Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ST. PAUL COLLEGE, PASIG, and SISTER TERESITA BARICAUA, SPC, Petitioners,	**G.R. No. 222317**
	Present:
	CARPIO, *J.*, *Chairperson*, PERALTA,
- versus –	JARDELEZA,* CAGUIOA, and TIJAM,** *JJ.*
ANNA LIZA L. MANCOL and JENNIFER CECILE S. VALERA, Respondents.	**Promulgated:** 24 JAN 2018

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DECISION

PERALTA, *J.*:

This is to resolve the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court dated March 7, 2016 of petitioners St. Paul College, Pasig and Sister Teresita Baricaua, SPC that seeks to reverse and set aside the Decision[1] dated April 16, 2015 and the Resolution[2] dated January 8, 2016, of the Court of Appeals (*CA*) in CA-G.R. SP No. 124501 finding respondents Anna Liza L. Mancol and Jennifer Cecile Valera constructively dismissed by the petitioners.

The facts follow.

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* Designated additional member in lieu of Associate Justice Estela M. Perlas-Bernabe, who took no part due to close relation to a party, per Raffle dated January 17, 2018.

** Designated Additional Member in lieu of Associate Justice Andres B. Reyes, Jr., who took no part due to prior action in the Court of Appeals, per Raffle dated January 17, 2018.

1 Penned by Associate Justice Edwin D. Sorongon, with the concurrence of then Presiding Justice Andres B. Reyes, Jr. and Associate Justice Ricardo R. Rosario; *rollo*, pp. 45-64.

2 *Id.* at 81-84.

Respondents Mancol and Valera were both hired as pre-school teachers of petitioner St. Paul College, Pasig (*SPCP*), Mancol having been employed on June 1, 2004 with a monthly basic salary of ₱20,311.50 and Valera having been employed sometime in 2003 with a basic monthly salary of ₱22,044.00.

Mancol, on May 18, 2010, filed a leave of absence for the period May 21 to June 18, 2010 as she was to undergo a fertility check-up in Canada. When she returned to the Philippines, Mancol received a letter dated June 10, 2010 from the Directress of SPCP, petitioner Sister Baricaua, requiring her to explain why she should not be dismissed for taking a leave of absence without approval. On June 21, 2010, Mancol reported back to SPCP, but she was allegedly barred by SPCP and Sister Baricaua from teaching in her class, entering her classroom, being introduced to her students, preparing teaching aids and materials, and going to other offices within the campus. Thus, Mancol alleged that all these acts constitute constructive dismissal.

Valera, on the other hand, took a leave of absence without pay from April 13 to June 11, 2010 to undergo surgical operation for scoliosis. On June 15, 2010, Valera received a letter from Sister Baricaua advising her to file a leave of absence (Sick Leave) for the entire school year 2010-2011; otherwise, she will be reassigned to a higher grade level where the students are more independent learners. The letter also required her to submit a waiver absolving SPCP from any liability in case of any untoward incident that may take place while in the performance of her teaching duties as well as notarized certification of her physician as to her fitness to resume work. Valera, thus, averred that she was constructively dismissed when petitioners stripped her of her teaching load and being forced to take a leave of absence for the school year 2010-2011.

The parties having failed to strike an amicable settlement during the scheduled mandatory conference, respondents filed on June 22, 2010, a complaint for constructive dismissal, non-payment of overtime pay, holiday pay, holiday premium, rest day premium, service incentive leave, 13th month pay, nightshift differential overload pay, damages and attorney's fees against SPCP and Sister Baricaua in her personal and official capacity as Directress of SPCP.

To substantiate their money claims, Mancol and Valera's similar allegations are as follow:

> [Petitioners were] required to work for 40 hours a week or 8 hours of work daily (inclusive of lunch break) from Mondays thru Fridays. As pre-school teacher[s], [their] official time was from 7:15 am to 3:30 pm

daily, which is actually 8 hours and 15 minutes of work daily. However, [they were] not paid an overtime pay equivalent to 15 minutes every day.

But the working hours of [petitioners] and other preschool teachers do not end at 3:30 [pm] daily. They extend for at least another 1 ½ hours every day therefrom, or until 5:00 pm, on account of daily meetings required and called by the principal or by her authority under the threat of salary deductions against teachers who refuse or fail to attend the same. Unfortunately, [petitioners were] not paid overtime pay for work rendered beyond 3:30 pm, which is equivalent to about 90 minutes every day, exclusive of the daily 15 minutes overtime already mentioned above.

Meetings or conferences were likewise called by the principal or by her authority daily during lunch break such that [petitioners] and other preschool teachers were left with no choice but to eat their lunch only after said meetings or conferences, which usually end around 1:15 pm.

[Petitioners] and other preschool teachers were likewise required to report for work on weekends for either half day (4 hours minimum) or whole day (8 hours minimum) but without pay. In 2007, this happened on March 3-4 (Saturday & Sunday – Field Demonstrations, whole day); March 10 (Saturday – Thanksgiving Mass, half day); June 16 (Saturday – Pondo ng Pinoy Seminar, whole day); August 11 (Saturday – Parents' Recollection, half day); October 27-28 (Saturday & Sunday – Seminar, whole day); and November 10 (Saturday – Family Day, half day). In 2008, this happened on January 26 (Saturday, Field Demonstration, whole day); June 7 (Saturday – Parents' Orientation, half day); and October 18 (Saturday – Family Day, half day). In 2009, this happened on February 15 (Sunday – Preschool Field Demonstration, whole day); March 15 (Sunday – Kinder 2 Thanksgiving Mass, half day); June 13 (Saturday – Parents' Orientation, half day); July 25 (Saturday – Seminar Workshop with Scholastic, whole day); August 1 (Saturday, Parents' Recollection, half day); August 19 (Saturday – PTC, half day); February 13 (Saturday – School Fair, whole day); February 14 (Saturday – Preschool Field Demonstration, whole day) and March 13 (Saturday – Kinder 2 Thanksgiving Mass, half day).

Last school year (SY 2009-2010) [SPCP] required [petitioners] and other school teachers to teach in the grade school allegedly because preschool teachers were not rendering the required number of teaching hours/loads on the basis of DepEd Order No. 57, s.2007. A copy of [the] secretary's certification issued by respondents' corporate secretary is hereto attached as Annex "B". On the contrary, however, [petitioners] and other preschool teachers were already rendering actual teaching hours/loads beyond the required teaching hours/load prescribed by the Faculty Manual of 2004. This is also not to mention that DepEd Order No. 57, s.2007 apply only to public institutions, not to respondent SPCP which is a private institution.

The Faculty Manual of 2004 provides for an 18 to 20 hours of actual teaching in a 40-hour work week, which starts at 7:30 am, and beyond that is already considered an extra load with corresponding extra-load pay. As regards proctoring, the same Faculty Manual classified it as "inherent" in a teaching load and does not require extra remuneration. And being "inherent" and also on the basis of its nature, proctoring forms part of actual teaching load. As such, if proctoring is rendered outside of, or in

addition to, the 18 to 20 actual teaching hours, then it is properly considered as actual teaching load. This is especially true to preschool teachers who conduct proctoring beyond the 18 to 20 hours of actual teaching.

For purposes of extra-load pay, the Faculty Manual of 2004 provides for a formula: [(Basic/Minimum hours)] x extra hours of the minimum]. The basic monthly salary of complainant Mancol is Php 20,311.50 and the minimum hours is 20 hours per Faculty Manual of 2004. Below are the extra hours/load rendered by the complainant Mancol in both preschool and grade school.

In preschool, [petitioners] rendered about 3.5 hours of actual teaching [hours]/load (8 am – 11:30 am) during Mondays thru Thursdays; 4 hours of actual teaching/load (7:30 am – 11:30 am) during Fridays; 45 minutes of proctoring (7:30 am – 8:00 am and 11:30 am – 11:45 am) during Mondays thru Thursdays; and 30 minutes of proctoring (7:15 am – 7:30 am and 11:30 am – 11:45 am) during Fridays. In short, in preschool, complainant Mancol has indubitably rendered about 21.5 hours of actual teaching/load in a week, or an excess of 1.5 hours from that of 18-20 hours prescribed under the Faculty Manual of 2004, without being paid thereof for extra load.

Thus, for rendering 21.5 hours of actual teaching [hours]/load, or 1.5 hours in excess of that prescribed in the Faculty Manual of 2004, complainant Mancol is entitled to: [(20,311.50/20) x 1.5] = Php1,523.36 overload pay per week since 2004; [while Valera is entitled to: [(22,044.00/20) x 1.5] = Php1,653.30 overload pay per week since 2004).

Also, in requiring [petitioners] to teach at grade school which was already in excess of the 18-20 hours of actual teaching hours/load prescribed in the Faculty Manual of 2004, [petitioners were] entitled to overload pay equivalent to the excess thereof for school year 2009-2010. To simplify, [petitioners have] double teaching loads during Mondays, Wednesdays and Thursdays (from 12:35 nn to 1:55 pm equivalent to 240 minutes, or 4 hours); and single loads during Tuesdays and Fridays (from 1:15 nn to 1:55 pm for Tuesday and 12:35 nn to 1:15 [pm] for Friday; equivalent to 80 minutes, or 1.33 hours). As such, in a 5-day work week in grade school, complainant Mancol rendered about 320 minutes, or 5.33 hours of actual teaching [hours]/load. The aforementioned teaching hours/loads in grade school do not reflect the additional time (approximately about 30 minutes every day after class) spent by [petitioners] and other preschool teachers for their respective grade school students for checking papers and proctoring, among others.

Thus, for rendering about 5.33 hours of actual teaching load in grade school for school year 2009-2010, complainant Mancol is entitled to a weekly overload pay of Php5,413.01, in this wise: [(20,311.50/20) x 5.33] = Php5,413.01; [while complainant Valera is entitled to a weekly overload pay of Php5,413.01 in this wise [22,044.00/20) x 5.33] = Php5,874.73].

There are four (4) weeks in a month and ten (10) months per school year. Thus, respondents should be held liable for the payment of overload pays mentioned above for forty (40) weeks in a school year.[3]

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3 *Id.* at 47-50.

Herein petitioners deny having terminated Mancol and Valera either actually or constructively. For Mancol, they aver that she was merely meted a penalty of suspension for one (1) week for taking a leave of absence without the approval of the Directress as explicitly provided in the employee handbook. As for Valera, they insist that she was never dismissed from work but was only advised to take either one (1) year sick leave for her to fully recover from her spine operation or to be assigned to a higher grade level. On the issue of money claims, they aver that the same was already dismissed by the DOLE-NCR Regional Director for lack of basis.

The Labor Arbiter, in a Decision[4] dated January 31, 2011, ruled that respondents were constructively dismissed from their employment and ordered their immediate reinstatement and payment of monetary awards, thus:

> WHEREFORE, premises considered, respondents St. Paul College of Pasig, Inc. (sic) and Sister Teresita Baricaua are found jointly and solidarily liable for constructively dismissing complainants Anna Liza L. Mancol and Jennifer Cecile Valera and are hereby ordered to immediately reinstate both of them to their former positions or equivalent positions under the same terms and conditions prevailing prior to their dismissal or at the option of the respondents, to reinstate their names in the payroll also under the same terms and conditions prevailing prior to their constructive dismissal.
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> Respondents St. Paul College of Pasig, Inc. (sic) and Sister Teresita Baricaua are also ordered to pay complainant Mancol the following: (1) full backwages from the time she was constructively dismissed, or from 21 June 2010, until the time of actual reinstatement, which to date amounts to ₱163,438.30 (2) overtime pay equivalent to 15 minutes every day, and 90 minutes overtime every day on account of mandatory meetings and conferences held beyond 3:30 pm, or a total of 105 minutes every day since 22 June 2007 until 21 June 2010 amounting to ₱166,617.76; (3) overtime pay for work done on weekends based on the records of this case since 22 June 2007, amounting to ₱13,802.59; (4) a weekly overload pay of Php1,523.36 counted from 22 June 2007, representing the amount equivalent to 1.5 hours of actual teaching/load per week rendered in preschool, amounting to ₱178,233.12; (5) a weekly overload pay of ₱5,413.01 for school year 2009-2010, representing the amount equivalent to 5.33 hours of actual teaching/load per week in grade school, amounting to ₱216,520.40; (6) holiday pay amounting to ₱30,467.25; (7) 13th month pay amounting to ₱50,778.75; and (8) service incentive leave pay amounting to ₱11,540.63. The computation are as follows:

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4 *Id.* at 299-324.

Backwages:	
Basic salary: P20,311.50	
6/21/10 – 1/31/11	
P20,311.50 x 7.3 mos.	₱148,273.95
13th month pay (1/12)	12,356.18
SILP: P20,311.50/22 x 5 x 7.3/12 =	2,808.19
	₱163,438.30
Overtime Pay for 105min./day:	
6/22/07 – 6/21/10	
P923.25/8 x 1.25 = P144.2578/hr. (OT rate)	
P144.2578 x 1.75 x 22 x 30 =	166,617.76
Overtime pay work on weekends (OT on RD):	
P20,311.50/22 = P923.25/day	
P923.25/8 = 115.40625 basic hourly rate	
P115.40625 + (25% of P115.40625) =	144.26
Regular OT/hour	
130% of P115.40625 = P150.0281 (RD OT/hr)	
P150.0281 x 92 hrs =	13, 802.59
Overload pay in Preschool:	
P1,523.36 x 117 weeks =	178,233.12
Overload Pay in Grade School:	
P5,413.01 x 40 weeks =	216,520.40
Holiday Pay:	
6/22/07 – P6/21/10	
P20,311.50/22 = P923.25/day	
P923.25 x 33 days =	30,467.25
13th Month Pay:	
6/22/07 – 6/21/10	
P20,311.50 x 30/12 =	50,778.75
Service Incentive Leave Pay:	
6/22/07 – 6/21/10	
P923.25x 5/12 x 30 mos. =	11,540.63
	₱831,398.70

Respondents St. Paul College of Pasig, Inc. (sic) and Sister Teresita Baricaua are likewise ordered to pay complainant Valera the following: (1) full backwages from the time she was constructively dismissed, or from 21 June 2010, until the time of actual reinstatement, which date amounts to ₱177,379.05; (2) overtime pay equivalent to 15 minutes every day, and 90 minutes overtime every day on account of mandatory meetings and conferences held beyond 3:30 pm, or a total of 105 minutes every day since 22 June 2007 until 21 June 2010 amounting to ₱180,829.69; (3) overtime

pay for work done on weekends based on the records of this case since 22 June 2007, amounting to ₱14,979.90; (4) a weekly overload pay of Php1,653.30 counted from 22 June 2007, representing the amount equivalent to 1.5 hours of actual teaching/load per week rendered in preschool, amounting to ₱193,436.10; (5) a weekly overload pay of ₱5,874.73 for school year 2009-2010, representing the amount equivalent to 5.33 hours of actual teaching/load per week in grade school, amounting to ₱234,989.20; (6) holiday pay amounting to ₱33,066.00; (7) 13th month pay amounting to ₱55,110.00; and (8) service incentive leave pay amounting to ₱12,525.00. Hereunder is our computation:

Backwages:

Basic salary: P22,044.00	
6/21/10 – 1/31/11	
P22,044.00 x 7.3 mos.	₱160,921.20
13th month pay (1/12)	13,410.10
SILP: P20,311.50/22 x 5 x 7.3/12 =	3,047.75
	₱177,379.05

Overtime Pay for 105 min./day:

6/22/07 – 6/21/10	
P1.002.00/8 x 1.25 = P156.5625/hr. (OT rate)	
P156.5625 x 1.75 x 22 x 30 =	180,829.69

Overtime pay work on weekends (OT on RD):

P22,044.00/22 = P1,002.00/day	
P1,002.00/8 = 125.25 basic hourly rate	
P125.25 + (25% of P125.25) = 156.5625	
Regular OT/hour	
130% of P125.25 = P162.825 (RD OT/hr)	
P162.825 x 92hrs =	14,979.90

Overload pay in Preschool:

P1,653.30 x 117 weeks =	193,436.10

Overload Pay in Grade School:

P5,874.73 x 40 weeks =	234,989.20

Holiday Pay:

6/22/07 – 6/21/10	
P22,044.00 = P1,002.00/day	
P1,002.00 x 33 days =	33,066.00

13th Month Pay:

6/22/07 – 6/21/10	
P22,044.00 x 30/12 =	55,110.00

Service Incentive Leave Pay:

6/22/07 – 6/21/10	
P1,002.00 x 5/12 x 30 mos. =	12,525.00
	₱902,314.94

> Lastly, respondents St. Paul College of Pasig, Inc. (sic) and Sister Teresita Baricaua are ordered to pay Mancol and Valera attorney's fees equivalent to ten percent of the total judgment award.
>
> All other claims are denied.
>
> SO ORDERED.[5]

Petitioners elevated the case to the National Labor Relations Commission (*NLRC*) and the latter in its Decision[6] dated September 30, 2011 reversed the decision of the Labor Arbiter, disposing the case as follows:

> WHEREFORE, premises considered, the appeal is hereby given due course. The assailed decision dated January 31, 2011 is hereby REVERSED and SET ASIDE and a new one rendered DISMISSING the complaints interposed by the complainants for lack of merit. Complainants are hereby DIRECTED to report for work, if they so desire, within five days from receipt of this decision and for respondents to ACCEPT them without qualifications. The suspension imposed upon complainant Anna Liza Mancol is deemed served.
>
> SO ORDERED.[7]

Aggrieved, respondents filed a petition for *certiorari* under Rule 65 of the Rules of Court with the CA. In its Decision[8] dated April 16, 2015, the CA granted respondent's petition and reversed the decision of the NLRC, thus:

> WHEREFORE, the petition is GRANTED. The Decision of the National Labor Relations Commission dated September 30, 2011 in NLRC LAC NO. 06-001594-11(8) is hereby REVERSED and SET ASIDE. Accordingly, the Decision of the Labor Arbiter dated January 31, 2011 is REINSTATED with the following MODIFICATIONS as follows:
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> 1. The award of overtime pay, holiday pay, holiday premium, rest day premium and nightshift differential overload pay are hereby DELETED;
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> 2. Private respondents SPCP and Sister Teresita Baricaua, SPC, are ordered to pay petitioners moral and exemplary damages each in the amount of Php100,000.00 and Php50,000.00, respectively;
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> 3. Private respondents SPCP and Sister Teresita Baricaua, SPC are ordered to pay attorney's fees equivalent to ten percent (10%) of the total monetary award;

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5 *Id.* at 321-324. (Citations omitted)
6 *Id.* at 388-404.
7 *Id.* at 403-404.
8 *Id.* at 45-64.

> 4. Private respondents SPCP and Sister Teresita Baricaua, SPC are directed to pay petitioners their accrued wages reckoned from January 31, 2011 until September 30, 2011; and
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> 5. Petitioners are declared not guilty of forum shopping.
>
> SO ORDERED.[9]

Petitioners filed their motion for reconsideration but it was denied by the CA in its Resolution dated January 8, 2016, thus:

> WHEREFORE, in view of the foregoing, the Court resolves to:
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> 1. DENY private respondents' Motion for Reconsideration for lack of merit; and
>
> 2. CLARIFY and DECLARE that in lieu of reinstatement, the petitioners are entitled to separation pay computed from Anna Liza L. Mancol and Jennifer Cecile Valera's respective first days of employment with St. Paul College, Pasig, up to the finality of this decision at the rate of one month pay per year of service.
>
> The LABOR ARBITER is hereby ORDERED to make a RECOMPUTATION of the total monetary benefits awarded and due to the petitioners in accordance with this Resolution and Our April 16, 2015 Decision.
>
> SO ORDERED.[10]

Hence, the present petition raising the following arguments:

> 6.01 Contrary to the "Finding of Fact" of the Court of Appeals that Mancol was placed on preventive suspension, Mancol was NEVER SUSPENDED PREVENTIVELY. The story about Mancol's preventive suspension was a pure fabrication of the ponente Mr. Justice Edwin Sorongon and concurred in by Presiding Justice Andres Reyes and Justice Ricardo Rosario. Worse, still, the ponente Mr. Justice Edwin Sorongon attributed this story to the "decision" of the NLRC when [in] truth the NLRC decision NEVER stated that Mancol was preventively suspended. Herein petitioners even humbly begged the Presiding Justice Andres Reyes and Justice Ricardo Rosario to read the NLRC decision and ask the ponente to show them where in the NLRC decision was the statement that Mancol was preventively suspended. Petitioners were hoping against hope that the fabrication of facts was purely the work of the notorious "Madame Arlene" gang of the law clerks and legal researchers in the Court of Appeals. But

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9 *Id.* at. 63-64.

10 *Id.* at 83.

the three Justices NEVER bothered to remedy or explain this grave falsification of the facts. In other words, the three justices simply decided to COVER UP this falsification. WHY?

6.02 Contrary to the conclusion of the Court of Appeals, the NLRC correctly ruled that there was no constructive dismissal based on the evidence and on the undisputed account of antecedent facts leading to the filing of the labor complaint last June 22, 2010.

6.03 Because respondents were not dismissed from the service, the Court of Appeals erred in affirming the award of "backwages" for respondents under the principle of "no work, no pay". Since they had stopped reporting for work beginning June 22, 2010 (for Mancol) and June 16, 2010 (for Valera), up to the present time, they are clearly not entitled to backwages.

6.04 The Court of Appeals erred in awarding separation pay because respondents abandoned their posts as far back as June 2011 and should have been dismissed for CAUSE. Employees dismissed for cause are not entitled to payment of separation pay.

6.05 Neither was it correct for the Court of Appeals to rule that respondents must be paid wages from January 31, 2011 up to September 30, 2011. The ruling is contrary to the evidence on record showing that respondents failed to report for work despite receipt of notice from the petitioners.

6.06 The Court of Appeals further erred in reinstating the labor arbiter's award for unpaid 13th month pay and SIL pay. The ruling has no evidentiary basis as respondents never discussed this cause of action in all the pleadings filed below.

6.07 Finally, the Court of Appeals erred in holding the petitioners solidarily liable to respondents. Petitioner Sr. Teresita was only acting as officer of the petitioner-corporation. Absent showing of malice and bad faith, officers cannot be held liable for damages and money claims of dismissed employees.[11]

In their Comment[12] dated September 14, 2016, respondents argue that the CA correctly ruled that they were constructively dismissed by petitioners and that the latter are solidarily liable to pay each of them their full backwages, separation pay in lieu of reinstatement, 13th month pay, service incentive leave pay, moral damages, exemplary damages, attorney's fees and accrued wages.

The petition lacks merit.

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11 *Id.* at 24-25.

12 *Id.* at 532-576.

As a general rule, only questions of law raised via a petition for review under Rule 45[13] of the Rules of Court are reviewable by this Court.[14] Factual findings of administrative or quasi-judicial bodies, including labor tribunals, are accorded much respect by this Court as they are specialized to rule on matters falling within their jurisdiction especially when these are supported by substantial evidence.[15] However, a relaxation of this rule is made permissible by this Court whenever any of the following circumstances is present:

1. [W]hen the findings are grounded entirely on speculations, surmises or conjectures;
2. when the inference made is manifestly mistaken, absurd or impossible;
3. when there is grave abuse of discretion;
4. when the judgment is based on a misapprehension of facts;
5. when the findings of fact are conflicting;
6. when in making its findings[,] the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee;
7. when the findings are contrary to that of the trial court;
8. when the findings are conclusions without citation of specific evidence on which they are based;
9. when the facts set forth in the petition[,] as well as in the petitioner's main and reply briefs[,] are not disputed by the respondent;'
10. when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; [and]
11. when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.[16]

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[13] Section 1, Rule 45 of the Rules of Court, as amended, provides:

Section 1. Filing of petition with Supreme Court. A party desiring to appeal by *certiorari* from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law, which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.

[14] *Philippine Transmarine Carriers, Inc., et al. v. Joselito A. Cristino*, G.R. No. 188638, December 9, 2015, 777 SCRA 114, 127, citing *Heirs of Pacencia Racaza v. Abay-Abay*, 687 Phil. 584, 590 (2012).

[15] *Id.*, citing *Merck Sharp and Dohme (Phils.), et al. v. Robles, et al.*, 620 Phil. 505, 512 (2009).

[16] *Id.* at 127-128, citing *Co v. Vargas*, 676 Phil. 463, 471 (2011).

Since the factual findings of the NLRC are completely different from that of the Labor Arbiter and the CA, this case falls under one of the exceptions, therefore, this Court may now resolve the issues presented before it.

Constructive dismissal arises "when continued employment is rendered impossible, unreasonable or unlikely; when there is a demotion in rank and/or a diminution in pay; or when a clear discrimination, insensibility or disdain by an employer becomes unbearable to the employee."[17] In such cases, the impossibility, unreasonableness, or unlikelihood of continued employment leaves an employee with no other viable recourse but to terminate his or her employment.[18]

By definition, constructive dismissal can happen in any number of ways. At its core, however, is the gratuitous, unjustified, or unwarranted nature of the employer's action. As it is a question of whether an employer acted fairly, it is inexorable that any allegation of constructive dismissal be contrasted with the validity of exercising management prerogative.[19]

Based on the facts of this case, respondents Mancol and Valera were constructively dismissed. The CA, in affirming the findings of the Labor Arbiter, correctly found that petitioners committed acts that are considered to be gratuitous, unjustified, unwarranted and unfair on the part of the respondents, thus:

> In case of Valera, she underwent a successful scoliosis operation on April 14, 2010 covered by an approved leave until June 11, 2010. The Human Resource Office assured her that she may report back for work on June 15, 2010 and all she needs to bring is a medical certificate attesting her fitness to go back to work. However, much to her surprise, Sister Baricaua insisted that she should go on leave for one year. When Valera reasoned out her desire to teach, Sister Baricaua uttered harsh remarks: *"Why are you insisting on working? Can't your mom and dad feed you anymore? x x x "Ask help from your brothers and sisters, tell them, 'please help me, I have no work anymore.' I know Jeng, it is hard and painful to accept the truth, but I am sorry, I cannot accept you."* Valera was later on informed by Sister Lota that she has no more teaching load or class to teach with. When Valera submitted her medical certificate, as previously advised, both the Human Resource Office and Sister Baricaua refused to accept the same. Worse, Valera received a letter dated June 2, 2010, from Sister Baricaua accompanied by insults and forcing her to go on leave for 1 year. Not only that, after filing the complaint for illegal dismissal on June 22, 2010, Valera received on June 30, 2010, a letter dated June 28, 2010, requiring her to submit documents and to report for work within the

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17 *Tan v. National Labor Relations Commission*, 359 Phil. 499, 511 (1998) [Per J. Panganiban, First Division].

18 *Manalo v. Ateneo de Naga University, et al.*, 772 Phil. 366, 381 (2015).

19 *Id.* at 382.

period specified therein, and yet, when Valera reported back for work as instructed on July 5, 2010, she was shocked to know that she was already barred from working in utter contradiction of private respondents' June 28, 2010 letter.

For Mancol's part, she was allegedly prevented from: 1.) teaching in her class; 2.) entering her classroom; 3.) being introduced to her students; 4.) preparing teaching aids and materials; and 5.) going to other offices within the institution when she reported back for work on June 16, 2010, after going through a fertility test in Canada with her husband.

x x x x

Case law defines constructive dismissal as a cessation of work because continued employment is rendered impossible, unreasonable or unlikely, when there is a demotion in rank or diminution in pay or both; or when a clear discrimination, insensibility, or disdain by an employer becomes unbearable to the employee. The test of constructive dismissal is whether a reasonable person in the employee's position would have felt compelled to give up his position under the circumstances. It is an act amounting to dismissal but made to appear as if it were not. In fact, the employee who is constructively dismissed may be allowed to keep on coming to work. Constructive dismissal is therefore a *dismissal in disguise.* The law recognizes and resolves this situation in favor of employees in order to protect their rights and interests from the coercive acts of the employer.

Both Mancol and Valera constantly attempted to report back to work. However, the private respondents barred them from resuming their work. In case of Mancol, she was prevented from teaching in her class, going inside her classroom, being introduced to her students, preparing teaching aids and materials, and going to other offices within the institution when she reported back for work. Neither the preschool principal nor the Human Resource Office offered any reason for the same. She also exerted every effort to explain that she was on leave for health reasons. She even submitted a copy of a medical certificate issued by her attending physician in Canada and photocopies of her tickets. Valera, on the other hand, submitted her medical certificate stating that she is fit to work before the Human Resource Office. However, Sister Baricaua all the more insisted that she should take a leave of one year; otherwise, she will be reassigned to a higher year level where students are more independent learners. She was also given no teaching load for that academic year.[20]

The above findings of the CA are an affirmation of the earlier findings of the Labor Arbiter, thus:

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20 *Rollo*, pp. 54-56. (Citations omitted; italics is the original)

Respondents cannot impute liability upon complainant Mancol for allegedly taking an absence without leave for health reasons. It must be noted that as early as April 2010, complainant Mancol informed the preschool principal Sister Lota of the fact that she may go on personal leave for a month for health reasons when she secured a Certification of Employment & Compensation issued by respondent SPCP. Also, complainant Mancol immediately applied for personal leave from 21 May 2010 to 18 June 2010 and submitted it to Sister Lota, almost a week before her scheduled flight to Toronto, Canada on 21 May 2010. In fact, Sister Lota recommended the approval of the leave application and immediately referred it to the Office of the Directress, respondent Sister Baricaua. It was due to respondent Sister Baricaua's inaction why Mancol's meritorious leave application was not approved prior to her departure for medical reasons. Thus, respondents cannot impute liability upon Mancol due to their own inaction or ineptitude.

Respondents' argument that a substitute teacher has been hired to take her place until June 24 because Mancol has been absent from work has no merit. Respondents cannot justify their act of preventing Mancol from assuming her duties and entering the school premises due to such reasons. Mancol did not abandon her work but was prevented from performing it by the respondents.

x x x x

As to complainant Valera, this Office likewise gives credence to her sworn statement which supports her allegation that she was constructively dismissed by the respondents.

The records bear out that on 14 April 2010, complainant Valera underwent a successful scoliosis operation and had an approved leave with the respondents until 11 June 2010. That on 25 May 2010, she went to the school premises to decorate her classroom; and on 27 May 2010, respondent Sister Baricaua called a meeting with preschool teachers including Sister Luisita Lota. While respondent Sister Baricaua was informed that complainant Valera was already fit to work and has already started decorating her classroom, respondent Sister Baricaua unjustifiably refused to give any teaching load to complainant Valera. Moreover, on 28 May 2010, complainant Valera asked Ms. Cecile Reyes of the Human Resource Office about her leave status and she was told that her leave is up to 11 June 2010 and she can report back for work and teach at preschool upon showing of a medical certificate that she's fit to work.

However, on 30 May 2010, complainant Valera called Sister Lota and the latter informed her of respondent Sister Baricaua's decision for her to take a leave of absence for one year. Shocked and wanting to get an explanation, complainant Valera talked to respondent Sister Baricaua. The latter insisted that complainant Valera should go on leave for one year and required her to prepare a letter-application for leave for one year as soon as possible. Complainant Valera refused and stated that she wants to resume her duties as a teacher but respondent Sister Baricaua berated her by saying: "Why are you insisting on working? Can't your mom and dad feed you anymore?" and she continued: "Ask help from your brothers and sisters, tell them 'please help me, I have no work anymore.' I know Jeng, it is hard and painful to accept the truth, but I am sorry, I cannot accept you." That on

> 02 June 2010 around 10:00 am, Ms. Calimbahim called complainant Valera informing the latter that the former will be taking complainant Valera's place as teacher. During this time complainant Valera's personal things and classroom decors were removed and transferred to another room. On the first day of classes or on 07 June 2010, Sister Lota and the preschool and grade school principal Ms. Arlene Cruz personally confirmed that she is on leave for one year and that she has no more teaching load or class to teach in preschool and grade school. Thereafter, or on 15 June 2010, complainant Valera reported back to work but was not given any teaching load and no class was assigned to her. She went to Ms. Arlene Cruz and submitted the medical certificate stating that she's fit to work (Annex "A" of complainant Valera's Position Paper). However, after reading the medical certificate, Ms. Cruz told complainant Valera once again that she has no more teaching load or class in preschool and grade school. Complainant Valera met again with respondent Sister Baricaua. She personally submitted her medical certificate that she is already fit to work but respondent Baricaua refused to accept the certificate. Instead, respondent Sister Baricaua just gave complainant Valera a letter dated 02 June 2010 (Annex "B" of complainant Valera's Position Paper) degrading her and forcing her to go on leave for one year.
>
> By respondent's own admission, respondent Sister Baricaua in a letter dated June 2, 2010 (Annex "H" of respondents' Position Paper), respondent Sister Baricaua formalized the options she presented to complainant Valera to (1) take a one (1) year sick leave, or (2) agree to an assignment to a higher grade level. This was nothing but a scheme to force complainant to quit her job.
>
> Moreover, respondents do not deny that they did not give any teaching load to complainant Valera after her successful surgery despite her submission of a medical certificate that she is already fit to work. Instead, they tried to justify such act by saying that they were allegedly worried about Valera's health. This is baseless and unsubstantiated precisely because Valera has already proven that she is fit to work.
>
> Obviously, as in the case of complainant Mancol, respondents also wanted to get rid of complainant Valera by making her quit her job because continued employment is rendered impossible, unreasonable or unlikely and because there was a clear discrimination, insensibility, or disdain by the respondents that becomes unbearable to the employee. Indeed, complainant Valera was constructively dismissed.[21]

From the above findings alone, it is clear that petitioners employed means whereby the respondents were intentionally placed in situations that resulted in their being coerced into severing their ties with the same petitioners, thus, resulting in constructive dismissal. An employee is considered to be constructively dismissed from service if an act of clear discrimination, insensibility or disdain by an employer has become so

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21 *Rollo*, pp. 315-319.

unbearable to the employee as to leave him or her with no option but to forego with his or her continued employment.[22]

As to the claim of petitioners that respondent Mancol was not constructively dismissed but the latter abandoned her job, such was not duly proven. For a termination of employment on the ground of abandonment to be valid, the employer "must prove, by substantial evidence, the concurrence of [the employee's] failure to report for work for no valid reason and his categorical intention to discontinue employment."[23] In this case, there is no proof that respondent Mancol abandoned her work, instead, evidence show that she wanted to return to work but was prevented by the respondents. As aptly found by the Labor Arbiter:

> This Office finds that respondents failed to discharge their burden of proving the existence of the elements of abandonment of work. The records are replete of proof that Mancol had no intention of abandoning her work. On the contrary, she wanted to resume her duties as a teacher. In fact, on or around 21 June 2010, after her medical leave of absence, complainant Mancol reported back for work and was in the school premises at around 6:30 am. However, respondents prevented her from teaching in her class, entering her classroom, being introduced to her students, preparing teaching aids and materials, and going to other offices within the school premises. More importantly, the very next day or on 22 June 2010, Mancol, together with complainant Valera, filed an instant complaint for constructive dismissal. Thus, the records of this case belie respondents' argument of abandonment of work.[24]

In the same manner, petitioners also failed to prove that respondent Valera abandoned her work, thus:

> We find that respondents failed to discharge their burden of proving the existence of the elements of abandonment of work. The records are replete of proof that Valera had no intention of abandoning her work. On the contrary, she wanted to resume her duties as a teacher. In fact, on 25 May 2010, she went to the school premises to decorate her classroom and insisted on resuming her duties as a teacher when respondents unjustifiably and in bad faith refused to give her any teaching load. Also, complainant Valera also filed the instant complaint for constructive dismissal on 22 June 2010, or a week after 15 June 2010 when complainant Valera reported back to work but was not given any teaching load and no class was assigned to her.[25]

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22 *Emilio S. Agcolicol, Jr. v. Jerwin Casiño,* G.R. No. 217732, June 15, 2016, citing *Mandapat v. Add Force Personnel Services, Inc., et al.,* 638 Phil. 150, 156 (2010).

23 *Ang v. San Joaquin, Jr., et al.*, 716 Phil. 115, 130 (2013), citing *Martinez v. B & B Fish Broker,* 616 Phil. 661, 666-667 (2009).

24 *Rollo*, p. 316.

25 *Id.* at 319.

Anent the argument raised by petitioners that the CA erred in ruling that Mancol was placed on preventive suspension, such is no longer relevant due to the above findings proving that respondents Mancol and Valera were indeed constructively dismissed.

WHEREFORE, the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court dated March 7, 2016 of petitioners St. Paul College, Pasig and Sister Teresita Baricaua is **DENIED** for lack of merit. Consequently, the Decision dated April 16, 2015 and the Resolution dated January 8, 2016, of the Court of Appeals in CA-G.R. SP No. 124501, are **AFFIRMED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

FRANCIS H. JARDELEZA
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

NOEL GIMENEZ TIJAM
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, Second Division

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