



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated August 27, 2020 which reads as follows:

“G.R. No. 249555 – MILAGROS FUNGO FRANDO v. MANUEL L. QUEZON UNIVERSITY

The Case

This petition for review on *certiorari* assails the following dispositions of the Court of Appeals in CA-G.R. SP No. 155958:

1. Decision dated October 29, 2018¹ insofar as it reduced the NLRC’s award of financial assistance to petitioner; and
2. Resolution dated September 24, 2019² which denied the parties’ respective motions for partial reconsideration.

Antecedents

On June 6, 1990, petitioner Milagros Fungo Frando got hired as a professor at the Manuel L. Quezon University (MLQU) and had since worked as such until her compulsory retirement in June 2000. After her retirement, MLQU continued to give her teaching assignments. Her work schedule was from Monday to Friday, from 9 o’clock in the morning until 5 o’clock in the afternoon.³

Under her Lecturer Agreement⁴ with MLQU for the first semester of school year (SY) 2016 – 2017, Frando was given an

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¹ Penned by now Supreme Court Associate Justice Rodil V. Zalameda and concurred in by Associate Justices Fernanda Lampas Peralta and Pablito A. Perez, *rollo*, pp. 138-147.

² *Id.* at 149-150.

³ *Id.* at 115.

⁴ *Id.* at 209.

hourly rate of ₱156.95, inclusive of 13th month pay. It was specified therein that by the end of the semester, the school shall have no obligation to renew her appointment for the next semester. When the first semester ended, MLQU informed her that she no longer had any teaching assignment for the next semester.⁵

She then filed a complaint for separation pay for her additional seventeen (17) years of service in MLQU, 13th month pay and attorney's fees.

The Labor Arbiter's Ruling

By Decision⁶ dated September 29, 2017, Labor Arbiter Agatha Ann L. Daquigan ruled that (1) her office had jurisdiction over the money claims since an employer-employee relationship existed between Frando and MLQU, (2) Frando was validly dismissed for cause but, in the interest of compassionate justice, she ought to be awarded financial assistance in the amount of ₱10,000 per year of service or one hundred seventy thousand (₱170,000.00), (3) Frando's claim for 13th month pay and attorney's fees was denied for lack of basis and (4) the complaint against Isagani Germar as president of MLQU was dismissed for lack of evidence that he acted with malice or bad faith in dealing with Frando's money claims.

The NRLC's Ruling

On MLQU's appeal, the National Labor Relations Commission (NLRC) affirmed by Decision⁷ dated January 29, 2018.

MLQU's motion for reconsideration was denied under Resolution dated March 22, 2018.⁸

At the execution stage, the labor arbiter released in favor of Frando the amount of ₱170,000.00, less fees and taxes.⁹

The Court of Appeals' Ruling

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⁵ *Id.* at 115.

⁶ *Id.* at 232-239.

⁷ Penned by Commissioner Dolores M. Peralta-Beley and concurred in by Presiding Commissioner Grace E. Maniquiz-Tan and Commissioner Mercedes R. Posada-Lacap, *id.* at 180-187.

⁸ *Id.* at 189-194.

⁹ *Id.* at 300.



Meantime, on MLQU's further petition for *certiorari* against the NLRC's Decision dated January 29, 2018 and Resolution dated March 22, 2018, the Court of Appeals affirmed in the main but reduced the award to ₱85,000.00 per its assailed Decision¹⁰ dated October 29, 2018, thus:

WHEREFORE, the Petition for Certiorari is hereby **DISMISSED**. Accordingly, the Decision dated 29 January 2018 and Resolution dated 22 March 2018, issued by the public respondent National Labor Relations Commission, are both **AFFIRMED** but with **MODIFICATION**, in that the award of financial assistance in favor of private respondent is reduced in the amount of ₱85,000.00.

In consonance with the prevailing jurisprudence, the monetary judgment due to the private respondent shall earn legal interest at the rate of six percent (6%) per annum from finality of the Decision until fully satisfied.

The prayer for an injunctive writ is likewise **DENIED**.

SO ORDERED.¹¹

Both parties filed their respective partial motions for reconsideration. For Frando, she insisted that the appellate court maintain the NLRC award of ₱170,000.00 as a special consideration for her twenty-seven (27) years of continuous service to MLQU.¹²

MLQU, on the other hand, prayed that Frando be ordered to return the amount she received in excess of ₱85,000.00 with legal interest rate of six percent 6% per annum until fully paid.¹³

Under Resolution¹⁴ dated September 24, 2019, the Court of Appeals denied the twin partial motions for reconsideration.

The Present Petition

Frando now seeks affirmative relief from the Court for the restoration of the full ₱170,000.00 financial assistance previously awarded her by the NLRC. She invokes her special circumstances of having been a teacher to MLQU students for twenty-seven (27) long years which abruptly ended when MLQU dropped her from the faculty roster, leaving her with no other means of livelihood. The

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¹⁰ Supra note 1.

¹¹ *Id.* at 146.

¹² *Id.* at 152-159.

¹³ *Id.* at 299-301.

¹⁴ Supra note 2.

financial assistance awarded her by NLRC would be enough to support her personal and medical needs especially now that she is already in her 80s.

For its part, MLQU posits that the Court of Appeals had in fact shown its magnanimity in awarding ₱85,000.00 as financial assistance, in the interest of compassionate justice. This amount is consistent with prevailing jurisprudence on the grant of financial assistance which is half month's pay for every year of service. To demand more would place Frando in a better position than those truly entitled to separation pay.

Issue

Did the Court of Appeals commit reversible error when it modified the award of financial assistance to Frando to a half month's pay for every year of service?

Ruling

As a general rule, separation pay or financial assistance is not extended to an employee validly dismissed. By way of exception, the Court, inspired by compassionate and social justice, has in the past awarded financial assistance to dismissed employees when circumstances warranted such an award.¹⁵ The difference in the amount depends on the Court's sound discretion.

In *Eastern Shipping Lines, Inc. v. Sedan*,¹⁶ the Court awarded a fixed amount of ₱200,000.00 as financial assistance to Sedan who was not able to claim optional retirement because he was not yet qualified. The Court took note that he had served his company well without committing any transgression. In *St. Joseph Academy of Valenzuela Faculty Association v. St. Joseph Academy*,¹⁷ financial assistance of half month's pay for every year of service was awarded because the termination was due to their failure to possess teaching licenses and not because they committed any serious misconduct. Even for those found to be dismissed on just or authorized cause, the Court has extended financial assistance of one-half month's salary for every year of service such as in *Piñero v. NLRC*,¹⁸ *Aparente v.*

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¹⁵ *Solidbank Corporation v. NLRC*, 631 Phil. 158, 172 (2010).

¹⁶ 521 Phil. 61, 72 (2006).

¹⁷ 711 Phil. 46, 54-55 (2013).

¹⁸ 480 Phil. 534 (2004).

NLRC,¹⁹ and *Pharmacia and Upjohn, Inc. v. Albayda*²⁰ or one month salary for every year of service like in *Salavarría v. Letran College*,²¹ depending on the special circumstances of each case, as social justice and equity demand.

Here, Frando, already 81 years of age, suddenly found herself unemployed and stripped of her source of income. Already in her twilight years, she needs financial assistance for her personal and medical maintenance as she can no longer find another employment to support herself.

We find that the Court of Appeals judiciously acted when it sustained the grant of financial assistance to Frando in view of her exceptional circumstances, *viz.*:

Notably, private respondent was already eighty-one (81) years old at the time she filed the subject Complaint. For twenty-seven (27) years she was engaged as a professor at the MLQU, seventeen (17) years of which she could have spent enjoying her retirement but opted not to. Never a day was she absent from work. Neither was she involved in any misconduct nor act which reflected badly on her moral character. These are exceptional circumstances which entitle private respondent to financial assistance.²²

However, we cannot agree to the reduction of the award of financial assistance from ₱170,000.00 to a measly ₱85,000.00, as decreed by the Court of Appeals. In fixing the latter amount, the Court of Appeals ironically overlooked the same special considerations it factored in to justify the grant of financial assistance to Frando. She is eighty-one (81) years old, she taught in MLQU continuously for twenty-seven (27) years, she could have already completely retired ten (10) years earlier but she chose to continue pursuing her passion in molding the minds of her students, she was an icon of hard work and dedication as she never missed a day of work in school, she never got involved in any misconduct or infraction or unsatisfactory service, and finally, she was even awarded a Certificate of Recognition in March 2014 for her twenty-four (24) years of service to MLQU. Surely, these circumstances should altogether elicit compassion from MLQU's end to reward her untiring, selfless, and dedicated long years of service to the University.

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¹⁹ 387 Phil. 96 (2000).

²⁰ 642 Phil. 680 (2010).

²¹ 357 Phil. 189 (1998).

²² *Supra* note 1, at 143.

This is in keeping with the principles of social justice and equity underlying the grant of financial assistance to a legally terminated employee. Thus:

Separation pay or financial assistance may also be granted to a legally terminated employee as an act of social justice and equity when the circumstances so warrant. **In awarding financial assistance, the interests of both the employer and the employee must be tempered, if only to approximate what Justice Laurel calls justice in its secular sense.** As the term suggests, its objective is to enable an employee to get by after he has been stripped of his source of income from which he relies mainly, if not, solely.²³ (Emphasis supplied)

Verily, therefore, the award of ₱170,000.00 to Frando by way of financial assistance should be restored.

As for the award of six percent (6%) interest per annum on the judgment award, the same is deleted in view of MLQU's full payment thereof early on during the execution stage below.

ACCORDINGLY, the Decision dated October 29, 2018 and Resolution dated September 24, 2019 in CA-G.R. SP. No. 155958 are **AFFIRMED** with **MODIFICATION**.

1. The award of ₱170,000.00 as financial assistance is **REINSTATED**.

2. The six percent (6%) legal interest on the judgment award is **DELETED**.

The entry of appearance of Atty. Jeric J. Jucaban as counsel for respondent, praying that copies of all pleadings, orders, and notices relative to this case be sent at Mezzanine Floor, Victoria Towers, Timog Avenue corner Panay Avenue, Diliman, Quezon City, is **NOTED** and **GRANTED**.

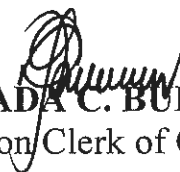
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²³ *PNOC-EDC v. Buenviaje*, 788 Phil. 508, 541 (2016).

SO ORDERED.” *Peralta, C.J., took no part; Inting, J., designated Additional Member per Raffle dated February 10, 2020.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *11/3*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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