

FAUSTO PANGILINAN, PETITIONER AND APPELLANT, VS. RICE AND CORN ADMINISTRATION, RESPONDENT AND APPELLEE.

G. R. No. L-22010. February 27, 1965

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Fausto Pangilinan was appointed a warehouseman of the National Rice and Corn Corporation (NARIC), effective July 2, 1957, with a compensation of P2,400.00 per annum. The appointment was approved by the NARIC Board of Directors, per Resolution No. 1179 of August 13, 1957, and carried in the plantilla of NARIC for the year 1957-1958.

On December 9, 1958, he was administratively charged for alleged "shortage of P25,988.85 found in his cash and stock accountability" and thereupon suspended, effective that date, by Special Order No. 504 of the NARIC General Manager.

In Resolution No. 30, dated March 2, 1962, the NARIC Board of Directors found Fausto Pangilinan guilty of the charge, thus:

"RESOLUTION NO. 30

"RESOLVED, That, in view of the memorandum dated February 2, 1962 of the General Manager and the report and recommendation dated February 2, 1962 of the Investigator on Administrative Case No. 84, the Board hereby finds Mr. Fausto Pangilinan, former in charge of the NARIC Retail Store in Tarlac, Tarlac, guilty as charged, of dishonesty, for having incurred cash, stocks and empty sack shortages amounting to P38,545.15, and therefore orders that said respondent be dismissed from the service for cause effective on the date of his preventive suspension;

"RESOLVED, FURTHER, That the Legal Department is hereby directed to file the necessary civil or criminal action against the above-named respondent for the recovery of said amount."

Pursuant to Section 13 of Republic Act 3452, effective June 14, 1962, the "National Rice and Corn Corporation is hereby abolished and all its assets, liabilities, functions, powers which are not inconsistent with the provisions of this Act. and all personnel are transferred to the [Rice and Corn] Administration."

On November 7, 1962, the Rice and Corn Administration (RCA) furnished Fausto Pangilinan a copy of the aforesaid NARIC Board of Directors' Resolution No. 30. On November 12, 1962, Fausto Pangilinan filed a motion for reconsideration thereof with the RCA Board of Administrators, alleging that the same was null and void ab initio "because it has no factual or legal basis".

Per Resolution No. 58 of December 6, 1962, the RCA Board of Administrators denied the aforesaid motion:

"RESOLUTION NO. 58

"RESOLVED, That, considering the memorandum of the Chairman-General Manager and the attached study of the Legal Department, the Board hereby denies the motion for reconsideration dated November 12, 1962, filed by Mr. Fausto Pangilinan, respondent In Administrative Case No. 84, it appearing that, contrary to the contentions stated in the motion, there was in fact a hearing conducted in accordance with the requirements of due process and, therefore, there is no valid grounds by which Resolution No. 30, dated March 2, 1962, of the defunct NARIC Board, could be validly modified or reversed."

On February 5, 1963, Fausto Pangilinan filed in the Court of First Instance of Tarlac a petition for certiorari, Mandamus and damages, with preliminary mandatory injunction, against the Rice and Corn Administration. The Petition alleged inter alia that "the respondent Administration in promulgating Resolution No. 30, finding the petitioner guilty as charged and dismissing him from the service effective on the day of his suspension acted without Jurisdiction or in excess of jurisdiction and/or with grave abuse of discretion or authority, because Resolution No. 30 has no legal basis as there was absolutely no hearing Conducted on the administrative charges filed against the petitioner."

The Rice and Corn Administration filed its Answer on February 28, 1963; and, on May 7, 1963, filed a motion to miss on the ground of failure to exhaust administrative remedies.

After an opposition and a rejoinder were filed, the Court denied the motion to dismiss in its order of July 17, 1963. The Rice and Corn Administration, however, moved for reconsideration and the court, on September 24, 1963, reconsidered its previous order and dismissed the petition.

Petitioner, stating that he raises "purely a question of law", has appealed directly to this Court from the afore-stated order.

The sole issue is on the applicability of the rule that administrative remedies must first be exhausted before resorting to the court. Appellant contends that there was no more administrative remedy available after the Rice and Corn Administration denied his motion for reconsideration. In support of his contention, appellant cites Section 5 of Republic Act 3452, allegedly vesting upon the RCA Board of Administrators, to the exclusion of the Civil Service Commissioner, the power to discipline RCA employees.

Section 5 of Republic Act 3452 provides:

Sec. 5." The management of the Administration shall be vested in a General Manager who shall be appointed by the Board and shall receive compensation at the rate of eighteen thousand per annum. The General Manager shall direct and manage affairs of the Administration in behalf of the Board of Administrators and subject to its control and supervision. He shall fix the number and, subject to WAPCO salary plan allowed by the Civil Service, salaries of, and appoint, subject to the Civil Service and with the consent of the Board of Administrators, such subordinate employees as may be necessary for the proper discharge of duties of the Administration. He shall suspend or otherwise discipline, for cause and subject to the Civil Service Law, any subordinate employee of the Administration with the consent of the Board of Administrators and perform such other duties as may be by the Board."

Per express provision of Republic Act 3452, therefore, of the power of the RCA General Manager and Board Administrators to discipline their employees is "subject to the Civil Service Law".

Republic Act 2260, the Civil Service Act of 1959, effective June 19, 1959, provides among other things:

"Section 16. Powers and duties of the Commissioner of Civil Service.—It shall be among the powers and duties of the Commissioner of Civil Service—

* * * * *

"(i) Except as otherwise provided by law, to have final authority to pass upon the removal, separation and suspension of all permanent officers and employees in the competitive or classified service and upon all matters relating to the conduct, discipline, and efficiency of such officers and employees; and to prescribe standards, guidelines and regulations governing the administration of discipline;

"(j) To hear and determine appeals instituted by any person believing himself aggrieved by an action or determination of any Appointing authority contrary to the provisions of the Civil Service Law and Rules, and to provide rules and regulations governing such appeals, and he may make such investigations or inquiries into the facts relating to the action or determination appealed from as may be deemed advisable and may affirm, review, or modify such action or determination, and the decision of the Commissioner shall be final;"

Accordingly, after the Rice and Corn Administration denied appellant's motion for reconsideration, an administrative remedy was still available to him: appeal to the Civil Service Commissioner.

Appellant's reference to the case of *Castillo vs. Bayona*, 106 Phil. 1121 is not in point. As the court a quo rightly stated, that case involved Republic Act 265 Section 14, paragraph (c), under which the power of the Monetary Board to remove Central Bank officials and employees (except the Governor) is not expressly made "subject to the Civil Service Law".

Besides, in the aforesaid Bayona case, this Court noted:

"Furthermore, under Republic Act No. 2260, known as the Civil Service Act of 1959, Section 16 (i) changed the jurisdiction of the Civil Service Commissioner from 'exclusive' to 'final'. We reproduce Section 16 (i) and (j) for purposes of reference:

* * * * *

"Again, even according to respondent's stand, the Monetary Board would still have jurisdiction to investigate her, either to suspend or remove her or otherwise take disciplinary action against her as the result of their investigation may warrant, subject to the final authority of the Commissioner of Civil Service on appeal to him by the aggrieved party."

Appellant, however, further contends that he need not exhaust his administrative remedies, but could forthwith seek redress from the court, because of the patent illegality of NARIC Resolution No. 30, allegedly rendered without a hearing.

The petition filed by appellant, particularly the annexes that are made integral parts thereof, does not show the alleged "patent illegality" of Resolution No. 30. The resolution itself, Annex "C" to the petition, indicates that there was an investigation of the charges since it mentions "the report and recommendation of the Investigator on Administrative Case No. 84". Resolution No. 58 of the Rice and Corn Administration, Annex "E" to the petition, sustained Resolution No. 30 because: ". . . contrary to the contentions stated in the motion, there was in fact a hearing conducted in accordance with the requirements of due process".

On the procedure for investigation of administrative cases, Executive Order No. 370, Series of 1941, states: "If the respondent elects to be heard on the said a hearing will be held wherein he will be given opportunity to defend himself personally or by counsel". From that appears in Resolution No. 58 aforesaid, this requirement was substantially complied with. Petitioner, of course, disputes this point, and refers to his counsel's letters to the NARIC General Manager, dated January 15 and February 5, 1962, likewise annexed to the petition, implying a lack of hearing. Aside from the fact that as between the two statements, the Court is inclined to give credit to Resolution Nos. 30 and 58, the foregoing clearly shows that there is no "patent illegality" reflected in the

resolution dismissing appellant from employment. Consequently, he should have first exhausted available administrative remedies in the Civil Service Commission before coming to our courts.

Wherefore, the order appealed from is hereby affirmed, with costs.

So ordered.

Bengzon, C.J., Bautista Angelo, Reyes, J.B.L., Barrera, Paredes, Regala, Makalintal, and Zaldivar, JJ., concur.

Order affirmed.

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