

EX-PO2 ALBERTO HUIT, PETITIONER, VS. JEFFREY SANCHO, RESPONDENT.

Ponente: BATO, JR., J.

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BATO, JR., J.:

Assailed before this Court via a Petition for Review under Rule 43 of the Rules of Court is the Decision Number 140253[2] promulgated on April 4, 2014 by the Civil Service Commission.

The factual antecedents:

Alberto Huit [herein petitioner] was a member of the Philippine National Police (PNP) assigned at Caramoan Municipal Police Station, Caramoan, Camarines Sur. On February 12, 2003, around 5:00 o'clock in the afternoon, spouses Jeffrey and Margie Sancho were on-board their motorcycle and were passing along petitioner's residence when the latter stopped them and poked his service firearm caliber .45 pistol in their direction. Barangay Kagawad Sonny Sapien approached petitioner and pacified him. Due to his drunkenness, petitioner fell to the ground. Sapien got the firearm and was eventually turned over to PO2 Ramil Aranas of the Caramoan Police Station. Meanwhile, Jeffrey Sancho [hereafter referred to as complainant] reported the incident to the Caramoan Municipal Police Station and to the Office of Barangay Tawog.

Subsequently, complainant filed a complaint for Grave Misconduct against petitioner before the Camarines Sur Provincial Internal Affairs Service. A Notice of Complaint was issued to petitioner and in compliance therewith, he submitted his Answer-Affidavit wherein he asserted that he fell asleep in his house and at around 5:00 o'clock in the afternoon, he woke up to urinate. Since someone was using the toilet, he went out to urinate near the road. He was about to take off his service firearm when Sapien approached him and instructed him to put his firearm down.

A Charge Sheet dated March 26, 2003 was issued against petitioner. However, despite due notice, petitioner failed to appear at the preliminary hearing and to present controverting evidence in support of his defense. On March 9, 2004, the Regional Internal Affairs Service No. 5 [RIAS-5] rendered a Decision, the dispositive portion of which reads:

"WHEREFORE, after finding respondent P02 Alberto B. Huit, GUILTY of all the offenses charged, is hereby meted the penalty of DISMISSAL from the PNP service pursuant to Sections 39-49 of Republic Act No. 8551 and NAPOLCOM MEMO CIRCULAR Nr. 2002-013."

Petitioner filed his appeal before the Internal Affairs Service [IAS], Camp Crame, Quezon City which rendered a Decision dated August 3, 2004 affirming the RIAS-5 Decision. The IAS Decision was affirmed by the PNP Chief. Petitioner then filed an appeal before the National Appellate Board - National Police Commission [NAB-NAPOLCOM] which rendered a Decision on December 14, 2010, finding him guilty of Grave Misconduct and affirming his dismissal from the service as imposed by the PNP Chief. Subsequently, petitioner filed an appeal before the Department of Interior and Local Government [DILG] which also affirmed his dismissal from the service in the Decision dated September 16, 2011. Petitioner filed a motion for reconsideration which was

denied in the Resolution dated May 8, 2012.

Petitioner sought the review of the DILG Decision and Resolution via an appeal before the Civil Service Commission [CSC]. On April 4, 2014, the CSC rendered the assailed Decision Number 140253, the decretal portion of which reads:

"WHEREFORE, the appeal of Alberto B. Huit, former Police Officer II, Philippine National Police is hereby DISMISSED. Accordingly, the Decision dated September 16, 2011 issued by the Department of Interior and Local Government (DILG), denying his motion for reconsideration from the Decision issued by the National Police Commission (NAPOLCOM) – National Appellate Board (NAB), finding him guilty of Grave Misconduct and meting upon him the penalty of dismissal from the service, is hereby AFFIRMED. The accessory penalties of perpetual disqualification from holding public office, bar from taking civil service examinations, cancellation of eligibility and forfeiture of retirement benefits (except GSIS personal contributions, if any) are likewise deemed imposed.

Copies of the Decision shall be furnished the Government Service Insurance System (GSIS), Commission on Audit (COA) and Integrated Records Management Office (IRMO), this Commission, for their appropriate action."[3]

Petitioner filed a motion for reconsideration which was denied in the Resolution dated July 30, 2014. Hence, this petition for review raising the following grounds:

"I. THE COMMISSION GRAVELY ERRED IN FAILING TO CONSIDER THAT PETITIONER WAS DENIED DUE PROCESS OF LAW WHEN HE WAS DROPPED FROM THE ROLLS.

II. THE CIVIL SERVICE COMMISSION GRAVELY ERRED IN IMPOSING THE PENALTY OF DISMISSAL AND OTHER ACCESSORY PENALTIES (SIC) PETITIONER."[4]

Petitioner argues that he was deprived of his only means of livelihood without due process of law. He claims that the investigating/hearing officer who conducted the preliminary hearing merely relied on the self-serving affidavits of complainant's witnesses whom he had no opportunity to cross-examine. He insists that his failure to attend the hearings was due to the fact that he was then taking care of his ailing grandmother. He also reiterates his arguments raised before the CSC that the statements of the complainant's witnesses show that there was no gun toting; that he never abused his authority as no color of authority can be assumed because he was not wearing his uniform; that there was no evidence of his alleged intoxication and of the alleged firing of his firearm. Further, petitioner argues that the CSC erred in imposing the penalty of dismissal and other accessory penalties.

At the outset, it bears stressing that the right to appeal is not a natural right and is not part of due process.[5] It may be exercised only in the manner and in accordance with the provisions of law and the appealing party must strictly comply with the requisites laid down in the Rules of Court. Deviations from the Rules cannot be tolerated.[6]

Sections 6 and 7 of Rule 43 provides:

"Sec. 6. Contents of the petition. The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein.

Sec. 7. Effect of failure to comply with requirements. The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof." (Emphasis supplied.)

In the present case, the petitioner contravened the afore-quoted rules as shown by the following circumstances:

Firstly, petitioner failed to state the full name and address of the respondent in his petition. Resultantly, the Court cannot properly serve him with notices and require him to comment on the petition pursuant to Rule 43, Section 9.

Secondly, petitioner failed to attach a copy of the CSC Resolution dated July 30, 2014 denying his motion for reconsideration of the assailed CSC Decision dated April 14, 2014.

Thirdly, petitioner failed to attach copies of all the material portions of the records referred to in his petition such as: (a) Notice of Complaint; (b) petitioner's Answer Affidavit; (c) Charge Sheet filed before the RIAS-5; (d) RIAS-5 Decision dated March 9, 2004; (e) IAS Decision dated August 3, 2004; (f) NAB-NAPOLCOM Decision dated December 14, 2010; (g) DILG Decision dated September 16, 2011; (h) petitioner's motion for reconsideration before the DILG and the CSC; and (i) the affidavits of the complainant and his witnesses. Notably, only the assailed CSC Decision dated April 14, 2014 was appended to the instant petition.

As elucidated in the case of *Maniebo vs. Court of Appeals*:^[7]

"The rule clearly requires the petition for review to be accompanied by 'a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers.' The requirement is intended to immediately enable the CA to determine whether to give due course to the appeal or not by having all the material necessary to make such determination before it. This is because an appeal under Rule 43 is a discretionary mode of appeal, which the CA may either dismiss if it finds the petition to be patently without merit, or prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration x x x."

Thus, a petition lacking copies of essential pleadings and portions of the case record may be dismissed pursuant to Section 7 of Rule 43. The requirements of the rules cannot be considered as merely harmless and trivial technicalities that can be discarded at whim. In these times when court dockets are clogged with numerous litigations, parties have to abide by these rules with greater fidelity in order to facilitate the orderly and expeditious disposition of cases.^[8]

Even if we gloss over these procedural infirmities, the present petition would still fail. It should be noted that petitioner merely reiterated his arguments raised before the CSC and hinged his petition on the alleged denial of his right to due process of law and on the supposed error of the CSC in imposing the penalty of dismissal and its accessory penalties.

The essence of due process is simply to be heard, or as applied to administrative proceedings, a fair and reasonable opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of.^[9] In the present case, the petitioner was duly notified of the complaint filed before the Camarines Sur Provincial Internal Affairs Service and he even filed his Answer-Affidavit explaining his version of the incident. However, despite due notice, petitioner failed to appear at the preliminary hearing and to present controverting evidence in support of his defense. While the petitioner advances the theory that he was not able to attend the preliminary hearings because he had to take care of his ailing grandmother who was confined in a hospital in Manila, he failed to present any credible proof of such fact in his appeals before the aforementioned agencies. Despite his claim that his job was his only source of livelihood, petitioner simply allowed the

proceedings to go on without exerting any effort to submit additional pleadings or present corroborative evidence. Thus, the Regional Internal Affairs Service No. 5 [RIAS-5] was constrained to render its Decision on March 9, 2004 on the basis of the evidence submitted by the complainant and the Answer-Affidavit filed by the petitioner.

As regards his claim that he was not able to cross-examine complainant's witnesses, suffice it to state that in administrative proceedings, a formal or trial-type hearing is not always necessary and technical rules of procedure are not strictly applied. Hence, the right to cross-examine is not an indispensable aspect of administrative due process.[10] At any rate, petitioner was also afforded the opportunity to seek the reconsideration of the RIAS-5 Decision when he filed his appeal before the Internal Affairs Service (IAS), National Appellate Board-National Police Commission (NAB-NAPOLCOM), Department of Interior and Local Government [DILG] and the CSC.

As to the penalty imposed by the CSC, We find that it did not err in imposing the penalty of dismissal from the service along with the accessory penalties of perpetual disqualification from holding public office, bar from taking civil service examination, cancellation of eligibility and forfeiture of retirement benefits.

It should be noted that petitioner was charged with Grave Misconduct and the CSC found substantial evidence that he is guilty thereof on the basis of the following grounds:

"x x x the prosecution established that Huit abused his authority as police officer when he flagged down spouses Sancho for no apparent reason causing them to fear for their lives; that he used government property or his government issued service firearm .45 caliber pistol to commit the offense; that he was under the influence of liquor while on-duty, and that he was not wearing his proper uniform."[11]

It bears stressing that in administrative proceedings, such as the present case, only substantial evidence or that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion is required.[12] The gauge of substantial evidence is satisfied where there is reasonable ground to believe that the petitioner is guilty of misconduct, even if the evidence might not be overwhelming.[13] In this regard, findings of fact of quasi-judicial agencies are generally accorded respect and even finality by the court, if supported by substantial evidence, in recognition of their expertise on the specific matters under their consideration.[14] In fact, Section 10 of Rule 43 explicitly states that "[t]he findings of fact of the court or agency concerned, when supported by substantial evidence, shall be binding on the Court of Appeals." In the instant case, the CSC aptly stated that during the preliminary inquiry, the complainant presented witnesses Melvin Sancho, Arnold Nardo and Margie Sancho who personally witnessed the incident. Barangay Kagawad Sapien also affirmed their testimonies. Meanwhile, Edwin Alarte, a policeman at Caramoan Police Station, confirmed that the petitioner was on duty during the incident.

Interestingly, while the petitioner denies that he was intoxicated during the incident, he impliedly admitted the same in his appeal before the CSC wherein he stated that:

"In the instant case, MARGIE SANCHO even testified that she allegedly shouted unto respondent-appellant to put down his gun but respondent-appellant never replied and after a while he just fell down due to his intoxication. This would very well show that respondent-appellant never intended to harm the complainant or his wife as even when MARGIE SANCHO shouted respondent-appellant just kept quiet and never threatened them with harm even when he is holding on to his gun. If the respondent-appellant is under his normal senses he would have probably got angry to the complainant and his wife and would probably threaten them with harm for having shouted at him."[15]

Petitioner also admitted that he was not wearing his uniform when the incident happened.[16] Clearly, there was substantial evidence supporting the unanimous conclusion of the RIAS-5, IAS, NAB-NAPOLCOM, DILG and the CSC that the petitioner is guilty of Grave Misconduct. The congruence in their conclusion forecloses any

possibility of reversible error or misappreciation of facts.[17]

Petitioner's stance that his dismissal from the service was too harsh a punishment does not convince. At this juncture, it should be emphasized that it is the mission of the PNP and its members to enforce the law, prevent and control crimes, maintain peace and order, and ensure public safety and internal security.[18] Unarguably, petitioner's behavior in sowing fear upon the people that he was supposed to protect is a manifestation that he is morally unworthy to remain as a member thereof. To make matters worse, even his statement that he would probably threaten spouses Sancho with harm if he were under his normal senses reveals the state of his moral character.

The RIAS-5 clearly stated in its Decision that petitioner was meted the penalty of dismissal from service pursuant to NAPOLCOM Memorandum Circular No. 2002-013. Under Rule V, Section 2 thereof, the administrative offense of misconduct may be classified as light, less grave and grave depending upon the seriousness of the acts committed. Apropos, the maximum penalty shall be imposed where only aggravating and no mitigating circumstances are present.[19] Taking into account that the aggravating circumstances of using government property in the commission of the offense and committing the offense during office hours[20] are obtaining in this case, the CSC correctly affirmed the dismissal of petitioner from the service as the offense of grave misconduct carries with it the maximum penalty of dismissal. In turn, the penalty of dismissal carries with it that of cancellation of eligibility, forfeiture of leave credits and retirement benefits, and the disqualification for re-employment in the police service.[21] Hence, the imposition of the aforestated accessory penalties are likewise in order.

WHEREFORE, for being procedurally infirmed and for patent lack of merit, the instant petition for certiorari is DENIED DUE COURSE and DISMISSED outright.

SO ORDERED.

Zalameda, and Diy, JJ., concur.

[1] Ex-PO2 Alberto Huit was mistakenly referred to as the respondent in the Rollo.

[2] Rollo, pp. 13-20.

[3] Rollo, p. 20.

[4] Rollo, p. 10.

[5] Spouses Bergonia vs. Court of Appeals, et al., G.R. No. 189151, January 25, 2012 citing Dimarucot vs. People of the Philippines, G.R. No.183975, September 20, 2010.

[6] Boardwalk Business Ventures, Inc. vs. Villareal, G.R No. 181182, April 10, 2013.

[7] G.R. No. 158708, August 10, 2010.

[8] Basuel vs. Fact Finding and Intelligence Bureau, G.R. No. 143664, June 30, 2006.

[9] Pat-og, Sr. vs. Civil Service Commission, G.R. No. 198755, June 5, 2013.

[10] Pat-og, Sr. vs. Civil Service Commission, G.R. No. 198755, June 5, 2013.

[11] Rollo, p. 20.

[12] Quiambao vs. Court of Appeals, et al., G.R. No. 128305, March 28, 2005 citing Resngit-Marquez vs. Llamas, Jr., 434 Phil. 124 (2002); Mariano vs. Roxas, 434 Phil. 742 (2002).

[13] Basuel vs. Fact Finding and Intelligence Bureau, G.R. No. 143664, June 30, 2006.

[14] Quiambao vs. Court of Appeals, et al., G.R. No. 128305, March 28, 2005.

[15] Rollo, p. 15.

[16] Rollo, p. 14.

[17] Quiambao vs. Court of Appeals, et al., G.R. No. 128305, March 28, 2005.

[18] <http://pnp.gov.ph/portal/index.php/features11/organization>.

[19] Rule VI, Section 4 (d), NAPOLCOM Memorandum Circular No. 2002-013.

[20] Rule V, Section 3 (d) and (f), NAPOLCOM Memorandum Circular No. 2002-013.

[21] Rule V, Section 5 (a), NAPOLCOM Memorandum Circular No. 2002-013.

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