

TERESITA L. SALVA, APPELLANT-PETITIONER, V. MARLYN O. BUEZON, APPELLEE-RESPONDENT.

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

For disposition is a Petition for Review[1] filed under Rule 43 of the Rules of Court. The Petition assails the Resolution[2] dated June 29, 2010 of the Civil Service Commission (“CSC” for brevity) in CSC Resolution No. 101319 (CSC Resolution No. 09-1712), which denied petitioner's eventual Motion for Reconsideration[3] of CSC Resolution No. 09-1712 dated December 11, 2009.

Among the salient facts are those as stated in the CSC's Resolution[4] of June 29, 2010, which are as follows:

“On June 1, 2005, Salva issued Office Order No. 084 reassigning Buezon as a full-time faculty member from the PSU-Main Campus (Puerto Princesa City) to PSU-Araceli Extramural Studies Center xxx.

In a Letter dated June 13, 2005, Buezon asked for a reconsideration of her reassignment claiming that she is xxx suffering from severe Hypertensive Cardio-Vascular Disease, Stress Fatigue Syndrome, and on-and-off Pneumonia xxx and that her family is financially handicapped as her husband's earning is barely enough to support their daily needs xxx.

On June 17, 2005, Salva issued a Resolution deferring the implementation of Office Order No. 084 with respect to Buezon's reassignment. The said resolution also directed Buezon to go on sick leave for the first semester of school year 2005-2006 and to be entitled to reinstatement, she has to submit a medical certificate that she is physically fit to 'undergo the rigors of the strenuous job of teaching' xxx.

On June 22, 2005, Buezon filed a request for reinstatement, attaching a medical certificate showing she is fit to work. In the same letter, she again requested for the reconsideration of her reassignment due to her meager take-home pay xxx.

The request for reinstatement was approved but with the directive by Salva that Buezon 'should now report to Araceli' xxx.

On October 28, 2005, Buezon again requested Salva to transfer her to PSU-Main Campus citing her monthly medical check-up in Puerto Princesa City and low take-home pay. In addition, she claims that due to the nature of the place of her workstation, she has to fetch water for her personal use and most of the time she has to walk from the school to the town proper resulting in the worsening of her bronchial asthma and fluctuating blood pressure.

On November 29, 2005, Buezon filed a sick leave application for fourteen (14) days from November 21, 2005 to December 9, 2005. The leave application form shows that it was not acted upon by Salva although the 'Summary of Absences' issued by Gil E. Bundac, Jr. (OIC-HRMO) indicates that it was approved by Salva.

On December 12, 2005, Salva denied the request of Buezon to be transferred to PSU-Main Campus. xxx.

xxx Buezon again filed a sick leave application on December 29, 2005 for seventy-one (71) days from December 12, 2005 to March 29, 2006. The same was approved by Salva only on March 30, 2006 but with a

notation that Buezon should submit a medical certificate that she is physically fit and should comply with her reassignment to PSU-Araceli. Thereafter, Buezon submitted a medical certificate dated April 19, 2006 that she is physically fit to report for work.

On November 23, 2006, Buezon again filed a sick leave application for five (5) months from October 21, 2006 to March 20, 2007, attaching therewith a medical certificate dated November 22, 2006 issued by Ferdinand A. Totaan, Medical Officer IV, City Health Department, City Government of Puerto Princesa, recommending five (5) months sick leave for Buezon due to Hypertensive Cardio-Vascular disease, Bronchial Asthma, Rheumatoid Arthritis and Abnormal Bleeding.”[5] (Emphasis Supplied)

On January 23, 2007, petitioner Teresita L. Salva (“petitioner” for brevity) issued an “Order of Separation”[6] which dropped private respondent Marilyn O. Buezon (“private respondent” for brevity) from the rolls of Palawan State University (“PSU” for brevity).

On February 7, 2007, private respondent filed an Appeal before the Civil Service Commission Regional Office No. IV (“CSCRO No. IV” for brevity) assailing petitioner’s “Order of Separation”[7] dated January 23, 2007.

On December 3, 2007, the CSCRO No. IV rendered a Decision[8] ordering petitioner to “REINSTATE Buezon at the PSU-Main Campus, with payment of back salaries and other benefits, from the time that she was dropped from the rolls up to the time of her actual reinstatement.”[9]

Petitioner then filed before the CSC an Appeal[10] questioning the CSCRO No. IV’s Decision[11] dated December 3, 2007.

On December 11, 2009, the CSC issued a Resolution[12] dismissing the appeal of petitioner. The dispositive portion of the Resolution stated as follows:

“WHEREFORE, the appeal of Teresita L. Salva, President, Palawan State University, Puerto Princesa City, is DISMISSED. Accordingly, the Decision No. 070310 dated December 3, 2007 of the Civil Service Commission Regional Office (CSCRO) No. IV, Panay Avenue, Quezon City, which declared invalid the dropping from the rolls of Marlyn O. Buezon, directing the latter’s reinstatement and payment of back salaries and other benefits, is AFFIRMED.

PSU President Salva is directed to reinstate Buezon to her former position and pay her back salaries and other benefits effective January 23, 2007 up to her actual reinstatement.

The CSCRO No. IV is directed to strictly monitor the implementation of this Resolution and submit a report to the Commission within fifteen (15) days from receipt of this Resolution.

A copy of this resolution shall be furnished the Commission on Audit-PSU for its appropriate action and reference.”[13] (Emphasis was made in the original)

After petitioner’s Motion for Reconsideration[14] was denied by the CSC in its assailed Resolution[15] of June 29, 2010, petitioner filed the Petition[16] at bench, praying “to give due course to the instant Petition and thereafter render a Decision reversing Resolution No. 10-1319 dated 29 June 2010 issued by the Civil Service Commission and to declare further the Appeal filed by Respondent Marlyn O. Buezon before the Civil Service Commission Regional Office (CSCRO) No. IV dismissed for having been patently filed out of time and for utter lack of merit.”[17]

Petitioner raised the following grounds:

“a. The Commission Proper gravely erred in not dismissing outright the appeal filed by Respondent Marlyn O. Buezon with the CSC Regional Office No. IV despite patent showing that the same was filed beyond the reglementary period of appeal provided for in CSC Memorandum Circular No. 19, s. 1999.

b. The Commission Proper gravely erred in its findings that the dropping from the rolls of Marlyn O. Buezon was not valid.

c. The Commission Proper gravely erred when it affirmed Resolution No. 07-0310 dated 3 December 2007 of the CSCRO IV directing the reinstatement and payment of back salaries and other benefits to Marlyn O. Buezon.”[18]

To begin with, contrary to petitioner's allegations in her assigned ground a, the CSCRO No. IV properly gave due course to private respondent's Appeal.

Petitioner had argued as follows:

“It is an uncontested fact that the appeal interposed by Respondent Marlyn O. Buezon on the Order of Separation dated 23 January 2007 was filed out of the reglementary period of fifteen (15) days for the filing of an appeal. The Order of Separation which is hereto attached shows on its face the Buezon received a copy of the said Order on 23 January 2007 evidenced by her signature beside her name and bearing the date 1/23/07. However, at the front page of the Appeal that Buezon filed with the CSCRO IV the appeal fee was filed only on 21 March 2007, presumably the date when she also filed her appeal.

xxx

When Respondent Buezon allowed the period to appeal to elapse, the Order of Separation issued by the herein Petitioner had become final and executory and can no longer be disturbed or reviewed by an appellate office. Hence, when the appeal of Buezon was filed out of time, the CSCRO IV had no more jurisdiction to entertain the same and should have dismissed said appeal outright.”[19] (Emphasis supplied)

Defeating petitioner's arguments however, is that despite private respondent's Appeal to the CSCRO No. IV having been filed beyond the reglementary period,[20] the Appeal could still be admitted. This is because private respondent was deprived of due process of law when she was dropped from the rolls by petitioner.

An Appeal may still be admitted despite its delayed filing if there was a showing that the right to due process of a party was violated, as was in this case. This is pursuant to the following declaration by the Supreme Court in *Vicente A. Miel vs. Jesus A. Malinog*, G.R. No. 143538, February 13, 2009:

“Nonetheless, we have held that a delay in the filing of an appeal under exceptional circumstances may be excused on grounds of substantial justice and equity. Filing of an appeal beyond the reglementary period may, under meritorious cases, be excused if the barring of the appeal would be inequitable and unjust in light of certain circumstances therein. Courts may suspend its own rules, or except a particular case from its operations, whenever the purposes of justice require it. In *Baylon v. Fact-Finding Intelligence Bureau*, we laid down the range of reasons which may provide justification for a court to resist strict adherence to procedure, to wit: (1) matters of life, liberty, honor and property; (2) counsel's negligence without the participatory negligence on the part of the client; (3) the existence of special or compelling circumstances; (4) the merits of the case; (5) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (6) a lack of any showing that the review sought is merely frivolous and dilatory; and (7) the other party will not be unjustly prejudiced thereby.” (Emphasis supplied)

As the records revealed, private respondent was not given an opportunity to explain her side before she was dropped from the rolls by petitioner. Thus, for being violative of private respondent's right to due process, the “Order of Separation”[21] issued by petitioner was tantamount to illegal dismissal. All of these were as also found by the CSC in its Resolution dated June 29, 2010, to wit:

“Thereafter the CSCRO No. IV issued Decision No. 070310 dated December 3, 2007 resolving the appeal of Buezon on her dropping from the rolls, thus:

'Records of this case would show that no opportunity was given for Buezon to explain her side prior to her dropping from the rolls. What was done was the Buezon was automatically dropped from the rolls, without giving her due process ...

Therefore for being violative of due process the Order of Separation is tantamount to illegal dismissal which entitles Buezon to reinstatement and full back wages from the time of her Dropping from the Rolls up to the time of her actual reinstatement.'" (Emphasis supplied)

Besides, the CSCRO No. IV could have given due course to private respondent's Appeal, given that technical rules are not strictly applied in administrative cases. This was as also concluded by the CSC, as follows:

"The Commission would like to emphasize that it agrees with the ruling of CSCRO No. IV. The 'late filing' argument is no longer a novel issue. In CSC Resolution No. 07-0498 dated March 11, 2007 the Commission ruled as follows:

'Moreover granting that the appeal of Antigua was filed beyond the reglementary period the Commission or its Regional Offices can entertain the same as technical rules are not strictly applied in administrative cases. As the Supreme Court has ruled in a litany of cases thus:

Dismissal of appeal purely on technical grounds is frowned upon and the rules of procedure ought not to be applied in a very rigid technical sense for they are adopted to help secure, not override, substantial justice, and thereby defeat their very aims (Sarranga et al. vs Banco Filipino Savings and mortgage Bank G.R. No. 143783 dated December 9, 2002; Salazar, et al. vs Court of Appeals G.R. 142920 dated February 6, 2002)'" (Emphasis supplied)

That technical rules are not strictly applied in administrative proceedings, as in the CSC, was as similarly held by the Supreme Court in Alberto Pat-og, Sr. vs. Civil Service Commission, G.R. No. 198755, June 5, 2013, to wit:

"In administrative proceedings, a formal or trial-type hearing is not always necessary and technical rules of procedure are not strictly applied." (Emphasis supplied)

Contrary to petitioner's allegations in her assigned ground b, the dropping from the rolls of private respondent was not valid.

Petitioner had argued as follows:

"The Order of Separation was issued by the herein Petitioner on the basis of Buezon's incurred leave of absences on account of sickness which, based on the sound judgment of the Petitioner, makes Buezon physically unfit to effectively perform her duties as an instructor of the Palawan State University. The decision of the Petitioner to drop Buezon from the rolls was made in accordance with the express provision of the rules, specifically Memorandum Circular No. 12, s.1994.

xxx Buezon had intermittently been absent for a period of 313 working days during a 24-month period which manifestly shows that she is unfit to remain in the service. xxx

xxx

It is to be noted by this Honorable Court that in Resolution No. 09-1712 which was affirmed by the herein-questioned Resolution, the Commission Proper had categorically stated that '(T)here is no question that Buezon has incurred a number of absences due to her illness that may be a ground for her dropping from the rolls'. With this finding, and without further dwelling on unrelated and apparently distinct facts, the Commission Proper had ample basis already to declare the validity of Buezon's dropping from the rolls. What the Commission Proper should have borne in mind is that regardless of the reasons behind the absences of Buezon, the fact of the matter was that she voluntarily and without coercion filed a number of sick leave applications and incurred absences without approved leaves that led altogether to such number that a head of

office may declare her physically unfit to perform her duties as an instructor. It matters not whether said leaves or absences were filed or were incurred because of illness or merely to defeat a lawful order of reassignment; what matters are the fact that such leaves and/or absences were incurred, and that the same amounts to such number that pursuant to Civil Service rules an employee incurring such may be declared unfit to work.”[22] (Emphasis supplied)

Overwhelming petitioner's arguments however, is that private respondent had sufficiently established that she had been sick, which situation therefore entitled her to avail of sick leave. As the facts showed, private respondent filed her sick leave application for five (5) months and had attached to it a Medical Certificate dated November 22, 2006. The Medical Certificate was issued by Dr. Ferdinand A. Totaan (“Dr. Totaan” for brevity), Medical Officer IV, City Health Department, City Government of Puerto Princesa. Dr. Totaan recommended that private respondent be on a five (5) months sick leave due to her having Hypertensive Cardio-Vascular disease, Bronchial Asthma, Rheumatoid Arthritis and Abnormal Bleeding.[23] All of these matters were as also found by the CSC, to wit:

“Be that as it may, the Commission has already pointed out in the assailed CSC Resolution No. 09-1712 that Buezon was able to submit a medical certificate to support her claim of illness. Whether the medical certificate was procured by connections or by payment of a fee, as Salva claims in the instant motion, deserves scant consideration as the said claim is not supported by evidence. The Commission has to rely on the said medical certificate as the same was issued by Ferdinand A. Totaan (Medical Officer IV, City Health Department, City Government of Puerto Princesa) recommending five (5) months sick leave for Buezon due to Hypertensive Cardio-Vascular disease Bronchial Asthma, Rheumatoid Arthritis and Abnormal Bleeding.”[24] (Emphasis supplied)

Moreover, petitioner failed to justify that private respondent's illness rendered her physically unfit to perform her duties as a full-time faculty member of PSU so as to have justified petitioner's act of dropping private respondent from the rolls. This was as also found by the CSC, to wit:

“There is no question that an agency may drop an employee from the rolls if in the sound judgment of the head of agency the former is physically unfit to perform his duties by reason of his illness. However, this is always subject to the requirement of justifiable cause, which is wanting in the decision of Salva to drop Buezon from the rolls.”[25] (Emphasis supplied)

That the head of the agency, such as petitioner here, has the burden of proving that the dropping from the rolls of an employee, such as private respondent here, is valid, is pursuant to the following pronouncement by the Supreme Court in *Elenita S. Binay, in her capacity as Mayor of the City of Makati, Mario Rodriguez and Priscilla Ferrolino vs. Emerita Odeña*, G.R. No. 163683, June 8, 2007:

“xxx It is elementary that in cases of dismissal from employment, the burden of proof is upon the employer to show the validity of the dismissal.” (Emphasis supplied)

Considering that the dropping from the rolls of private respondent by petitioner in the latter's “Order of Separation” was not valid and was tantamount to illegal dismissal, then contrary to petitioner's allegations in her assigned ground c, private respondent is entitled to reinstatement, backwages and other benefits.[26] That this is the consequence is pursuant to the pronouncement of the Supreme Court in *Edgar R. Del Castillo vs. Civil Service Commission, Professional Regulation Commission and/or Associate Commissioner Mariano A. Mendieta of the Professional Regulation Commission*, G.R. No. 112513, August 21, 1997, as follows:

“When an official or employee was illegally dismissed and his reinstatement has later been ordered, for all legal purposes he is considered as not having left his office. Therefore, he is entitled to all the rights and privileges that accrue to him by virtue of the office he held xxx.

Back salaries may be ordered paid to said officer or employee xxx.” (Emphasis supplied)

Indeed, the rule is settled that the findings of fact of an administrative agency, like public respondent CSC, are accorded due respect and even finality, and are binding upon the court[27] especially when supported by substantial evidence, as in this case.

After careful consideration of all the facts, arguments, and issues appearing on the records, as well as of the pertinent laws and jurisprudence, and, in accordance with what is best determined to be proper under the circumstances, the following disposition is therefore made on these matters.

IN VIEW OF ALL THESE, the Petition is DENIED.

SO ORDERED.

Didican (Chairperson) and Paredes, JJ., concur.

[1] Rollo, pp. 35-60.

[2] Rollo, pp. 20-28.

[3] Rollo, pp. 151-161.

[4] Rollo, pp. 20-28.

[5] Rollo, pp. 21-23.

[6] Rollo, p. 83.

[7] Rollo, p. 83.

[8] Rollo, pp. 107-122.

[9] Rollo, p. 122.

[10] Rollo, pp. 84-99.

[11] Rollo, pp. 107-122.

[12] Rollo, pp. 141-150.

[13] Rollo, p. 150.

[14] Rollo, pp. 151-161.

[15] Rollo, pp. 20-28.

[16] Rollo, pp. 35-60.

[17] Rollo, p. 58.

[18] Rollo, pp. 45-46.

[19] Rollo, pp. 47-50.

[20] Rollo, p. 70.

[21] Rollo, p. 83.

[22] Rollo, pp. 53-55.

[23] Rollo pp. 66-67.

[24] Rollo, p. 71.

[25] Rollo, p. 71.

[26] Edgar R. Del Castillo vs. Civil Service Commission, Professional Regulation Commission and/or Associate Commissioner Mariano A. Mendieta of the Professional Regulation Commission, G.R. No. 112513, August 21, 1997

[27] Ruble Rubenecia vs. Civil Service Commission, G.R. No. 115942, May 31, 1995

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