

P/SGT. MEINRADO Q. PINEDA, PETITIONER, VS. DIRECTOR GENERAL, PHILIPPINE NATIONAL POLICE (PNP FORMERLY INP) AND NATIONAL POLICE COMMISSION (NAPOLCOM), RESPONDENTS.

Ponente: BARRIOS, J.

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BARRIOS, J.:

Through this Petition for Review P/Sgt. Meinrado Pineda (or Pineda for brevity) seeks the reversal of the decision dated September 29, 1993 of the National Police Commission (or NAPOLCOM) and its subsequent resolution dated December 18, 1997 denying the motion for its reconsideration. NAPOLCOM had affirmed the decision of the Director General of the Integrated National Police, now Philippine National Police (or INP and PNP), where Pineda was summarily dismissed from the service pursuant to Presidential Decree No. 1707.

Pineda was appointed as a police sergeant in the INP on August 1, 1981. He was then assigned as the commander of the police station in Binuangan, Misamis Oriental.

It was during his tenure that on January 20, 1983 at about 11:45 in the morning, some thirty (30) armed men of the dissident New People's Army (or NPA) raided the municipal building of Binuangan. Fourteen (14) of these rebels went inside the building while the others were posted outside in strategic positions. They ransacked the municipal building, gathered all the municipal employees in the Mayor's Office while they took turns delivering subversive speeches and urging the employees to be their advocates. They entered the police station which is within the building, and radioman Pat. Cruz Bayucot who was the lone policeman at the post resisted them and shot one of the raiders. But he was killed, suffering seven (7) bullet wounds.

During the attack, patrolmen Pedro Babaran and Exurperio Zagudo of the Binuangan Police Station were within the vicinity of the municipal building, but they could not render any armed assistance because the municipal employees were then being held hostage. They sought help from the Sugbongcogon and Salay police stations, however by the time the reinforcements arrived the rebels were already gone, taking with them the M16 rifle of the slain policeman, one (1) cal. .38 revolver, one (1) FM5 radio, three (3) typewriters, postal money orders and other government properties.

Right after the incident, an on the spot investigation was conducted by the Provincial Commander of Misamis Oriental, PC/INP Command and other senior officers. Sworn statements were then taken from several witnesses, including Pineda and patrolmen Pedro Babaran and Exurperio Zagudo.

From the sworn statements, specifically that of Pineda, it was gathered that this police station had been placed and was on red alert status. But at around 11:45 a.m. of that day, Pineda went home to Calubo, Kinoguitan which is some six (6) kilometers away from the police station. He had gone home to eat his lunch and to prepare for a police operation they were to conduct that evening in his area of responsibility. It was only when he returned to the station at 12:00 noon that he found out about the incident.

An investigation report together with the other documents and records gathered were forwarded to the Provincial

Commander/INP Police Superintendent, Camp Alagar, Cagayan de Oro City who in turn referred these to the Office of the Chief Constabulary / Director General. From the said records, the Director General, INP found Pineda guilty of Grave Misconduct under PD 1707 and ordered him dismissed from police service effective May 10, 1993. The summary dismissal was made known to Pineda through a telegraphic letter dated May 26, 1983 (Annex “B”, p. 49, rollo). On June 10, 1983 Pineda filed a Petition for Reconsideration (Annex “C”, pp. 59-67, rollo) addressed to the Chief Philippine Constabulary, Director General, INP. Since this has not yet been acted upon, Pineda in a letter dated November 12, 1983 (Annex “D”, p. 68, rollo) adopted said petition as an appeal to NAPOLCOM.

On April 13, 1989 the Director General denied his motion or appeal for reinstatement. On September 23, 1993, the NAPOLCOM rendered its decision upholding Pineda’s dismissal from police service. The dispositive portion of the assailed decision states:

WHEREFORE, premises considered, the Decision/Directive of the Director General, INP summarily dismissing respondent / appellant P/SGT MEINRADO PINEDA from the police service is hereby AFFIRMED. (pp. 27-18, rollo)

Pineda moved for its reconsideration but this too was denied for lack of merit (p. 44, rollo).

Pineda is now before Us via this petition for review wherein he raises the following as the alleged errors committed by the NAPOLCOM:

ONE. - THAT THE RESPONDENT AND NAPOLCOM ERRED IN DEPRIVING PETITIONER OF HIS EMPLOYMENT WITHOUT DUE PROCESS OF LAW.

TWO. - THAT THE RESPONDENT ERRED IN THE SUMMARY DISMISSAL OF PETITIONER AND NAPOLCOM LIKEWISE ERRED IN AFFIRMING IT.

THREE. - THAT NAPOLCOM ERRED IN HOLDING THAT NAPOLCOM RESOLUTION NO. 83-06 GOVERNED THE CONDUCT OF PETITIONER’S SUMMARY DISMISSAL.

FOUR. - THAT RESPONDENT ERRED IN UNLAWFULLY SUMMARILY DISMISSING FROM THE SERVICE PETITIONER NOT PURSUANT TO SECS. 1 & 2 OF P.D. 1707. (pp. 12-13, rollo)

Pineda asserts that he was deprived of his property, namely his civil service employment, because his dismissal was without due process of law. He was not furnished a copy of the complaint or charges against him, because in the first place there was no formal charge filed against him either by the then INP Regional Director or the Provincial Commander. He was denied of his constitutional right to be informed of the nature and cause of accusation that led to his summary dismissal. He was not given the opportunity to be heard and not given a fair and reasonable chance to explain his side. Pineda asserts too that being a civil service eligible the telegraphic message of the Director General of the INP which contained his summary dismissal is null and void because he was without jurisdiction over his person or over the subject matter.

To further bolster his defense, Pineda avers that NAPOLCOM Resolution No. 83-06 which took effect only on August 19, 1983, should not have been applied in deciding the case against him for this was pre-dated by his alleged infraction committed on January 20, 1983. Instead the applicable law should be NAPOLCOM Resolution No. 81-01 which took effect on September 18, 1981 and was the effective law until supplanted by NAPOLCOM Resolution No. 83-06. Pineda advances that since Resolution No. 83-96 is not favorable to him this should not be given a retroactive effect.

The facts surrounding the circumstances of this case are undisputed. It is worthy to reiterate that when investigation of the incident was being conducted, Pineda voluntarily executed a sworn statement wherein he

admitted that the Binuangan Police Station of which he was the station commander was declared on red alert status. It need not be emphasized that in red alert situations, police officers are required to be at their posts and more so in the case of commanders. But this notwithstanding Pineda was so slack that he still took his lunch in his house which is some 6 kilometers away from the police station. True enough his laxity had its consequences: a policeman was killed right inside the police station, civilians were herded and hostaged, and government properties were stolen. Undoubtedly, Pineda was guilty of Gross Misconduct, and in declaring him guilty of the charge the NAPOLCOM declared that:

x x x We take notice that under a Red Alert Status and during efficacy of the same, those covered by it are required to be on post. All leaves, furlough and mission orders are automatically cancelled. The rationale of such directive is to ascertain that all members of the unit will be on hand to repel any attack of aggression. In short it is pre-emptive move to insure a concerted police action against the enemy. Accordingly any violation thereof specially a station commander, who in the first place should implement the order, and set example knowing well the emergency status of his Command is to our view a serious breach of contract and discipline constituting a grave misconduct. (p. 27, rollo)

Pineda's assertion that he was denied due process of law, is without merit. The essence of due process is simply an opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek a reconsideration of the ruling complained of. A formal or trial type hearing is not all times and in all instances essential, as the due process requirements are satisfied where the parties are afforded fair and reasonable opportunity to explain their side in the controversy at hand. What is frowned upon is the absolute lack of notice and hearing (Valiao vs. Court of Appeals, 435 SCRA 543, 544). Records bear that Pineda was not denied of due process as he claims. For one, he executed and submitted a sworn statement regarding the incident and filed a motion for reconsideration from the order of his dismissal. After having denied a reconsideration, Pineda availed of a further remedy and appealed to the NAPOLCOM. In fact in his "Petition to Decide/Resolve the Above-mentioned Case" which he filed before the NAPOLCOM, he even stated that:

At long last Office of the CPC/DG in a letter addressed to petitioner-appellant dated April 13, 1989 denied the motion or appeal for reinstatement into the INP service, thus he wrote again a letter addressed to the Chairman, NAPOLCOM, enclosing therewith all pertinent documents and prayed that his motion for reconsideration be adopted as his appeal. (p. 71, rollo, emphasis supplied)

Having sought reconsideration and submitting therewith relevant documents to support his cause, Pineda was never denied due process. In fact in coming up with its decision, NAPOLCOM considered all the documents before it and thus declared:

In summation, after a judicious evaluation of the evidence on record and the arguments presented by the appellant, this Commission finds him culpable of the offense charged cognizable by Summary Dismissal Authority under Presidential Decree 1707. (p. 27, rollo, emphasis supplied)

Hence, the summary dismissal of Pineda was for a valid cause, just and warranted under the circumstances.

Pineda's argument that Resolution No. 81-01 should have been applied instead of Resolution No. 83-09, cannot prevail over the fact that his guilt has already been established and Sec. 2 of P.D. 1707 provides the three (3) grounds for summary dismissal, namely:

- When the charge is serious and the evidence of guilt is strong;
- When the respondent is recidivist or has been repeatedly charged and there are reasonable grounds to believe that he is guilty of the charges; and
- When the respondent is notoriously undesirable.

The charge against him was indeed serious, and the proofs of it which included his admissions were incontrovertible. Administrative decisions on matters within the jurisdiction of administrative bodies are entitled to respect and can only be set aside on proof of grave abuse of discretion, fraud or error of law (Bernardo vs. Court of Appeals, 429 SCRA 285). Pineda failed to prove and convince that a reversal is in order.

WHEREFORE, the petition is DENIED DUE COURSE and DISMISSED.

SO ORDERED.

Guariña, III and Romilla-Lontok, JJ., concur.

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