Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

COLEGIO DEL SANTISIMO ROSARIO and SR. ZENAIDA S. MOFADA, OP,
Petitioners,

- versus -

EMMANUEL ROJO,*
Respondent.

G.R. No. 170388

Present:

CARPIO, *Chairperson,*
BRION,
DEL CASTILLO,
PEREZ, *and*
PERLAS-BERNABE, *JJ.*

Promulgated:
SEP 04 2013

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DECISION

DEL CASTILLO, *J.:*

This Petition for Review on *Certiorari*[1] assails the August 31, 2005 Decision[2] and the November 10, 2005 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 85188, which affirmed the July 31, 2003 Decision[4] of the National Labor Relations Commission (NLRC). Said NLRC Decision affirmed with modification the October 7, 2002 Decision[5] of the Labor Arbiter (LA) which, in turn, granted respondent Emmanuel Rojo's (respondent) Complaint[6] for illegal dismissal.

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* National Labor Relations Commission was deleted as party-respondent pursuant to Section 4, Rule 45 of the Rules of Court.

1 *Rollo*, pp. 3-26.

2 CA *rollo*, pp. 310-319; penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Ruben T. Reyes and Josefina Guevara-Salonga.

3 Id. at 334.

4 Id. at 22-32; penned by Presiding Commissioner Raul T. Aquino and concurred in by Commissioners Victoriano R. Calaycay and Angelita A. Gacutan.

5 Id. at 34-38; penned by Labor Arbiter Fructuoso T. Aurellano.

6 Id. at 51.

Factual Antecedents

Petitioner Colegio del Santisimo Rosario (CSR) hired respondent as a high school teacher on probationary basis for the school years 1992-1993, 1993-1994[7] and 1994-1995.[8]

On April 5, 1995, CSR, through petitioner Sr. Zenaida S. Mofada, OP (Mofada), decided not to renew respondent's services.[9]

Thus, on July 13, 1995, respondent filed a Complaint[10] for illegal dismissal. He alleged that since he had served three consecutive school years which is the maximum number of terms allowed for probationary employment, he should be extended permanent employment. Citing paragraph 75 of the 1970 Manual of Regulations for Private Schools (1970 Manual), respondent asserted that "full-time teachers who have rendered three (3) consecutive years of satisfactory services shall be considered permanent."[11]

On the other hand, petitioners argued that respondent knew that his Teacher's Contract for school year 1994-1995 with CSR would expire on March 31, 1995.[12] Accordingly, respondent was not dismissed but his probationary contract merely expired and was not renewed.[13] Petitioners also claimed that the "three years" mentioned in paragraph 75 of the 1970 Manual refer to "36 months," not three school years.[14] And since respondent served for only three school years of 10 months each or 30 months, then he had not yet served the "three years" or 36 months mentioned in paragraph 75 of the 1970 Manual.[15]

Ruling of the Labor Arbiter

The LA ruled that "three school years" means three years of 10 months, not 12 months.[16] Considering that respondent had already served for three consecutive school years, then he has already attained regular employment status. Thus, the non-renewal of his contract for school year 1995-1996 constitutes illegal dismissal.[17]

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7 See Teacher's Contract, id. at 45.
8 Id. at 46.
9 Id. at 55.
10 Id. at 51.
11 Id. at 55.
12 Id. at 82.
13 Id.
14 Id. at 81.
15 Id. at 81-82.
16 Id. at 37.
17 Id. at 37.

The LA also found petitioners guilty of bad faith when they treated respondent's termination merely as the expiration of the third employment contract and when they insisted that the school board actually deliberated on the non-renewal of respondent's employment without submitting admissible proof of his alleged regular performance evaluation.[18]

The dispositive portion of the LA's Decision[19] reads:

> WHEREFORE, premises considered, judgment is hereby rendered ordering the [petitioners]:
>
> 1. To pay [respondent] the total amount of ₱39,252.00 corresponding to his severance compensation and 13th month pay, moral and exemplary damages.
>
> 2. To pay 10% of the total amount due to [respondent] as attorney's fees.
>
> All other claims are dismissed for lack of merit.
>
> SO ORDERED.[20]

Ruling of the National Labor Relations Commission

On appeal, the NLRC affirmed the LA's Decision with modification. It held that after serving three school years, respondent had attained the status of regular employment[21] especially because CSR did not make known to respondent the reasonable standards he should meet.[22] The NLRC also agreed with the LA that respondent's termination was done in bad faith. It held that respondent is entitled to reinstatement, if viable; or separation pay, if reinstatement was no longer feasible, and backwages, *viz*:

> WHEREFORE, premises considered, the appealed Decision is hereby, AFFIRMED with MODIFICATION only insofar as the award of separation pay is concerned. Since [respondent] had been illegally dismissed, [petitioner] Colegio Del Santisimo Rosario is hereby ordered to reinstate him to his former position without loss of seniority rights with full backwages until he is actually reinstated. However, if reinstatement is no longer feasible, the respondent shall pay separation pay, in [addition] to the payment of his full backwages.
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> The Computation Division is hereby directed to compute [respondent's] full backwages to be attached and to form part of this Decision.
>
> The rest of the appealed Decision stands.

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18 Id. at 38.
19 Id. at 34-38.
20 Id. at 38.
21 Id. at 28.
22 Id. at 30.

SO ORDERED.[23]

Petitioners moved for reconsideration which the NLRC denied in its April 28, 2004 Resolution[24] for lack of merit.

Ruling of the Court of Appeals

Petitioners filed a Petition for *Certiorari*[25] before the CA alleging grave abuse of discretion on the part of the NLRC in finding that respondent had attained the status of a regular employee and was illegally dismissed from employment.

In a Decision[26] dated August 31, 2005, the CA denied the Petition for lack of merit. Citing *Cagayan Capitol College v. National Labor Relations Commission*,[27] it held that respondent has satisfied all the requirements necessary to acquire permanent employment and security of tenure *viz*:

1. The teacher is a full-time teacher;

2. The teacher must have rendered three (3) consecutive years of service; and

3. Such service must be satisfactory.[28]

According to the CA, respondent has attained the status of a regular employee after he was employed for three consecutive school years as a full-time teacher and had served CSR satisfactorily. Aside from being a high school teacher, he was also the Prefect of Discipline, a task entailing much responsibility. The only reason given by Mofada for not renewing respondent's contract was the alleged expiration of the contract, not any unsatisfactory service. Also, there was no showing that CSR set performance standards for the employment of respondent, which could be the basis of his satisfactory or unsatisfactory performance. Hence, there being no reasonable standards made known to him at the time of his engagement, respondent was deemed a regular employee and was, thus, declared illegally dismissed when his contract was not renewed.

Petitioners moved for reconsideration. However, the CA denied the motion for lack of merit in its November 10, 2005 Resolution.[29]

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23 Id. at 31-32.
24 Id. at 20-21.
25 Id. at 2-19.
26 Id. at 310-314.
27 G.R. Nos. 90010-11, September 14, 1990, 189 SCRA 658, 664, citing *University of Santo Tomas v. National Labor Relations Commission*, 261 Phil. 483, 489 (1990).
28 CA *rollo*, p. 315.
29 Id. at 334.

Hence, the instant Petition. Incidentally, on May 23, 2007, we issued a Resolution[30] directing the parties to maintain the status *quo* pending the resolution of the present Petition.

Issue

> WHETHER THE COURT OF APPEALS [AS WELL AS THE NATIONAL LABOR RELATIONS COMMISSION] COMMITTED GRIEVOUS AND REVERSIBLE ERROR WHEN IT RULED THAT A BASIC EDUCATION (ELEMENTARY) TEACHER HIRED FOR THREE (3) CONSECUTIVE SCHOOL YEARS AS A PROBATIONARY EMPLOYEE *AUTOMATICALLY* AND/OR *BY LAW* BECOMES A PERMANENT EMPLOYEE UPON COMPLETION OF HIS THIRD YEAR OF PROBATION NOTWITHSTANDING [A] THE PRONOUNCEMENT OF THIS HONORABLE COURT IN *COLEGIO SAN AGUSTIN V. NLRC*, 201 SCRA 398 [1991] THAT A PROBATIONARY TEACHER ACQUIRES PERMANENT STATUS "ONLY WHEN HE IS ALLOWED TO WORK AFTER THE PROBATIONARY PERIOD" AND [B] DOLE-DECS-CHED-TESDA ORDER NO. 01, S. 1996 WHICH PROVIDE THAT TEACHERS WHO HAVE SERVED THE PROBATIONARY PERIOD "SHALL BE MADE REGULAR OR PERMANENT IF ALLOWED TO WORK AFTER SUCH PROBATIONARY PERIOD."[31]

Petitioners maintain that upon the expiration of the probationary period, both the school and the respondent were free to renew the contract or let it lapse. Petitioners insist that a teacher hired for three consecutive years as a probationary employee does not automatically become a regular employee upon completion of his third year of probation. It is the positive act of the school – the hiring of the teacher who has just completed three consecutive years of employment on probation for the next school year – that makes the teacher a regular employee of the school.

Our Ruling

We deny the Petition.

In *Mercado v. AMA Computer College-Parañaque City, Inc.*,[32] we had occasion to rule that cases dealing with employment on probationary status of teaching personnel are not governed solely by the Labor Code as the law is *supplemented,* with respect to the period of probation, by special rules found in the Manual of Regulations for Private Schools (the Manual). With regard to the

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30 *Rollo*, pp. 200-201.
31 Id. at 224-225.
32 G.R. No. 183572, April 13, 2010, 618 SCRA 218, 233-234.

probationary period, Section 92 of the 1992 Manual[33] provides:

> Section 92. *Probationary Period.* – **Subject in all instances to compliance with the Department and school requirements**, **the probationary period for academic personnel shall not be more than three (3) consecutive years of satisfactory service for those in the elementary and secondary levels**, six (6) consecutive regular semesters of satisfactory service for those in the tertiary level, and nine (9) consecutive trimesters of satisfactory service for those in the tertiary level where collegiate courses are offered on a trimester basis. (Emphasis supplied)

In this case, petitioners' teachers who were on probationary employment were made to enter into a contract effective for one school year. Thereafter, it may be renewed for another school year, and the probationary employment continues. At the end of the second fixed period of probationary employment, the contract may again be renewed for the last time.

Such employment for fixed terms during the teachers' probationary period is an accepted practice in the teaching profession. In *Magis Young Achievers' Learning Center v. Manalo,*[34] we noted that:

> **The common practice is for the employer and the teacher to enter into a contract, effective for one school year.** At the end of the school year, the employer has the option not to renew the contract, particularly considering the teacher's performance. If the contract is not renewed, the employment relationship terminates. If the contract is renewed, usually for another school year, the probationary employment continues. Again, at the end of that period, the parties may opt to renew or not to renew the contract. If renewed, this second renewal of the contract for another school year would then be the last year – since it would be the third school year – of probationary employment. **At the end of this third year, the employer may now decide whether to extend a permanent appointment to the employee, primarily on the basis of the employee having met the reasonable standards of competence and efficiency set by the employer. For the entire duration of this three-year period, the teacher remains under probation.** Upon the expiration of his contract of employment, being simply on probation, he cannot automatically claim security of tenure and compel the employer to renew his employment contract. It is when the yearly contract is renewed for the third time that Section 93 of the Manual becomes operative, and the teacher then is entitled to regular or permanent employment status. (Emphases supplied)

However, this scheme "of fixed-term contract is a system that operates

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[33] As in the case of *Mercado*, the 1992 Manual of Regulations is the applicable Manual in the present case as it embodied the pertinent rules at the time of the parties' dispute. At present, the Manual of Regulations for Private Higher Education of 2008 has been in place and applies to all private higher educational institutions; while the 2010 Revised Manual of Regulations for Private Schools in Basic Education covers all private educational institutions in basic education.

[34] G.R. No. 178835, February 13, 2009, 579 SCRA 421, 435-436.

during the probationary period and for this reason is subject to Article 281 of the Labor Code,"[35] which provides:

> x x x 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 by the employer to the employee at the time of his engagement*.** An employee who is allowed to work after a probationary period shall be considered a regular employee. [Emphasis supplied]

In *Mercado*, we held that "[u]nless this reconciliation is made, the requirements of [Article 281] on probationary status would be fully negated as the school may freely choose not to renew contracts simply because their terms have expired."[36] This will have an unsettling effect in the equilibrium vis-a-vis the relations between labor and management that the Constitution and Labor Code have worked hard to establish.

That teachers on probationary employment also enjoy the protection afforded by Article 281 of the Labor Code is supported by Section 93 of the 1992 Manual which provides:

> Sec. 93. *Regular or Permanent Status.* - Those who have served the probationary period shall be made regular or permanent. **Full-time teachers who have *satisfactorily* completed their probationary period shall be considered regular or permanent**. (Emphasis supplied)

The above provision clearly provides that full-time teachers become regular or permanent employees once they have *satisfactorily* completed the probationary period of three school years.[37] The use of the term *satisfactorily* necessarily connotes the requirement for schools to set reasonable standards to be followed by teachers on probationary employment. For how else can one determine if probationary teachers have satisfactorily completed the probationary period if standards therefor are not provided?

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35 *Mercado v. AMA Computer College-Parañaque City, Inc.*, supra note 32 at 243.

36 Id. at 243.

37 *Magis Young Achievers' Learning Center v. Manalo*, supra note 34 at 435.

A similar requirement is also found in DOLE-DECS-CHED-TESDA Order No. 01, s. 1996, entitled "*Guidelines on Status of Employment of Teachers and of Academic Personnel in Private Educational Institutions*."

Contrary to petitioners' assertions that said guidelines support their claim that teachers who have served the probationary period shall be made regular or permanent *only* if allowed to work after such probationary period, a perusal thereof would reveal that:

x x x x

2. Subject in all instances to compliance with the concerned agency and school requirements, the probationary period for teaching or academic personnel shall not be more than three (3) consecutive school years of *satisfactory* service for those in the elementary and secondary levels, x x x.

As such, "no vested right to a permanent appointment shall accrue until the employee has completed the prerequisite three-year period necessary for the acquisition of a permanent status. [However, it must be emphasized that] mere rendition of service for three consecutive years does not automatically ripen into a permanent appointment. It is also necessary that the employee be a full-time teacher, and that the services he rendered are satisfactory."[38]

In *Mercado*, this Court, speaking through J. Brion, held that:

> The provision on employment on probationary status under the Labor Code is a primary example of the fine balancing of interests between labor and management that the Code has institutionalized pursuant to the underlying intent of the Constitution.
>
> On the one hand, employment on probationary status affords management the chance to fully scrutinize the true worth of hired personnel before the full force of the security of tenure guarantee of the Constitution comes into play. Based on the standards set at the start of the probationary period, management is given the widest opportunity during the probationary period to reject hirees who fail to meet *its own adopted but reasonable standards*. These standards, together with *the just and authorized causes for termination of employment [which] the Labor Code expressly provides*, are the grounds available to terminate the employment of a teacher on probationary status. x x x
>
> Labor, for its part, is given the protection during the probationary period of knowing the company standards the new hires have to meet during the probationary period, *and to be judged on the basis of these standards,* aside from the usual standards applicable to employees after they achieve permanent status. Under the terms of the Labor Code, these standards should be made known to the teachers on probationary status at the start of their probationary period, or at the very least under the circumstances of the present case, at the start of the semester or the trimester during which the probationary standards are to be applied. *Of critical importance in invoking a failure to meet the probationary standards, is that the school should show – **as a matter of due process** – how these standards have been applied.* This is effectively the second notice in a dismissal situation that the law requires as a due process guarantee supporting the security of tenure provision, and is in furtherance, too, of the basic rule in employee dismissal that the employer carries the burden of justifying a dismissal. These rules ensure compliance with the limited security of tenure guarantee the law extends to probationary employees.
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> When fixed-term employment is brought into play under the above probationary period rules, the situation – as in the present case – may at first blush look muddled as fixed-term employment is in itself a valid employment mode under Philippine law and jurisprudence. The conflict, however, is more apparent than real when the respective nature of fixed-term employment and of employment on probationary status are closely examined.

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[38] *Magis Young Achievers' Learning Center v. Manalo,* supra note 34 at 435, citing *Fr. Escudero, O.P. v. Office of the President of the Philippines,* 254 Phil. 789, 797 (1989). See also *Lacuesta v. Ateneo de Manila University*, 513 Phil. 329, 336 (2005).

> The fixed-term character of employment essentially refers ***to the period*** agreed upon between the employer and the employee; employment exists only for the duration of the term and ends on its own when the term expires. In a sense, employment on probationary status also refers to a period because of the technical meaning "*probation*" carries in Philippine labor law – a maximum period of six months, or in the academe, a period of three years for those engaged in teaching jobs. Their similarity ends there, however, because of the overriding meaning that being "*on probation*" connotes, *i.e.,* a process of testing and observing the character or abilities of a person who is new to a role or job.
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> Understood in the above sense, the *essentially protective character of probationary status for management* can readily be appreciated. But this same protective character gives rise to the countervailing but equally protective rule that the probationary period can only last for a specific maximum period and under reasonable, well-laid and properly communicated standards. Otherwise stated, within the period of the probation, any employer move *based on the probationary standards* and affecting the continuity of the employment must strictly conform to the probationary rules.
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> x x x **If we pierce the veil, so to speak, of the parties' so-called fixed-term employment contracts, what undeniably comes out at the core is a fixed-term contract conveniently used by the school to define and regulate its relations with its teachers *during their probationary period.***[39] (Emphasis supplied; italics in the original)

In the same case, this Court has definitively pronounced that "in a situation where the probationary status overlaps with a fixed-term contract ***not*** *specifically used for the fixed term it offers*, Article 281 should assume primacy and the fixed-period character of the contract must give way."[40]

An example given of a fixed-term contract *specifically used for the fixed term it offers* is a replacement teacher or a reliever contracted for a period of one year to *temporarily* take the place of a permanent teacher who is on leave. The expiration of the reliever's fixed-term contract does not have probationary status implications as he or she was never employed on probationary basis. This is because his or her employment is for a specific purpose with particular focus on the term. There exists an intent to end his or her employment with the school upon expiration of this term.[41]

However, **for teachers on probationary employment**, in which case a fixed term contract is ***not*** *specifically used for the fixed term it offers*, **it is incumbent upon the school to have not only set reasonable standards to be followed by said teachers in determining qualification for regular employment, the same must have also been communicated to the teachers at the start of the probationary period, or at the very least, at the start of the**

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39 *Mercado v. AMA Computer College-Parañaque City, Inc.*, supra note 32 at 238-243.
40 Id. at 243. Emphasis supplied; italics in the original.
41 Id. at 243-244.

period when they were to be applied. These terms, *in addition to those expressly provided by the Labor Code*, would serve as the just cause for the termination of the probationary contract. The specific details of this finding of just cause must be communicated to the affected teachers as a matter of due process.[42] Corollarily, **should the teachers not have been apprised of such reasonable standards at the time specified above, they shall be deemed regular employees.**

In *Tamson's Enterprises, Inc. v. Court of Appeals*,[43] we held that "[t]he law is clear that in all cases of probationary employment, the employer shall [convey] to the employee the standards under which he will qualify as a regular employee at the time of his engagement. Where no standards are made known to the employee at that time, he shall be deemed a regular employee.

In this case, glaringly absent from petitioners' evidence are the reasonable standards that respondent was expected to meet that could have served as proper guidelines for purposes of evaluating his performance. Nowhere in the Teacher's Contract[44] could such standards be found.[45] Neither was it mentioned that the

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[42] Id. at 244.

[43] G.R. No. 192881, November 16, 2011, 660 SCRA 374, 388, citing *Hacienda Primera Development Corporation v. Villegas*, G.R. No. 186243, April 11, 2011, 647 SCRA 536, 543.

See Book VI, Rule I, Section 6 of the Implementing Rules and Regulations (IRR) of the Labor Code, which provides:

> *Probationary employment.* – There is probationary employment where the employee, upon his engagement, is made to undergo a trial period during which the employer determines his fitness to qualify for regular employment, based on reasonable standards made known to him at the time of engagement.
>
> Probationary employment shall be governed by the following rules:
>
> x x x x
>
> (c) The services of an employee who has been engaged on probationary basis may be terminated only for a just or authorized cause, when he fails to qualify as a regular employee in accordance with reasonable standards prescribed by the employer.
>
> (d) In all cases of probationary employment, the employer shall make known to the employee the standards under which he will qualify as a regular employee at the time of his engagement. **Where no standards are made known to the employee at that time, he shall be deemed a regular employee. (**Emphasis supplied)

[44] CA *rollo*, p. 46.

[45] The absence of such standards prompted this Court to further examine the provisions of the Teacher's Contract entered into between the parties. It is surprising to note that a perusal thereof would show that the contract itself does not even indicate respondent's employment status as probationary in nature. From the looks of it, the Teacher's Contract seems to apply to all teachers, probationary or otherwise, employed by petitioner CSR. This can be reasonably concluded from the list of just causes for termination of contract provided for in the second (also the last) page of the contract, *which does not include non-passing of reasonable standards set by the school* and which reads:

Termination of the Contract:

The following are just causes for the terminat[ion of] this contract by either the employer or employee.

1. *By the employer:*
   a. *The closing or cessation of the school or x x x considerable decrease in enrollment.*
   b. *Serious misconduct or willful disobedience by the employee of the orders of his [employer or] representative in connection with his work.*
   c. *Gross and habitual neglect of duty or gross inefficiency and incompetence of the employee.*
   d. *Fraud or willful breach by the employee of the trust reposed in him by his employer or representative.*
   e. *Gross violation of [the] rules and regulations of the school[;] or commission of a crime involving moral turpitude and such offenses committed by the employees[;] immorality[;]*

same were ever conveyed to respondent. Even assuming that respondent failed to meet the standards set forth by CSR and made known to the former at the time he was engaged as a teacher on probationary status, still, the termination was flawed for failure to give the required notice to respondent.[46] This is because Book VI, Rule I, Section 2 of the IRR of the Labor Code provides:

> Section 2. *Security of Tenure*. – (a) In cases of regular employment, the employer shall not terminate the services of an employee except for just or authorized causes as provided by law, and subject to the requirements of due process.
>
> (b) The foregoing shall also apply in cases of probationary employment; *provided, however*, that in such cases, termination of employment due to failure of the employee to qualify in accordance with the standards of the employer made known to the former at the time of engagement may also be a ground for termination of employment.
>
> x x x x
>
> (d) In all cases of termination of employment, the following standards of due process shall be substantially observed:
>
> x x x x
>
> **If the termination is brought about** by the completion of a contract or phase thereof, or **by failure of an employee to meet the standards of the employer in the case of probationary employment, it shall be sufficient that a written notice is served the employee, within a reasonable time from the effective date of termination.** (Emphasis supplied)

Curiously, despite the absence of standards, Mofada mentioned the existence of alleged performance evaluations[47] in respondent's case. We are, however, in a quandary as to what could have been the basis of such evaluation, as no evidence were adduced to show the reasonable standards with which respondent's performance was to be assessed or that he was informed thereof. Notably too, none of the supposed performance evaluations were presented. These flaws violated respondent's right to due process. As such, his dismissal is, for all intents and purposes, illegal.

As a matter of due process, teachers on probationary employment, just like all probationary employees, have the right to know whether they have met the

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> *drunkenness[;] assaulting a teacher or any other school authority or his agent or student[;] instigating, leading or participating in school strikes[; and/or] forging or tampering with the official school records and forms.*
>
> *f. Grave emotional disturbance on the part of the employee which [in] the judgment of employer or his representative could bring damage to the students and the school, in general.*
>
> *x x x x*

46 *Tamson's Enterprises, Inc. v. Court of Appeals*, supra note 43 at 388-389.

47 TSN, July 15, 1996, p. 82; CA *rollo*, p. 221.

standards against which their performance was evaluated. Should they fail, they also have the right to know the reasons therefor.

It should be pointed out that absent any showing of unsatisfactory performance on the part of respondent, it can be presumed that his performance was satisfactory, especially taking into consideration the fact that even while he was still more than a year into his probationary employment, he was already designated Prefect of Discipline. In such capacity, he was able to uncover the existence of a drug syndicate within the school and lessen the incidence of drug use therein. Yet despite respondent's substantial contribution to the school, petitioners chose to disregard the same and instead terminated his services; while most of those who were involved in drug activities within the school were punished with a slap on the wrist as they were merely made to write letters promising that the incident will not happen again.[48]

Mofada would also have us believe that respondent chose to resign as he feared for his life, thus, the school's decision not to renew his contract. However, no resignation letter was presented. Besides, this is contrary to respondent's act of immediately filing the instant case against petitioners.

WHEREFORE, the Petition is hereby **DENIED**. The August 31, 2005 Decision and the November 10, 2005 Resolution of the Court of Appeals in CA-G.R. SP No. 85188 are **AFFIRMED**. The status *quo* order of this Court is **LIFTED**.

SO ORDERED.

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

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[48] Id. at 18; id. at 157.

ARTURO D. BRION
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice