SUPREME COURT
THIRD DIVISION

PHILIPPINE SCHOOL OF BUSINESS ADMINISTRATION (PSBA MANILA),
***Petitioner*,**

-versus-

G.R. No. 106621
June 8, 1993

NATIONAL LABOR RELATIONS COMMISSION (First Division) and PSBA-EMPLOYEES UNION-FEDERATION OF FREE WORKERS (FFW) AND ITS OFFICERS/MEMBERS, RICARDO R. ABREU, LEILA ACUNA, ENRIQUE ADALLA, EMMANUEL AGUSTIN, ASUNCION ALON, BENITO ANG, CARLITO ANTONIO, VIRGINIA ANTONIO, JESUSA ATAS, ERLINA BASANA, WILLIAM BUCE, SUSAN CRUZ, SUSAN DE CASTRO, EDNA DE LOS SANTOS, EMILIO ERANA, LOURDES ESPION, PRISCILLA GARCIA, JOMEL GENERAL, CYNTHIA LANDOG, ELIZABETH MACATULAD, DANILO MANALO, MODESTO MEJIA, DIOSDADO MEJIA, MENDY NICANOR, METRODIO OLAHEY, CRISTINA PASICOLAN, GLORIA PEREZ,

ERLINDA PINEDA, EDGARDO REYES, FELIZARDA SALVIEJO, DANILO SAMAR, LOLITA SY, MAXIMO TUNDAG, FRANCISCO VALERIO, ANTONETTE VON VIRTO, NADIA YAMBAO AND ANABELLA YUTUC,
Respondents.
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D E C I S I O N

ROMERO, *J.*:

Private respondents who are faculty members and administrative staff employed with petitioner college are also members of the PSBA Employees Union-FFW.

Petitioner school is located in a building it owns at R. Papa St. and in two rented buildings at P. Paredes St. It also maintains a campus at Aurora Blvd., Quezon City (PSBA, Q.C.) which, it claims, is an independent and distinct entity from that on its Manila Campus. On September 25, 1985, petitioner, through its President, Juan D. Lim, entered into a Memorandum of Agreement with Gunung Sewi Foundation For Advancement of Management and Economics (G.S. FAME), Jakarta for the purpose of establishing a school, contributing its expertise in business education by sending qualified teachers and professors. For its contribution, it received royalty and supervision fees.

On March 20, 1990, petitioner issued a memorandum informing its faculty members and employees of the expiration of its lease contract on its two buildings at P. Paredes St. and its non-extension in view of the increased rental rate of P182,000 per month. However, it assured its personnel that it would still continue to operate its school at R.

Papa St. Petitioner also announced that it would undertake a retrenchment program by reducing its teaching and administrative staff. Consequently, on April 19, 1990, private respondents received letters of termination effective on April 1, 1990.

Questioning said retrenchment, private respondents filed a complaint for illegal dismissal. They alleged that the retrenchment was unwarranted since there was no evidence showing that petitioner experienced financial losses and that actually, it was aimed at busting their union.

On its part, petitioner alleged that it suffered business reverses, as shown by a decrease in its enrollment by about 50%. In monetary terms, this decline translated into P919,022.40, P998,452.29 and P430,007.32 for the years 1987, 1988 and 1989, respectively. This situation was aggravated by the fact that a new rental rate of P182,000.00, as opposed to the old rental rate of P16,000.00 a month, was imposed on its leased premises at P. Paredes St. Petitioner also denied the allegation of private respondents that PSBA Manila and PSBA Quezon City are one and the same, since the latter was incorporated only in 1980.

In its decision dated November 2, 1990, the Labor Arbiter did not give credence to petitioner's allegations that it was suffering business reverses. While there may have been losses in its operations for the years 1987-88, the same was too insubstantial as to warrant retrenchment. By failing to observe a fair standard in the selection of employees to be retrenched, petitioner committed an unfair labor practice which rendered nugatory the existing CBA between petitioner and the union composed of private respondents. Although the Labor Arbiter declared the retrenchment invalid, he found private respondents' reinstatement no longer feasible because of the closure of the P. Paredes campus. Accordingly, the Labor Arbiter ordered petitioner to pay the dismissed union and faculty members full back wages and other benefits from the date of their dismissal on June 1, 1990 up to promulgation of its decision with separation pay equivalent to one (1) month pay for every year of service. The total amount of the monetary award was computed at P2,010,068.90.[1]

Both parties appealed to the National Labor Relations Commission (NLRC). In its decision dated March 18, 1992, the NLRC affirmed, with modification, the decision of the Labor Arbiter by ordering petitioner to reinstate private respondents to their former or equivalent positions with payment of back wages amounting to P2,764,402.00 from date of dismissal. Separation pay was deleted.[2]

Hence, this appeal based on the following arguments that:

> PUBLIC RESPONDENT GRAVELY ABUSED ITS DISCRETION AND SERIOUSLY ERRED IN.
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> FINDING THAT AFORE-NAMED INDIVIDUAL PRIVATE RESPONDENTS WERE UNLAWFULLY RETRENCHED FROM EMPLOYMENT.
>
> FINDING THAT PETITIONER WAS GUILTY OF UNION BUSTING IN RETRENCHING THE SERVICES OF THE PRIVATE INDIVIDUAL RESPONDENTS.[3]

It is the principal argument of petitioner that retrenchment of private respondents was justified as a cost-saving measure to insure petitioner's financial and commercial viability in view of the decrease in enrollment of its student population and as an answer to redundancy occasioned by the closure of its P. Paredes campus. Corollarily, petitioner avers that the NLRC cannot substitute its right to make a business judgment.

We deny the petition. After a careful perusal of the pleadings before us, we find no reason to deviate from public respondent's conclusion that retrenchment was not a justifiable ground in dismissing private respondents inasmuch as the program of retrenchment was implemented in the third consecutive year when its losses had already decreased by 43%. From a loss of P919,022.40 in 1987, petitioner should have immediately implemented its retrenchment in 1988 when its losses ballooned to P998,452.29. The succeeding year saw an increased enrollment resulting in a marked decline in losses by 43%. Considering that the business had picked up, retrenchment, being a drastic business move, should not have been resorted to.

To say that PSBA Manila's financial operations are solely confined to its Manila campus is an understatement, inasmuch as its income from G.S. FAME Indonesia must be taken into account, too. Although PSBA Manila claims that it is an entirely separate entity, this assertion does not inspire belief in view of its explicit admission that revenues from said unit were reflected in its Income Statement as "Other income."[4] Petitioner's statement that, "if not for the royalty fees remitted by G. S. Fame, petitioner PSBA Manila would have incurred business losses from operations totaling P3,389,065.53,"[5] is an admission that indeed G.S. Fame of Indonesia is part of the financial setup of PSBA Manila.

Petitioner should be mindful that business losses, as a just cause for retrenchment, must be proved, for they can be feigned[6] In retrenching employees, employers are called upon to analyze the implications of their decision so as not to jeopardize the livelihood of their employees.

On the matter of the increased rental on its two leased buildings, we find it hard to believe that petitioner failed to take anticipatory measures to prevent the closure of its school based on the imminent expiration of its lease. A closure of a school is a decision not to be taken lightly, for its implications are far-reaching in terms of displaced teachers, administrative personnel and students.

Denying the charge of union-busting, petitioner pointed out that if this were the case, the retrenchment program would have affected only union members, but in the case at bar, it affected also non-union members. In support of its position, petitioner cited the names of non-union members it dismissed.[7] We are not persuaded. The Labor Arbiter and the NLRC opined that petitioner committed acts constituting union-busting. This conclusion, derived from facts at hand, can no longer be changed because findings of administrative agencies, such as the NLRC, are generally accorded, not only respect, but even finality.[8]

WHEREFORE, the Decision of the NLRC dated March 18, 1992 is hereby **AFFIRMED**. Petitioner is hereby ordered to **REINSTATE** private respondents to their former or equivalent positions with

payment of back wages equivalent to three (3) years from the time of their dismissal without qualification and deduction.

SO ORDERED.

Feliciano, Davide, Jr. and Melo, *JJ.*, concur.
Bidin, *J.*, is on leave.

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[1] Rollo, p. 36.
[2] Rollo, p. 52.
[3] Rollo, p. 9.
[4] Rollo, p. 14.
[5] Ibid.
[6] Villena vs. NLRC, G. R. No. 90664, February 7, 1991, 193 SCRA 686; Garcia vs. NLRC, No. L-67825, September 4, 1987, 153 SCRA 639.
[7] Petition, p. 7.
[8] Reyes Lim Co. vs. NLRC, G. R. No. 87012, September 25, 1991, 201 SCRA 772; Pan Pacific Industrial Sales Co. vs. NLRC, G.R. No. 96191, March 4, 1991, 194 SCRA 633.
