

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**ESPIRITU SANTO PAROCHIAL
SCHOOL, SISTER MARY MARTINEZ,
and SISTER MA. ENCARNACION DE
LOS SANTOS,**

Petitioners,

-versus-

**G.R. No. 82325
September 26, 1989**

**NATIONAL LABOR RELATIONS
COMMISSION, ESPIRITU SANTO
PAROCHIAL SCHOOL FACULTY
ASSOCIATION, EVANGELINE LOPEZ,
CONSTANCIA TEMPONGKO, MARISSA
ASIDAO, MARTIN BRAVO, EDITHA
ESPIRITU, VIVIAN CAPATI, and
CORAZON HADAP,**

Respondents.

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DECISION

SARMIENTO, J.:

This Suit for *Certiorari* under Rule 65 of the Rules of Court was brought against the National Labor Relations Commission upon the

finding that the seven individual private respondents had been illegally dismissed by the petitioners. The facts are not disputed.

The said seven individual private respondents were hired by the petitioner-school on a probationary basis on June 1, 1984,^[1] whereupon, sometime between April 1 and 15, 1985,^[2] their services were terminated. On May 8, 1985, they charged the petitioner-school with unfair labor practice and illegal dismissal. They likewise asked for damages. The labor arbiter ruled as follows:

WHEREFORE, judgment is hereby rendered:

- a. finding respondents guilty of unfair labor practice, thus enjoining them to cease and desist from committing acts herein complained of;
- b. ordering respondents to reinstate herein individual complainants to their positions with full backwages from the date corresponding to the start of the school year 1985-1986 until actually reinstated;
- c. ordering respondent to pay complainant the sum equivalent to ten percent (10%) of the total award as attorney's fees; and
- d. dismissing the claim for damages for insufficiency of evidence.

The Socio-Economic Analyst of this Office is directed to effect a computation of the aforestated backwages of the individual complainants, whose Report shall form part of this decision.^[3]

The school appealed to the National Labor Relations Commission, but the decision of the labor arbiter was affirmed on February 29, 1988 except for the charge of unfair labor practice which was dismissed for insufficiency of evidence.

In the present petition, the school submits the following issues:

1. The respondents-teachers were not dismissed. Their contracts have, simply, expired and not renewed.
2. Their contracts subsist from schoolyear to schoolyear, and unless renewed, the same automatically expire;
3. Although Article 282 of the Labor Code (now, Article 281) fixes probationary periods to six months *Biboso vs. Victorias Milling Company, Inc.*,^[4] and *Buiser vs. Leogardo*^[5] supposedly held that the contract of probationary employment may provide otherwise;
4. The school is not guilty of unfair labor practice, much less, of illegal dismissal, because school authorities, in terminating the seven private respondents' services, did not allegedly know that they were union members. Furthermore, it was the head teachers themselves, also leaders of the union, who recommended termination.

In their comment, however, the said seven private respondents-teachers contend as follows:

1. Under the Manual of Regulations for Private Schools, teachers undergo a probationary period of three years, during which, they may be dismissed only for a just cause.
2. Since the said seven teachers were laid off after less than one year of probationary service, the lay-off was illegal.

The Solicitor General submits that the National Labor Relations Commission committed no grave abuse of discretion for the following reasons:

1. There was no existing contract between school and teachers stipulating probationary employment on a schoolyear-to-schoolyear basis. What the teachers have are only their appointment papers.

2. The petitioner can not rely on the decision in Biboso because, in that case, the employment contracts were specifically on a year-to-year basis.
3. The teachers' dismissal was therefore without just cause and accordingly, null and void.
4. There is no basis "not to re-hire"^[6] the said teachers in view of their performance ratings given by head-teachers ranging from 80% to 90%.

The Court agrees with the labor arbiter that:

The issues thus obtaining are: (a) whether or not the individual complainants were lawfully dismissed when respondents failed to re-hire them; (b) whether or not respondents committed acts of unfair labor practice in terminating the services of individual complainants and (c) whether or not complainants are entitled to damages resulting from the dismissal of individual complainants.^[7]

The Court also agrees that:

There is no dispute that the individual complainants were probationary employees pursuant to the policy enunciated by the Bureau of Private Schools extending the probationary employment of teachers to three (3) years.

The above policy, however, did not repeal or render inoperative Article 282 of the Labor Code, as amended which provides that:

The services of an employee who has been engaged on a probationary basis may be terminated for a just cause or when he fails to qualify as a regular employee in accordance with reasonable standards made known to the employee at the time of his engagement.

We see no clear evidence that the individual complainants were terminated either for a just cause or that they have failed to qualify as regular employees in accordance with the standards set by respondent school made known to the former at the time

of hiring. In fact it is shown that the individual complainants were issued individual certifications of employment and whose performance ratings ranged from 85% to 90% (Annexes “D”, “D-1” to “D-5” – Complainants’ Position Paper).^[8]

The Court, finally, stamps its approval on the following:

It is not denied that the complainants were hired as probationary teachers, but the reason for their termination should nevertheless be for a valid cause or causes. It must be clearly shown that they have failed to meet certain standards or criteria made known to them beforehand. It cannot be said that they failed to meet respondents’ standards because of their high marks of performance. Hence, We see no valid reason for the school not to re-hire them, except, of course, for some reasons known only to the school authorities but which they did not make known to herein complainants.^[9]

As to contentions, advanced so vehemently by the petitioners, that “the decision not to re-hire the seven individual respondents was made by the three head teachers of the school, all of them leaders and organizers of the respondent union^[10] and that “[h]ence, there could not have been any anti-union bias,”^[11] suffice it to say that the fact that no “anti-union bias” has been shown is not entirely exculpatory. The fact remains that the private-respondents teachers were dismissed not for cause, when, under both the Manual of Regulations for Private Schools and Article 281 (formerly Article 282) of the Labor Code, probationary workers may be terminated only for cause.

It will not also do to say that since the contracts to teach in question were for fixed periods, they die a natural death, so to speak, on the expiration of such periods, which is supposed to be Biboso’s teaching. It should likewise be pointed out, however, and so we reiterate the Solicitor General’s very submission, that in Biboso, the contracts to teach were for definite periods. (“None of the complainants who testified disputed the fact that they all signed identical contracts of employment which provided for a definite period of employment expiring June 30 of the particular school year.”^[12] On the other hand, the contracts involved here stipulate no period. In that eventuality, the three-year probation period provided by the Manual of

Regulations for Private Schools must apply. Under the Manual, no teacher may be removed unless for just and valid causes. The petitioners can not, therefore, successfully invoke Biboso. Resort therefore to the Manual is not only justifiable but unavoidable.

That “it is of common knowledge that in all private schools, the first three years of probationary employment .. is on a schoolyear basis.”^[13] is self-defeating. First, the Court is unaware of any “common knowledge” thereof. If such a custom indeed exists, it has not been adequately proven. Under Article 12 of the Civil Code. “[a] custom must be proved as a fact, according to the rules of evidence.”

Second, the petitioners can not talk of a “three-year probationary employment expiring each schoolyear.” If it expires per schoolyear, it is not a three-year period.

Recourse to the school manual of the petitioner school, which provides:

III. ACADEMIC PERSONNEL POLICIES

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C. PROBATIONARY:

Teachers who have not served the school for three consecutive years are classified as non-permanent. They are under probation. Their contract with the school automatically terminates effectively (at the) end of every school year unless the teacher concerned is dismissed for cause or has resigned from the service before the end of the school year. Probation is a test of moral and professional fitness of a teacher.^[14]

is equally unavailing. The school manual must yield to the decree of the Manual of Regulations for Private Schools of the Department of Education, which has the character of law.

While the facts are hazy as to the existence of an “anti-union bias,” so strongly stressed by the petitioners, the same can not validate the

questioned dismissals that were, unarguably, without the sanction of a legal cause.

Accordingly, we find no grave abuse of discretion committed by the respondent National Labor Relations Commission in its assailed decision.

WHEREFORE, the Petition is **DENIED**. The Decision of the public respondent promulgated on February 29, 1988, is **AFFIRMED** in toto except that back wages shall be limited to three years.

No costs.

SO ORDERED.

**Melencio-Herrera, Paras and Regalado, JJ., concur.
Padilla, J., took no part.**

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- [1] Rollo, 28.
 - [2] Id., 52.
 - [3] Id., 26.
 - [4] No. L-44380, March 31, 1977, 76 SCRA 250.
 - [5] No. 63316, July 31, 1984, 131 SCRA 151.
 - [6] Id., 69.
 - [7] Id., 27.
 - [8] Id., 27-28.
 - [9] Id., 28-29.
 - [10] Id., 6-7; emphasis in the original.
 - [11] Id., 7.
 - [12] Supra, 252.
 - [13] Rollo, id., 9.
 - [14] Id., 9-10; emphasis in the original.