

LAW 101

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UPHOLDING ACADEMIC FREEDOM

In an April 2001 decision, the Supreme Court upheld the academic freedom of the University of the Philippines to choose its professors as against the application of a Civil Service Rule which provides for the automatic termination of an employee who fails to return to duty after the lapse of his leave of absence without pay (which in no case can be granted for more than one year).

Dr. Y went on vacation leave of absence without pay for 3 years while he served as the Philippine Government's official representative to some Centre for Rural Development. When his leave of absence was about to expire, he requested for another extension of one year but which request was denied. UP threatened to drop him from its roll of personnel. Despite the warning, Dr. Y failed to report back to the university. For one reason or another, his name was not dropped from the roll of personnel. On the contrary, the High Court observed that he was even promoted despite his absence without leave. The High Court, however, did not find it significant if these promotions were effected after he was deemed automatically terminated under the cited CSC rule.

He finally reported back and was accepted by the University after almost 5 years of absence without leave. When queried about Dr. Y's status, the Civil Service Commission opined that Dr. Y was automatically considered to have been dropped from the service on the date his request for extension of his leave was denied and that his re-employment thus required the issuance of a new appointment.

To the contention that the University did not actually drop Dr. Y from its roll of academic personnel, the Solicitor General argued that Section 33 of Rule XVI of the Civil Service Rules and Regulations automatically operates to terminate the employment and thus the choice of whether or not to give effect to the provision is not within the discretion of the government agency concerned.

Not so said the Supreme Court—at least not in institutions of higher learning. "We have held time and again that the University has the academic freedom to determine for itself on academic grounds who may teach, what may be taught how it shall be taught, and who may be admitted to study." The authority of Civil Service Commission is limited to approving or reviewing appointments to determine their concordance with the requirements of The Civil Service Law. But the CSC does not have the power to terminate employment or to drop workers from the roll.

In the light of said ruling, one is tempted to ask: is there any law or rule that is operative in that University?

(University of the Philippines, et. al. vs. Civil Service Commission, Supreme Court GR No. 132860 April 3, 2001)