes:
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> (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
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> (b) Gross and habitual breach by the employee of his duties.
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> (c) Fraud or willful breach of the employee of the trust reposed in him by his employer or duly authorized representative;
>
> (d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and
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> (e) Other causes analogous to the foregoing."

Petitioners' averments on private respondent's disagreeable character — "quarrelsome, bossy, unreasonable and very difficult to deal with" — are supported by the various testimonies of several co-employees and students of the school.[12] In fact, as earlier stated, her overbearing personality caused the chief librarian to resign, Furthermore, the complaints about her objectionable behavior were confirmed by her reproachable actuations during her meeting with the petitioner directress on June 2, 1989, when private respondent, upon being advised of the need to improve her working relations with others, obstreperously reacted and unceremoniously walked out on her superior, and arrogantly refused to subsequently clear up matters or to apologize therefor. To make matters worse, she ignored the persons sent by petitioners on separate occasions to intervene in an effort to bring the matter to a peaceful resolution The conduct she exhibited on that occasion smacks of sheer disrespect and defiance of authority and assumes the proportion of serious misconduct or insubordination, any of which constitutes just cause for dismissal from employment.

As petitioner school is run by a religious order, it is but expected that good behavior and proper department, especially among the ranks of its own employees, are major considerations in the fulfillment of its mission. Under the circumstances, the sisters cannot be faulted for deciding to terminate private respondent whose presence "has become more a burden rather than a joy" and had proved to be disruptive of the harmonious atmosphere of the school.

Moreover, there is no dispute as to the existence of such just cause for petitioners have presented sufficient evidence attesting to private respondent's unsavory character. On the other hand no evidence was offered by private respondent to controvert the charges and statements of petitioners and their witnesses, beyond a general denial that the same were "imaginal (sic) and "fanciful" along with unsubstantiated allegations that her dismissal was allegedly due to her union activities. Instead, the fact that there was sufficient basis for termination of the services of private respondent was implicitly conceded by public respondent when, in its assailed resolution, it's remarked that —

> "While the dismissal, of complainant is illegal, it is not whimsical, malicious and wanton. The record shows that complainant is not without fault, for what precipitated her separation was her behavior and department in her inter-personal relationship with her co-employees and the students which respondents could not relish with approval. The decision to dismiss her was not personally ill motivated."[13]

On the matter of illegal dismissal, petitioners do not dispute the findings, and in effect admit, that private respondent was denied her right to due process. As found by the labor arbiter, no hearing on the impending dismissal was conducted as would have afforded private respondent an opportunity to explain her side and if need be, to defend herself. The petitioners notified her of the school's decision to terminate her services. But notice alone, without the requisite hearing does not suffice. Albeit with some ambiguity which will hereafter be clarified, this Court has held that:

> "Under the Labor Code, as amended, the requirements of lawful dismissal of an employee by his employer are two-fold: the substantive and the procedural. Not only must the dismissal be for a valid or authorized cause as provided by law (Arts. 279. 281, 282-284), but the rudimentary, requirements of due process — notice and hearing must also be observed before an employee may be dismissed (Art. 277[b]). One cannot go without the other, for otherwise the termination would, in the eyes of the law, be illegal."[14]

Nevertheless, we find no merit in public respondent's ratiocination, quoting the labor arbiter, that:

> "It is likewise the finding (of) and this Branch so holds that complainant was illegally dismissed. This finding is anchored on the lack of due process. In this case complainant was not afforded the opportunity to defend herself in a hearing called for the purpose. She was just summarily dismissed contrary to the provision(s) of Batas Pambansa Bilang 130 and its Implementing Rules."[15]

Clearly, therefore, its ruling that private respondent was illegally dismissed was premised solely on the fact of alleged lack of procedural due process, without regard to whether or not there was lawful cause for such dismissal, which latter aspect constitutes the element of substantive due process. We accordingly proceed to resolve the issue that is thereby presented.

It is the contention of petitioners that dismissal for case but without due process does not warrant an order for reinstatement or separation pay, as the case may be. nor of backwages, for these are sanctions that pertain to dismissals without just cause. On the other hand, arbitrary dismissal for just cause only warrants an award of indemnity for the dismissed employee.

We grant our imprimatur to this submission of petitioners, just as we view with disfavor public respondent's intransigence on the matter in this and other cases despite our pronouncements thereon.

In the landmark case of Wenphil Corporation vs. National Labor Relations Commission, et. al.,[16] and consistently reiterated in substantially identical cases[17] that followed, the rule was stated thus:

> "The Court holds that the policy of ordering the reinstatement to the service of an employee without loss of seniority and the payment of his wages during the period of his separation until his actual reinstatement but not exceeding three (3) years without qualification or deduction, when it appears he was not afforded due process, although his dismissal was found to be for just and authorized cause in an appropriate proceeding in the Ministry of Labor and Employment, should be re-examined. It will be highly prejudicial to the interests of the employer to impose on him the services of an employee who has been shown to be guilty of the charges that warranted his dismissal from employment. Indeed, it will demoralize the rank and file if the underserving, if not undesirable, remains in the service.
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> "Under the circumstances the dismissal of the private respondent for just cause should be maintained. He has no right to return to his former employer.

> "However, the petitioner must nevertheless be held to account for failure to extend to private respondent his right to an investigation before causing his dismissal. The rule is explicit as above discussed. The dismissal of an employee must be for just or authorized cause and after due process. Petitioner committed an infraction of the second requirement. Thus, it must be imposed a sanction for its failure to give a formal notice and conduct an investigation as required by law before dismissing petitioner from employment. Considering the circumstances of this case petitioner must indemnify the private respondent the amount of P1,000.00. The measure of this award depends on the fact of each case and the gravity of the omission committed by the employer." (Emphasis ours.)

Rubberword (Phils.) Inc. et. al. vs. National Labor Relations Commission, et al., supra, supplies the rationale for this noteworthy doctrine in labor law, in this wise:

> "It is now axiomatic that if lust cause for termination of employment actually exists and is established by substantial evidence in the course of the proceedings before the Labor Arbiter, the fact that the employer failed, prior to such termination, to accord to the discharged employee the right of formal notice of the charge or charges against him and a right to ventilate his side with respect thereto, will not operate to eradicate said just cause so as to impose on the employer the obligation of reinstating the employee and otherwise granting him such other concomitant relief as is appropriate in the premises."

A close scrutiny of the facts of the cases relied on by public respondent, namely, De Leon vs. NLRC, et al.,[18] Atlas Consolidated Mining and Development Corporation vs. NLRC. et al.,[19] Tingson, Jr., et al., vs. NLRC. et al.,[20] De Vera vs. NLRC., et al.,[21] and Salaw vs. NLRC. et al.,[22] reveals that either there was no lawful cause or no basis for the claim of loss of confidence or the same was not sufficiently established, aside from the fact that there was a denial of due process, thus indubitably justifying the order for either reinstatement or payment of separation pay with backwages. The

rulings in these cases are merely in compliance with the strictures of the Labor Code, to wit:

> "ARTICLE 279. Security of Tenure. — In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. 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."

However, no refuge can be sought by respondents under the aforecited cases or statutory foundation. They are not controlling insofar as the instant case is concerned in view of the marked differences in the factual features, specifically on the presence or lack of lawful cause for dismissal. The seeming conflict in the cases respectively relied on by the contending parties is, consequently, more apparent than real.

It stands to reason that the separation of private respondent from the service is justified as borne out by the circumstances of this case, and is bolstered by the jurisprudential tenet of long and indisputable standing that —

> "An employer cannot legally be compelled to continue with the employment of a person who admittedly was guilty of misfeasance or malfeasance towards his employer, and whose continuance in the service of the latter is patently inimical to his interests. The law, in protecting the rights of the laborer, authorizes neither oppression nor self-destruction of the employer."[23]

This being so, there can be no award for backwages, for it must be pointed out that while backwages are granted on the basis of equity for earnings which a worker or employee has lost due to his illegal dismissal,[24] where private respondent's dismissal is for just cause, as is the case herein, there is no factual or legal basis to order payment of backwages; otherwise, private respondent would be unjustly

enriching herself at the expense of petitioners.[25] Where the employee's dismissal was for a just cause, it would be neither fair nor just to allow the employee to recover something he has not earned or could not have earned.[26]

Neither can there be an award for separation pay. In Cosmopolitan Funeral Homes. Inc. vs. Maalat. et al.,[27] we reiterated the categorical abandonment of the doctrine that employees dismissed for cause are entitled to separation pay on the ground of social and compassionate justice. This ruling finds support in Section 7, Book VI of the Implementing Rules of the Labor Code which expressly states that:

> "SECTION 7. The just causes for terminating the services of an employee shall be those provided in Article 282 of the Code. The separation from work of an employee for a just cause does not entitle him to the termination pay provided in the Code, without prejudice, however, to whatever rights, benefits and privileges he may have under the applicable individual or collective bargaining agreement with the employer or voluntary employer policy or practice." (Emphasis supplied.)

It is true that, exceptionally and as an equitable concession, separation pay may be allowed as a measure of social justice but only in those instances where the employee is validly dismissed for causes other than serious misconduct or those reflecting on his moral character.[28] However, such exceptional circumstance does not obtain in the present case.

Verily, an award for payment of separation pay presupposes that the illegally dismissed employee would otherwise have been entitled to reinstatement. Where, as in this case, there is sufficient basis to dismiss private respondent (aside from the obvious existence of strained relations between the parties) which accordingly is a lawful impediment to her reinstatement, an award for separation pay would be a specious inconsistency. Not being entitled to reinstatement, private respondent cannot legally be entitled to separation pay.

Finally, private respondent is not entitled to recover attorney's fees since the instant case clearly does not fall under either the general

rule therefor or any of the exceptions thereto as enunciated in Article 2208 of the, Civil Code.

**IN VIEW OF ALL THE FOREGOING**, the dispositions of public respondent in its Resolution dated June 24, 1992 are hereby **ANNULLED** and **SET ASIDE**. Petitioners are, however, ordered to **INDEMNIFY** private respondent in the amount of P1,000.00 concordant with the current jurisprudential norm.

**SO ORDERED.**

**Narvasa, *C.J.*, Feliciano, Nocon and Campos, Jr., *JJ.*, concur.**

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[1] Fifth Division, Cagayan De Oro City; Per Commissioner Leon G. Gonzaga, Jr., with the concurrence of Presiding Commissioner Musib M. Buat and Commissioner Oscar N. Abella; Rollo, 14-28; Original Record, 290-302.
[2] Annex/Exhibit 4; Original Record. 55.
[3] Original Record, 1.
[4] Ibid., 5.
[5] Complainant's Position Paper, 1-3, Original Record, 39-41.
[6] Original Record, 14-15.
[7] Ibid., 29.
[8] Per Labor Arbiter Leon P. Murillo; Original Record, 127.
[9] Rollo, 22-23; Original Record, 123-125.
[10] RJL Martinez Fishing Corp. vs. NLRC, et al., 127 SCRA 454 (1984); Murillo vs. Sun Valley Realty, Inc., et al. 163 SCRA 271 (1988).
[11] Asim, et al. vs. Castro, etc., et al. 163 SCRA 344 (1988).
[12] Original Record, 85-88.
[13] Rollo. 25.
[14] San Miguel Corporation vs. NLRC, et al., 173 SCRA 314 (1989).
[15] Rollo, 24; Original Record, 125.
[16] 170 SCRA 69 (1989).
[17] Seahorse Maritime Corporation, et al. vs. NLRC, et al. 173 SCRA 390 (1989); Shoemart. Inc., et al. vs. NLRC et al. 176 SCRA 385 (1989); De la Cruz vs. NLRC, et al. 177 SCRA 626 (1989); Rubberworld (Phils.), Inc. et al. vs. NLRC, et al., 183 SCRA 421 (1990); Great Pacific Life Assurance Corporation vs. NLRC, et al., 187 SCRA 694 (1990); Kwikway Engineering Works vs. NLRC, et al., 195 SCRA 526 (1991); Pacific Mills Inc. vs. Alonzo, 199 SCRA 617 (1991).
[18] 100 SCRA 691 (1980).
[19] 167 SCRA 758 (1988).
[20] 185 SCRA 498 (1990).

[21] 200 SCRA 441: (1991).
[22] 202 SCRA 7 (1991).
[23] Manila Trading Supply Co. vs. Hon. Zulueta. et al., 69 Phil. 485 (1940); Stanford Microsystems, Inc. vs. NLRC, et al., 157 SCRA 410 (1988); Century Textile Mills, Inc., et al. vs. NLRC, et al., 161 SCRA 528 (1988); San Miguel Corporation vs. NLRC, et al., 174 SCRA 510 (1989).
[24] New Manila Candy Workers Union (NACONWA-PAFLU) vs. Court of Industrial Relations, et al., 86 SCRA 37 (1978); Durabilt Recapping Plant & Co. vs. NLRC. et al., 152 SCRA 328 (1987): Chong Guan Trading vs. NLRC, et al., 172 SCRA 831 (1989).
[25] Philippine Airlines, Inc. vs. NLRC, et al., 180 SCRA 555 (1989).
[26] Santos vs. NLRC. et al., 154 SCRA 166 (1987).
[27] 187 SCRA 108 (1990), citing Philippine Long Distance Telephone Co. vs. NLRC, et al, 164 SCRA 671 (1988).
[28] Osias Academy vs. Department of Labor and Employment, et al., 172 SCRA 468 (1989); Philippine Long Distance Telephone Co. vs. NLRC, et al., supra.