

QUIRICO CAMUS, PETITIONER AND APPELLANT, VS. THE CIVIL SERVICE BOARD OF APPEALS, ET AL., RESPONDENTS AND APPELLEES.

G.R. No. L-13685. May 31, 1961

Ponente: PAREDES, J.

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PAREDES, J.:

The case was submitted on a stipulation of facts, with the pertinent documents and papers thereon.

Petitioner Quirico Camus was a Civil Service eligible and discharging the duties of Administrative Officer of the Bureau of Public Works at P6,000 yearly salary since January 1, 1951. On September 13, 1952, administrative charges were filed against him and on December 12, 1952, the Commissioner of Civil Service rendered the following decision:

"It appears that on May 13, 1952 and June 12, 1952, the respondent signed for the Bureau of Public Works, applications Nos. 003733 and 004804 to import 1,000 and 500 tons of petroleum asphalt, respectively. In addition, he also signed at a later date, an application to the Philippine National Bank for the opening of a letter of credit in favor of Florentino Reyes and Company as guarantor to finance said importation. On the strength of these papers, the Import Control Commission approved the application alluded, to and issued the necessary licenses on May 21 and June 16, 1952. The Philippine National Bank, likewise, approved the establishment of a letter of credit in the name of Florencio Reyes and Company and the transaction was approved by the Central Bank of the Philippines. It further appears that in the applications to import, the consignee was to be, and is, the Bureau of Public Works and the dollars were to be provided by the Bureau. In both cases, however, the dollars were not made available by the said Bureau. Most, if not all, of the asphalt arrived in Manila either partially or fully unloaded in the piers the shipments being cleared by Florencio Reyes and Company from the Customs House by virtue of an authority signed by the respondent authorizing said Company to take 'shipside delivery' of the material.

* * * * *

"Considering that he is a responsible government official, this Office finds him guilty of gross misconduct for which he merits a severe penalty. However, in view of his length of service to the government, and his otherwise unblemished record, he is hereby merely suspended for two (2) months without pay, in the computation of which, the preventive suspension already suffered by him shall be taken into account. Moreover, he should be demoted to a lower position, with warning that his commission of another offense will be dealt with more drastically."

The above decision was modified in a Resolution, of the Commissioner of the Civil Service on November 5, 1953 to wit:

"Following the decision of this Office dated December 12, 1952, respondent-petitioner Camus was reinstated as Chief of Water Rights at P5,400.00 per annum. He was also paid his salary at P500 per month corresponding to the period from September 13, 1952 to June 19, 1953 minus his two months' pay

corresponding to his two months suspension without pay.

In view of all the foregoing, respondent petitioner Quirico Camus may now be reinstated to his former position."

Upon receipt of the foregoing resolution, the Secretary of Public Works and Communications indorsed the matter to the President of the Philippines for final decision on December 10, 1953, stating, among others, that said resolution might adversely affect the morale and discipline among the employees of the Bureau of Public Works.

On December 21, 1953, the said communication was referred by the Office of the President to the Commissioner of Civil Service, who in his reply dated January 16, 1954, made the following recommendations:

"A careful study of the case of Mr. Camus, former Administrative Officer, now Chief of Water Rights in the Bureau of Public Works, shows that, although he committed a serious error of judgment in exceeding his authority by presuming to sign application to import a large quantity of asphalt with a private importer as guarantor without the knowledge or approval of his superiors, the Director of Public Works or the Secretary of Public Works and Communications, his acts were not motivated by any ulterior or selfish purpose, but by the belief that the importation would ultimately redound to the public benefit. The record does not reveal bad faith on the part of Mr. Camus, nor evidence tending to show intent to, or actual profit in the transaction."

"It appears that Mr. Camus had already satisfied the first portion of the decision against him dated December 12, 1952, i.e., suspension without pay for two months. The second portion thereof which calls for his demotion is considered satisfied in his having served for a period of over six months as Chief, Water Rights, the position to which he was demoted. For purposes of administrative discipline, such a temporary reduction in rank and salary is considered a sufficient deterrent to the commission of another offense. Moreover, after he had served six months in the position to which he was reduced, Mr. Camus is already eligible for promotion under Sec. 11 of Executive Order No. 94, series of 1947,

"For all the foregoing considerations, this Office feels that Mr. Camus 'may' be returned to his former position at the discretion of the appointing officer, if circumstances warrant, such as final disposition of the court case against him which has been provisionally dismissed."

On October 14, 1954, petitioner Camus appealed the decision of the Commissioner of Civil Service to the Civil Service Board of Appeals, which handed a decision on January 16, 1956, of the following tenor:

"* * *. However, respondent merely committed an error of judgment when he signed the two applications to import asphalt under the belief that such act was authorized under his general authority provided for in the Bureau of Public Works Circular No. 6, series of 1952 111 (h) and (g). The Government did not suffer any loss in the importation or for any unpaid taxes."

A judicial review of the above decision was instituted with the Court of First Instance of Manila (Certiorari with Mandamus, Civ. Case No. 28928) under three (3) causes of action, namely: (a) that the acts committed by Camus, in the light of the findings of the Commissioner of Civil Service cannot be considered as ground for taking disciplinary administrative action, same having been done in good faith and constituted only error in judgment; (b) that if the acts were ever punishable, they can be no more than simple negligence, for which admonition and/or reprimand would be the proper imposable penalty; and (c) that having imposed the penalty of two months suspension without pay (which has already been served out), the imposition of the additional penalty of demotion finds no sanction in the law (sec. 695 of the Revised Adm. Code, as amended). In his prayer, he asked that the decision of the Civil Service Board of Appeals finding him guilty of gross misconduct be voided, since the acts, at most, constitute only simple negligence and admonition and/or reprimand being the appropriate penalty; that the Civil Service Board of Appeals be declared in error in having affirmed sub-silencio the portion of the decision of the Commissioner of Civil Service imposing the additional penalty of demotion, and to compel the Secretary of

Public Works to reinstate him to his former position and the refund to him of all the amounts deducted from his salary as a result of the suspension and/or demotion. This last prayer, however, has become moot in view of his reinstatement and payment of the difference between his original pay and the reduced salary.

On October 10, 1956, the lower court rendered judgment, dismissing the petition, after finding that the respondent Commissioner of Civil Service had the power to impose the penalties and that petitioner Camus had been barred from bringing the action.

In the appeal the petitioner prays for a reversal of the decision of the lower court on five (5) alleged errors, all of which boil down to just two propositions—(1) Whether the respondent-appellee Civil Service Board of Appeals erred in finding petitioner guilty of gross misconduct; and (2) Whether the penalty of suspension for 2 months without pay was authorized or legal.

The Commissioner of Civil Service in his 3rd indorsement dated January 16, 1954, contained the following: "A careful study of the case of Mr. Camus, * * * shows that, although he committed a serious error of judgment * * *, his acts were not motivated by an ulterior or selfish purpose, but by the belief that the importation would ultimately redound to the public benefit. The record does not reveal bad faith on the part of Mr. Camus, nor evidence tending to show intent to, or actual, profit in the transaction". Likewise, the respondent-appellee Civil Service Board of Appeals, in its decision affirming the decision, as modified by the subsequent resolution, of the Commissioner of Civil Service, said: * * *. "However, respondent merely committed an error of judgment when he signed the two applications to import asphalt under the belief that such act was authorized under his general authority * * *". Considering the above findings, the petitioner-appellant poses the following queries: Where is misconduct in an act characterized * * * as 'an error of judgment' done under the belief that such act was authorized? Where is the misconduct in acts found not to have been motivated by any ulterior or selfish purpose, but by the belief that the importation would ultimately redound to the public benefit? Is the finding that the record does not reveal bad faith on the part of the appellant or show intent to, or actual, profit in the transaction, consistent with the conclusion of "gross misconduct"?

Misconduct has been defined as 'wrong or improper conduct' and 'gross' has been held to mean 'flagrant; shameful' (Webster). This Court once held that the word misconduct implies a wrongful intention and not a mere error of judgment (In re Morrilleno, 43 Phil., 212, 214). With the above concept, it would appear that the findings of the Commissioner of Civil Service and the appellee Civil Service Board of Appeals, were inconsistent with the conclusions arrived at by them. We fail to see how an act done in good faith, which constitutes only an error of judgment and for no ulterior motives and/or purposes, satisfy the definition of "gross misconduct". The petitioner should, therefore, be held guilty of simple negligence only.

Anent the propriety of the penalty imposed, the appellant contends that not having committed acts which could be properly dubbed as "gross misconduct", the penalty imposed by the respondent Civil Service Board of Appeals becomes excessive and constitutes a violation of the power granted by law. What he questions is the proper exercise of that power, not the lack of it. The law provides:

"Administrative discipline of subordinate officers and employees.—The Commissioner of Civil Service shall have exclusive jurisdiction over the removal, separation and suspension of subordinate officers and employees in the Civil Service and over all other matters relating to the conduct, discipline, and efficiency of such subordinate officers and employees, and all shall have exclusive charge of all formal administrative investigations against them. He may, for neglect of duty or violation of reasonable office regulations, or in the interest of the public service, remove any subordinate officer or employee from the service, suspend him without pay for not more than two months, reduce his salary or compensation, or deduct therefrom any sum not exceeding one month's pay. * * *" (Sec. 695, Revised Adm. Code).

It will thus be seen that the Commissioner of Civil Service is given a great latitude in the imposition of penalties. And as well observed by the Solicitor General—

"It will be noted that not only does the law fail to specify that one particular penalty should be imposed upon a particular offense but that the description of the offenses are couched in such general terms as to include a variety of acts such as 'incompetency', 'inefficiency', 'conduct prejudicial to the best interest of the service' (Rule XIII, par. 6 Civ. Service Rules) enumerated in the various executive memoranda and administrative orders comprising the Civil Service Rules, which acts, 'may be considered reasons demanding proceedings to remove for cause, reduce in the class or grade; or to inflict other punishment as provided by law' (Rule XIII, par. 6, Civil Service Rules; see *Lacson vs. Romero*, 84 Phil., 740; 47 Off. Gaz., 1778.)"

The appellee alleged that petitioner had failed to appeal from the decision of the Civil Service Board of Appeals to the President of the Philippines, as provided for in section 2 of Commonwealth Act No. 598, and, therefore, the filing of the present action was premature, for it has been held that "the petitioner had no right to appeal to the court, even admitting that there was an abuse of authority, until he had exhausted the remedies afforded him by the executive branch of the government. The administrative remedies must first be exhausted before resort can be had to the court" (*Lo Po vs. M'Coy*, 8 Phil., 343). It appears, however, that two letters of petitioner were sent to the President appealing for reinstatement and on June 30, 1955, the Assistant Executive Secretary answered petitioner, stating "the matter was submitted to the Cabinet for decision and the said body, at its meeting held on June 2, 1955, decided to deny your request". The assertion of appellee that the filing of the present action is premature finds no factual or legal basis.

In view hereof, we declare that the trial court had acquired jurisdiction to try the case and hold that the petitioner-appellant is guilty of simple negligence only. Such portions of the decision appealed from not incompatible with the findings and conclusions of this Court, are hereby affirmed. No costs.

Paredes, Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Dizon, De Leon, and Natividad, JJ., concur.

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