SUPREME COURT
SECOND DIVISION

RIZAL-MEMORIAL COLLEGES FACULTY UNION-DAVAO WORKERS UNION (RMCFU-DWU), NENY ARGUNA, HELEN BASUG, PAZ BAYQUEN, RODOLFO BRAGA, GLADYS CAYOT, RAQUEL DANGO, AURORA DIZON, FELICIANO VILLANUEVA, FELICIDAD ESPINO, SHIELA BUOT, LINDA ESTEMBER, AMELIA FERIDO, ANTONIO FULIGA, SOFIA GUNDRAN, PATROCINIA DE JESUS, ZENIA LACUESTA, CARMEN LAURICIO, FRANCISCA LIMSIACO, LINDA LOGAN, LORETA MAGPANTAY, JOSE MAJADUCON, ARNALDO MASIGLAT, EMMA MATEO, FILOMENA MORALES, ANICETO DANGO, SYLVIA RELOPEZ, ELENA DE LOS REYES, DULCE SAAVEDRA, CARMENCITA SOSMEÑA, LUVIMIN TABAY, ANGELINA TIPACE, LILIA VILLANUEVA, AMADA VIÑAS, and MERLINDA YAP,

***Petitioners*,**

-versus-

G.R. Nos. 59012-13
October 12, 1989

NATIONAL LABOR RELATIONS COMMISSION, LEOPOLDO ABELLERA,

RIZAL MEMORIAL COLLEGES and RIZAL MEMORIAL COLLEGES FACULTY UNION,[*]

Respondents.

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D E C I S I O N

REGALADO, *J.*:

This Decision provides the denouement to the dispute between the contending parties herein which started almost two decades ago under the aegis of Republic Act No. 876, otherwise known as the Magna Carta of Labor, and culminated in the unfair labor practice case subject of the petition at bar. Petitioner Rizal Memorial Colleges Faculty Union (RMCFU, for short), a legitimate labor organization affiliated with the Davao Worker's Union (DWU, for brevity), together with the other individual petitioners who are members thereof, charge their employer, respondent Rizal Memorial Colleges (hereinafter called RMC) and its correspondents for allegedly having committed acts of interference with said workers' right to organization.

On January 15, 1970, Rodolfo Braga and Dionisio B. Jaboni, presidents of RMCFU and DWU, respectively, sent a letter to the board of trustees of respondent college asking for direct recognition and collective bargaining. Respondent Leopoldo M. Abellera, as president of the school, replied on January 20, 1970 that the letter would be presented to the board of trustees at its meeting on February 14, 1970. Abellera further informed them of the receipt of another letter from respondent Rizal Memorial Colleges Faculty League (hereafter RMCFL) likewise requesting recognition and demanding collective bargaining.[1]

On January 26, 1970, RMCFU filed a petition for direct certification, as the sole and exclusive bargaining representative, with the then Court of Industrial Relations claiming that it was the only union in

the bargaining unit and its members constituted the majority of the faculty of RMC. RMCFL intervened in said proceedings on February 9, 1970, alleging that it had already filed an application for registration as a labor union with the Department of Labor, further claiming that its members constituted the majority of the teachers and instructors in RMC who were eligible to vote in a certification election, and contending that the majority of the members of petitioner union were not legally qualified to be union members since they were stockholders of RMC.[2]

On March 17, 1970 RMCFU staged a strike, having theretofore filed a notice thereof on the ninth of the same month.[3] In a complaint dated March 14, 1970, petitioner filed with the then Court of Industrial Relations an unfair labor practice case, docketed as ULP Case No. 282, alleging that "Leopoldo M. Abellera has initiated, dominated, assisted or contributed to the organization of the so-called Rizal Memorial Colleges Faculty League which is composed of few teachers or instructors employed with the respondent school for the primary purpose of busting the FACULTY UNION and delaying its recognition by the management," and that the president of the petitioner union, Rodolfo D. Braga, had been subjected to discrimination by respondent Abellera in regard to the terms and conditions of his employment.[4]

What ensued thereafter, according to petitioner, was the holding of a meeting on April 4, 1970 between the striking teachers and Abellera wherein the picketing teachers allegedly agreed to return to their classrooms, with respondent Abellera having made, inter alia, the following commitments substantially embodied on April 6, 1970 in a "return to work agreement,"[5] viz:

> "a) That the employer will not take any retaliatory measures against the members of the striking union by reason of any union activities;
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> b) That the employer shall not dismiss any member of the striking union by reason of union activities and that there would be no hiring of new teachers, unless the present teachers cannot cope up (sic) with the work;

c) That job security shall be extended to the striking members of the union; and

d) That the striking members shall be paid completely their salary during the entire duration of the strike."[6]

Petitioners, however, claim that the picket lines were thereafter lifted and the teachers returned to work, but when the aforesaid agreement was presented to Abellera and the board of trustees, they refused to affix their signatures thereto.[7]

Significantly, while the public respondent agrees with the foregoing statement of facts, private respondents vigorously deny that on April 4, 1970 there was such a conference about the strike. They claim that "it was purely a faculty meeting that was held on that date which dealt exclusively on the rules and regulations of the Bureau of Private Schools and of the Rizal Memorial Colleges itself," hence no agreement could be said to have been arrived at.[8]

Likewise controverted by private respondents is the claim of petitioners that Abellera again promised that he would take in all the striking teachers after the second strike of the teachers commenced on June 20, 1970. The reason advanced by the teachers for staging this second strike was the dismissal of Abelardo Posadas, Jr., Lilia Villanueva, Feliciano Villanueva, Abelardo Celestial and Jose Majaducon. Petitioners aver that they lifted the strike on July 6, 1970 to show their good faith to Abellera who met with their union leader and one of their lawyers, in which meeting specific issues which could lead to the settlement of the strike were discussed. It was also during this meeting when Abellera was supposed to have promised to reinstate all teachers who had struck anew.[9]

It is not sufficiently apparent from the records as to whether such agreements were actually made nor can we make definite findings thereon at this late stage. What is adequately clear to. us, however, is that a dispute between the parties resulted in the filing by the petitioners on August 1, 1970, of Unfair Labor Practice Case No. 296 with the former Court of Industrial Relations based on the following grounds: (1) refusal to recognize and bargain with the complainant RMCFU; (2) dismissal, harassment, discrimination and intimidation

of RMCFU members by Abellera; and (3) the RMC Faculty League is dominated and assisted by the employer.[10]

With the advent of the Labor Code and the resultant abolition of the Court of Industrial Relations, the aforesaid cases were transferred to Regional Office No. XI, Davao City, of respondent National Labor Relations Commission as NLRC Cases Nos. 70-ULP-XI-77 and 71-ULP-XI-77. On December 5, 1978, Assistant Regional Director Magno C. Cruz rendered a decision in said cases, the decretal portion of which reads:

> "RESPONSIVE TO ALL THE FOREGOING, judgment is hereby rendered:
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> 1. Declaring respondents Rizal Memorial Colleges and Leopoldo Abellera guilty of unfair labor practice for refusal to renew the teaching contracts of Felicidad Espino, Patrocinia de Jesus, Francisca Limsianco (sic), Dulce Saavedra, Raquel Dango, Sylvia Relopez, Loreta Magpantay, Carmen Lauricio, Angelina Magpantay, Helen Basug and Amelita Ferido for no other reason than their union activities;
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> 2. Ordering respondents Rizal Memorial Colleges and Leopoldo Abellera to reinstate the above-enumerated teachers to their former positions but fixing their teaching loads in accordance with Item 78 of the Manual of Instructions for Private Schools or, in lieu thereof, to pay the termination pay of the above-enumerated teachers in an amount equivalent to one-half (1/2) month for every year of service, computed on the basis of their earnings immediately prior to their separation from the service;
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> x x x
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> 5. Finding the non-renewal of the teaching contracts of part-time teachers to be valid and legal; and

6. Ordering the Rizal Memorial Colleges and Leopoldo Abellera to cease and desist from further committing the unfair labor practice acts complained of."[11]

The assistant director found that the refusal of therein respondents to recognize and negotiate with RMCFU during the pendency of the petition for certification election was legal because to do so would be unfair labor practice against RMCFL. He consequently ruled that unless and until RMCFU is certified as the sole and exclusive bargaining representative of the faculty members, the employer could not be compelled to confer with RMCFU for the execution of a collective bargaining agreement. Additionally, he found that there was insufficient proof to support the contention that RMCFL was dominated and assisted by RMC and Abellera.[12]

Applying the provisions of Sections 3 and 4 of Republic Act No. 875, as amended by Republic Act No. 3350, which was then the governing legislation, the charge of unfair labor practice was upheld but only because of the illegal dismissal of the eleven (11) teachers named therein. Their dismissal, according to the assistant director, was for no other reason than their union activities. This finding was made on the basis of a letter written by Abellera of the following tenor:

"1. We have definitely refused to renew our contract with the following because of their propensity to create intrigues in the school, to instigate others to abandine (sic) their classes and for other school violations. If we renew their contracts, WE ARE SURE OF HAVING ANOTHER STRIKE IN OUR SCHOOL THIS SEMESTER:

1. Mrs. Felicidad Espino
2. Mrs. Patrocinia de Jesus
3. Mrs. Francisca Limsiaco
4. Mr. Arnaldo Masiglat
5. Atty. Jose Majaducon
6. Mrs. Dulce Saavedra
7. Mrs. Raquel Dango
8. Mrs. Sylvia Relopez
9. Mrs. Loreta Magpantay
10. Mrs. Carmen Lauricio

11. Mrs. Angelina Magpantay
12. Miss Amelita Fendo
13. Miss Helen Lasug"[13]

With respect to the non-renewal of the contracts of Majaducon and Masiglat who were also included in the above list, no unfair labor practice was said to have been committed. The assistant director accepted Abellera's explanation that Majaducon's separation from the service was due to his decision to quit teaching and appear as collaborating counsel in a damage suit against former Mayor Elias B. Lopez of Davao City.

Arnaldo Masiglat, on the other hand, was one of the faculty members who received a letter from Abellera advising them that their teaching contracts with the school expired at the end of school year 1969-1970 and that they were within the three-year probationary period provided by law. Abellera stated in said letter that if they were still interested in teaching in the same school the following school year, they could apply therefor, attaching certain documents to their applications. Aside from Masiglat, the group included Pedro Pangan, Merlinda Yap, Gladys Cayot, Valeria Mata, Paz Bayquen, Marietta Gilay, Lucita Racaza, Erlinda Pinero, Amada Vinas and Filomena Morales.[14] As held in said decision, the records of the cases failed to show that the above-enumerated complainants had rendered at least three (3) years of continuous services as teachers, hence they could not be considered permanent employees pursuant to Item 75 of the Manual of Regulations for Private Schools.

The other petitioners who were part-time teachers were also held to have been legally terminated and validly replaced with full-time teachers, in accordance with Item 76 of the same manual which expresses the desirability of employing only full-time teachers. A full-time teacher was described therein as one whose total working day is devoted to the school, has no other regular remunerative employment, and is paid on a regular monthly basis regardless of the number of teaching hours.[15]

It was found that Virginia Aquino, Leticia Arkoncel, Josefina Avanzado, Lydia Capili, Alberto Celestial, Sr., Linda Logan and Susan Medalla were part-time teachers of RMC but full-time teachers in

other schools. On the other hand, Antonio Fuliga was an employee of the City Engineer's Office and Nena Arguna was an employee of the Bureau of Internal Revenue. Paz Bayquen left her job when she was called to teach in a public school; Mila Macalinao and Angel Alvaro transferred to Cebu City; Feliciano Villanueva left for the United States while Edgardo Buhay, a bank employee, was transferred to General Santos City. Rodolfo Braga went to Manila to review for the Bar examinations; Shiela Buot (nee Espino) did not report for duty on the first day of classes because she got married a few weeks before and went on her honeymoon; and Abelardo Posadas, Jr. and Lilia Villanueva were not qualified to teach as reflected in their transcripts of records. The aforesaid considerations were submitted as the reasons for the non-renewal of the teaching contracts of the aforesaid persons.[16]

No unfair labor practice was found when the respective teaching loads of the rest of the petitioners were reduced. The assistant director did not consider the same as harassment, relying on Item 78 of the aforesaid manual which provides as follows:

> "No instruction can be efficiently carried on over a considerable period of time if the teachers carry an unusually heavy teaching load and or excessive number of subject preparations. Elementary teachers shall be assigned to no more than full charge of one class and where departmental teaching is observed, to an equivalent load. Secondary teachers shall be assigned to not more than six daily forty minute periods of instruction. In college, the normal teaching load of a full-time instructor shall be eighteen hours a week. The teaching load of part-time instructors who are full-time employees outside teaching shall not exceed twelve hours a week."[17]

Definitely, no unfair labor practice was committed with respect to Sofia Gundran who was named as a complainant in the said cases and as a petitioner herein. The petitioner union did not deny Abellera's allegation that she was never dismissed. Abellera claimed that she was one of the teachers whom he rated very highly for efficiency and she was eventually appointed as acting dean of the College of Commerce.[18] This fact was reiterated by Abellera and RMC in their "Statement in Compliance with Resolution of 8 February 1988" where

they stated that Sofia Gundran now holds the position of assistant dean of the College of Commerce of RMC. Incidentally, in the same statement, respondents claim that Rodolfo Braga is now a full-time teacher with respondent RMC.[19]

Both parties not being satisfied with said decision, separate appeals were filed with the National Labor Relations Commission. On July 31, 1980, respondent commission promulgated a decision modifying the appealed decision by completely absolving RMC and Abellera from any liability for unfair labor practice. Public respondent, holding that there was no sufficient basis for holding the employer guilty of such illegal acts, observed that:

> "Considering that the teachers mentioned in the letter of Abellera were the ones who led the earlier strike, which was even flayed by the Assistant Director in his decision, the refusal of the respondent Abellera to renew their contracts was motivated by a desire to safeguard the rights of the school and its students. Moreover, there is no actual strike wherein it could be said that the respondent-appellants interfered with or prevented the right of the teachers concerned from participating therein. For this reason, we rule that there was no sufficient basis for holding respondents-appellants guilty of an unfair labor practice act. However, being permanent employees, by the non-renewal of their contracts, which is admitted by respondents, the teachers concerned were deemed constructively dismissed without just cause. Under the law then enforced, Republic Act 1052 as amended, otherwise known as the Termination Pay Law, they are entitled to separation pay equivalent to one-month salary or one-half month pay for every year of service, whichever is higher, a fraction of six months or more being considered as one year."[20]

Petitioners now seek the reversal of said decision of respondent commission in the present petition for certiorari. Specifically, it is prayed that "the decision under review be reconsidered and set aside and another one be entered declaring respondents RMC and ABELLERA guilty of unfair labor practice acts, ordering the reinstatement of petitioners and ordering further that they be paid back wages of three years and that said respondents should cease and

desist from committing unfair labor practice acts in the respondent school."[21]

A careful review of the entire records of these cases sustains the finding that unfair labor practice was actually committed, hence respondent commission erred in modifying the appealed decision of the assistant director on that score. The finding of unfair labor practice due to the employer's refusal to renew the teaching contracts of the eleven (11) faculty members referred to in the letter of Abellera should not have been disturbed by public respondent. It was established that said teachers were permanent employees who had rendered six (6) to twenty (20) years of service.[22] Their permanent status notwithstanding, they were dismissed because Abellera feared that if their contracts were renewed, there would be a strike in the school the following semester. This is indisputably an unwarranted interference with the right of workers to self-organization and to engage in concerted activities. An apprehension that there might be a future strike in the school is not a ground for dismissal of the workers. While a strike may result in hardships or prejudice to the school and the studentry, the employer is not without recourse. If the employer feels that the action is tainted with illegality, the law provides the employer with ample remedies to protect his interests. Decidedly, dismissal of employees in anticipation of an exercise of a constitutionally protected right is not one of them.

Neither can we accept respondent commission's theory, considering the positive factual findings thereon, that there was no actual strike hence it supposedly could not be said that the respondent school interfered with or prevented the right of the teachers concerned from participating therein. Furthermore, the existence of a strike was not of such pervasive significance because it is indubitable that the employees concerned were dismissed by reason of their union activities. No other reason is suggested by the facts of these cases which would support a contrary conclusion, especially if we consider that the teachers concerned were the ones who led the earlier strike.

The finding that unfair labor practice was committed should also cover the case of Majaducon whose contract was not renewed. Not only was he listed in the letter of Abellera which, as earlier stated, was the basis for the finding of unfair labor practice, but no sufficient

ground to validly dismiss him was established. Abellera claimed that Majaducon stopped teaching on his own volition supposedly because when he discovered that Majaducon was appearing as collaborating lawyer in a case against the former mayor, Majaducon was reminded that the school owed favors to the city government and the city mayor hence the school had to maintain cordial relations with them. Eventually, Majaducon was asked to make a choice whether to continue as a faculty member or to withdraw as a lawyer against the mayor. Such compulsion to make an unnecessary choice placed undue and unjustified pressure on the employee who otherwise would not have thought of leaving his employment as a teacher. There was no showing whatsoever that Majaducon's work as counsel interfered with his duties as a teacher. Majaducon's cessation from employment could not, therefore, be considered as voluntary on his part and was in the nature of a contrivance to effect a dismissal without cause.

The case of Arnaldo Masiglat is different. Although he was one of the teachers listed in the aforesaid letter of Abellera, the ground for dismissing him appears to be tenable. He was one of those teachers who were advised by Abellera of the expiration of their teaching contracts hence it was within the discretion of the school to terminate his services. No proof establishing his permanent status appears from the records, hence the termination of his employment was not due to dismissal but because of the expiration of his contract.

With respect to the other petitioners who were allegedly illegally dismissed, the records do not reveal any act of unfair labor practice. No countervailing evidence was presented to rebut the proof submitted by respondent RMC showing lawful causes for dismissing them. Neither was there any substantial evidence that they were dismissed for their union activities. The suspicion that they were dismissed for such reasons, when coupled with other facts which in themselves might have been inadequate to support an adverse finding against the employer, may suffice to sustain a finding that the employer violated the provisions of the law.[23] Such other complementary circumstances are, however, absent with respect to them.

Since, as a rule applicable to these cases, the Court cannot take cognizance of factual issues, and generally the findings of the

administrative bodies which decided these cases are binding on us, no evidence to prove the other allegations of the parties can be adduced or accepted in the present posture of this proceeding. Thus, we cannot pass on the contention that RMC was guilty of unfair labor practice for dealing with the teachers "one by one during the existence of the labor dispute and discouraging their union activities by publishing letters of union members who resigned."[24] For the same reason, we desist from making any pronouncement on the claim that Abellera was assisting RMCFL, allegedly a company dominated union.

IN VIEW OF THE FOREGOING, the decision of respondent commission is **MODIFIED** and respondents Rizal Memorial Colleges and Leopoldo Abellera are declared to have committed unfair labor practices. Petitioners Felicidad Espino, Patrocinia de Jesus, Francisca Limsiaco, Dulce Saavedra, Raquel Dango, Sylvia Relopez, Loreta Magpantay, Carmen Lauricio, Angelina Magpantay, Helen Basug, Amelita Ferido and Jose Majaducon are hereby **ORDERED** reinstated to the same or equivalent positions without loss of seniority rights, with backwages from the time of their termination. However, pursuant to our current jurisprudential policy, such backwages shall not exceed three (3) years, without any qualification and to be computed on the basis of their salary immediately before dismissal from employment. If supervening events have rendered the reinstatement of said petitioners impracticable, respondent Rizal Memorial Colleges is hereby **ORDERED** to pay the aforesaid petitioners separation pay equivalent to one (1) month salary, computed on the same basis, for every year of service respectively rendered by them.

This Decision is immediately executory.

SO ORDERED.

Melencio-Herrera, Paras, Padilla and Sarmiento, *JJ.*, concur.

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[*] This should properly be Rizal Memorial Colleges Faculty League.
[1] Rollo, 150, 247-248.
[2] Ibid., 176-177.

[3] Ibid., 22.
[4] Ibid., 24-26.
[5] Ibid., 55-56.
[6] Ibid., 29-30.
[7] Ibid., 34.
[8] Ibid., 169, 385.
[9] Ibid., 9.
[10] Ibid., 175.
[11] Ibid., 189.
[12] Ibid., 178-179, 189.
[13] Ibid., 186.
[14] Ibid., 61-71.
[15] Ibid., 183.
[16] Ibid., 181-183.
[17] Ibid., 184.
[18] Ibid., 166.
[19] Ibid., 191-195.
[20] Ibid., 215-216.
[21] Ibid., 20.
[22] Ibid., 188.
[23] AHS/Philippines Employees Union (FFW), et al. vs. National Labor Relations Commission, et al., 149 SCRA 5 (1987).
[24] Rollo, 13.