

WILMA R. PADRONES PETITIONER, VS. ELIZARDO DE LAYOLA AND MA. LOURDES ALMARIO, RESPONDENTS.

Ponente: DIMAAMPAO, J.

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DIMAAMPAO, J.:

Via this Petition for Review[1] under Rule 43 of the Revised Rules of Court, petitioner assails the Decision[2] dated 18 July 2013 and Resolution[3] dated 23 September 2013 of the Office of the President, in OP-DC Case No. 13-D-044.

The salient facts are not in dispute.

Petitioner Wilma Padrones (petitioner), an employee of the News and Information Bureau (NIB) under the Office of the President (OP), received on 4 December 2012 a copy of a formal charge for Simple Dishonesty for the loss of the office-issued cellphone of respondent Ma. Lourdes Almario (respondent). In due course, co-respondent, Assistant Secretary Elizardo De Layola (Asec. De Layola), NIB Officer-in-Charge, rendered a Decision[4] dated 4 April 2013, the fallo of which reads:

"WHEREFORE, premises considered, the Respondent is found guilty of Simple Dishonesty as charged. Accordingly, a penalty of one (1) month suspension is hereby imposed against her which shall commence upon her receipt of this Decision.

SO ORDERED."[5]

Petitioner lost no time in filing an Appeal before the OP, which, in the challenged Decision, dismissed her plea for lack of jurisdiction. The OP ratiocinated that the Decision rendered by the NIB Head should be appealed initially to the Department Head, who, in this case, was the Secretary of the Presidential Communications and Operation Office (PCOO), and then finally to the Civil Service Commission (CSC). Petitioner's Motion for Reconsideration thereof was denied in the challenged Resolution.

Finding the foregoing Decision unacceptable, petitioner commenced the instant Petition proffering this issue—whether or not the Decision of respondent Asec. De Layola and of the OP were rendered without or in excess of jurisdiction.

The Petition is barren of merit.

We find no reversible error in the assailed issuances. Upon receipt of the Decision of the NIB imposing upon petitioner a one-month suspension as penalty for simple dishonesty, she never filed a Motion for Reconsideration thereof. Ineluctably, the judgment of the NIB became final and executory. Rule 9, Section 45 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS) cannot be any clearer—

Section 45. Finality of Decisions. – A decision rendered by the disciplining authority whereby a penalty of suspension for not more than thirty (30) days or a fine in an amount not exceeding thirty (30) days' salary is imposed, shall be final, executory and not appealable unless a motion for reconsideration is seasonably filed. However, the respondent may file an appeal when the issue raised is violation of due process.

If the penalty imposed is suspension exceeding thirty (30) days, or fine in an amount exceeding thirty (30) days' salary, the same shall be final and executory after the lapse of the reglementary period for filing a motion for recon-sideration or an appeal and no such pleading has been filed.

From the foregoing, the filing of a Motion for Reconsideration is necessary to stay the execution of the Decision sought to be reconsidered.[6] A party who fails to question an adverse decision by not filing the proper remedy within the period prescribed by law loses the right to do so. As petitioner failed to perfect his appeal within the reglementary period, the decision became final as against him.[7] Given that the NIB Decision had already become final and executory due to the failure of petitioner to file a Motion for Reconsideration, the remedy of appeal available to her fades into thin air.

It must be stressed that an appeal is not a constitutional right, but a mere statutory privilege. Thus, parties who seek to avail themselves of it must comply with the statutes or rules allowing it.[8] The perfection of appeal in the manner and within the period set by law is not only mandatory but jurisdictional. Failure to perfect the same renders the judgment final and executory,[9] with the result that no court can exercise appellate jurisdiction to review the Decision.[10]

Had petitioner timely filed her Motion for Reconsideration before the NIB, she could have interposed an appeal initially with the PCOO which has control and supervision over the NIB, and is headed by the Presidential Communications and Operations Head whose rank is that of a Cabinet Secretary.[11] On this point, it is the PCOO and not the OP which has the authority to entertain any appeal from a decision of the NIB. A Decision rendered by the PCOO Head is appealable pursuant to Section 9, Rule 2 of the RRACS.[12] Ergo, the OP erred not in dismissing petitioner's appeal and in denying her Motion for Reconsideration as it did not have appellate jurisdiction over the Decision of the NIB for having attained its finality.

WHEREFORE, the Petition for Review is hereby DENIED.

SO ORDERED.

Diamante, and Salandanan-Manahan, JJ., concur.

[1] Rollo, pp. 9-34.

[2] Id., p. 35.

[3] Id., pp. 36-38.

[4] Id., pp. 39-45.

[5] Rollo, p. 45.

[6] Section 60, Rule 11 Revised Rules on Administrative Cases.

[7] See *De Leon v. Hercules Agro Industrial Corporation*, 724 SCRA 316 (2 June 2014).

[8] *Zapanta v. Cokingki*, G.R. No. 191694 (3 December 2014).

[9] See *De Leon v. Hercules Agro Industrial Corporation*, 724 SCRA 316 (2 June 2014).

[10] See *Rivelisa Realty, Inc. v. First Sta. Clara Builders Corporation*, 713 SCRA 618, 627 (15 January 2014).

[11] Section 4. Executive Order No. 4. REORGANIZING AND RENAMING THE OFFICE OF THE PRESS SECRETARY AS THE PRESIDENTIAL COMMUNICATIONS OPERATIONS OFFICE; CREATING THE

PRESIDENTIAL COMMUNICATIONS DEVELOPMENT AND STRATEGIC PLANNING OFFICE; AND FOR OTHER PURPOSES (30 July 2010).

[12] Section 9. Jurisdiction of Head of Agencies. – The secretaries and head of agencies and other instrumentalities, provinces, cities and municipalities shall have original concurrent jurisdiction with the Commission over their respective officers and employees. They shall take cognizance of complaints involving their respective personnel. Their decisions shall be final in case the penalty imposed is suspension for not more than thirty(30) days or fine in an amount not exceeding thirty (30) days salary. In case the decision rendered by the bureau or office head is appealable to the Commission, the same may be initially appealed to the department and finally to the Commission and pending appeal, the same shall be executory except when the penalty is removal, in which case the same shall be executory only after confirmation by the Secretary concerned.

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