

UNIVERSITY OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS, CAMILO PEÑA AND DOMINGO CAJIPE, RESPONDENTS.

G.R. No. L-28153. January 28, 1971

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal by certiorari from the Court of Appeals decision (CA-G. R. No. 29903 -R) affirming the judgment of the Court of First Instance of Manila in Special Civil Case No. 45953, enjoining respondents therein, the President of the University of the Philippines (hereinafter termed UP), the Board of Regents and the Director of the Philippine General Hospital, from dismissing the petitioners Camilo V. Peña and Domingo Cajipe, respondents herein, from the service as classified civil service employees of the Philippine General Hospital (hereinafter called the PGH).

The Petition for Injunction in Special Civil Case No. 45953 filed by Messrs. Camilo V. Peña and Domingo Cajipe with the Court of First Instance of Manila on 4 January 1961 arose when said petitioners, as Assistant Cashier and Special Disbursing Officer and Collection Officer, respectively, of the PGH, were administratively charged and investigated (with seven others) by a UP-PGH Investigating Committee for "grave misconduct and dishonesty" and "infidelity in the custody of public documents". After fifty-nine hearings, excluding executive sessions, the Committee submitted its report to the authorities of the University of the Philippines, on the basis of which the Board of Regents adopted a resolution approving the report and fixing the penalties, which, with respect to respondents herein, was dismissal. With the filing of the Petition for Injunction, petitioners therein sought to restrain the UP President from dismissing them and to declare as a matter of legal right that they should not be dismissed from the PGH by the UP President but by the Civil Service Commissioner, subject to appeal to the Civil Service Board of Appeals under Republic Act No. 2260, otherwise known as the Civil Service Act of 1959; to declare petitioners who are classified civil service employees as governed by Republic Act No. 2260 and not by the UP Charter in so far as removal, dismissal or separation from the government service are concerned; and to nullify the findings of the Investigating Committee.

On 9 January 1961, the trial court issued an order restraining the petitioner herein from carrying out the acts complained of, and on 14 January 1961, a writ of preliminary injunction was issued by the said court. On 6 February 1961, Peña and Cajipe filed a supplemental petition for injunction, impleading the Board of Regents of the UP and the Director of the PGH as additional respondents. On 10 July 1961, after trial on the merits, the trial court rendered a decision granting both the original and supplemental petitions for injunction, and making permanent the preliminary writ restraining respondents therein from dismissing petitioners Peña and Cajipe. A motion to have the decision reconsidered was denied. On 15 September 1961, petitioner herein appealed to the Court of Appeals which, in its decision of 29 August 1967, sustained the trial court's judgment. A motion for reconsideration was also filed, but the same was denied. Hence, this instant petition for Review by Certiorari with this Court.

The sole issue raised by petitioner in this appeal is whether the dismissal of respondents by the Board of Regents

is final, or requires further action by the Civil Service Commission.

From its inception, under the Civil Commission of the Philippines, down to the inauguration of the Philippine Republic[1] the Civil Service laws have conferred upon the Director (later Commissioner) of Civil Service exclusive charge of all formal investigations against civil service employees, and his decision or recommendation regarding discipline, removal, separation and suspension of civil service employees was, and is, made final, subject only to appeal first to the Chief Executive or later to the Civil Service Board of Appeals.[2] This authority of the Civil Service Commission was applied to the employees of the Philippine General Hospital, that from 1936 to 1947 was under the administrative jurisdiction of the Office of the President, with the power of removal over the personnel thereof being exercised by the Commissioner of Civil Service.

However, Republic Act No. 51, enacted on 4 October 1946, and entitled "An Act Authorizing the President of the Philippines to Reorganize Within one year the different Executive Departments, Bureaus, Offices, Agencies and Instrumentalities of the Government, including the Corporations owned or controlled by it", provides that -?

"SECTION 1. In order to meet the exigencies attendant upon the establishment of the free and independent Government of the Republic of the Philippines, and for the purpose of promoting simplicity, economy and efficiency in its operation, the President of the Philippines is authorized to effect by executive order from time to time, for a period not exceeding one year from the date of the approval of this Act, and within the limits of the total authorized appropriation for the fiscal year nineteen hundred and forty-seven, such reforms and changes in the different executive departments, bureaus, offices, agencies and other instrumentalities of the Government, including the corporations owned or controlled by the Government, as he may deem necessary, with the power to diminish, add to or abolish those existing and create new ones; consolidate related undertakings; transfer functions, appropriations, equipment, property, records, and personnel from one department, bureau office, agency or instrumentality to another eliminate duplicated services or authorize new ones not provided for, classify, combine, split or abolish positions; standardize salaries; and do whatever is necessary and desirable to effect economy and promote efficiency in the government service."

Pursuant to the authority thus granted, the President, by Executive Order No. 94, series of 1947, section 158, prescribed as follows:

"The Philippine General Hospital is hereby transferred from the Office of the President to the University of the Philippines, together with its personnel, powers, functions, duties, records, equipment, supplies and unexpended balance of appropriations. The appropriations for the Philippine General Hospital shall continue to be itemized in the annual general appropriations act."

It is the contention of private respondents herein (petitioners below) that, despite the transfer of the Hospital to the U. P., the exclusive jurisdiction of the Civil Service Commissioner over them, as civil service employees, in matters affecting administrative discipline, suspension, and removal, as provided in the various Civil Service laws, remained unimpaired and did not pass to the University authorities.

Petitioner University, upon the other hand, invokes disciplinary power over the private respondents on the basis of the express words of Section 6 (e) of the University Charter (Act No. 1870, as amended) couched in the following terms:

"To appoint, on the recommendation of the President of the University, professors, instructors, lecturers and other employees of the University; to fix their compensation, hours of service, and such other duties and conditions as it may deem proper; to grant them in its discretion leave of absence under such regulations as it may promulgate, any other provisions of law to the contrary notwithstanding, and to remove them for cause after investigation and hearing shall have been had. (Act No. 1870, as amended by Act No. 2759, 23 February 1918, and Act No. 3745, 24 November 1930). (Emphasis supplied)

Respondent Hospital employees, Peña and Cajipe, in support of their position, stress the provisions of Section 695 of the Revised Administrative Code, as amended, to the effect that - -

"SEC. 695. 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 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. From any decision of the Commissioner of Civil Service on administrative investigations, an appeal may be taken by the officer or employee concerned to the Civil Service Board of Appeals within thirty days after receipt by him of the decision."

The employees' contention, that the Civil Service Commissioner's statutory jurisdiction excludes that of the UP authorities, would be cogent and tenable were it not for the fact that the Legislature itself has established specific exceptions to the exclusive authority of the Civil Service Commissioner, by lodging in various entities administrative disciplinary power over their employees. One instance is that of the UP Charter, Section 6(e), heretofore quoted. Another exception is found in Section 14 of the Central Bank Charter (Republic Act No. 265) which this Court has ruled to vest in the Monetary Board the power of investigation and removal of Central Bank officials (except the Bank Governor), "though they be subject to the Civil Service Law and Regulations in other respects" as declared in *Castillo vs. Bayona*, 106 Phil. 1121. The existence of these exceptions to the general jurisdiction of the Civil Service Commissioner is confirmed by the Civil Service Law of 1959 (Republic Act No. 2260), which in its Section 16, defining and enumerating the Commissioner's powers, specified that --

"(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;"

(Emphasis supplied)

Since it must be presumed that the President was cognizant of the administrative disciplinary powers, particularly that of removal, vested by law (the UP Charter) upon its Board of Regents and President, the act of the Chief Executive in transferring the Philippine General Hospital from the Office of the President to the University of the Philippines clearly evinced the intention to place the Hospital employees under the administrative power of the University in matters of their discipline, suspension or removal, on a par with the other employees of the University. Had the intent been otherwise, the 1947 Executive Order No. 94 would have excepted or reserved the disciplinary power of the Commissioner of the Civil Service over the transferred employees, in the same manner that said Executive Order specified that the appropriations for the Hospital "shall continue to be itemized in the annual general appropriations acts" (Executive Order No. 94, Section 158, *supra*). In this connection, the previous uncontested acts of the Civil Service authorities in endorsing to the University for action the administrative cases of Hospital employees Fernandez and Gorospe, and declaring that "the Bureau had no disciplinary jurisdiction over said employees in view of the provisions of the University charter", constitutes a temporary executive interpretation of highly persuasive character.

Since the Hospital is intended to serve, and does serve, the academic, training, and research requirements of the students enrolled in the UP College of Medicine, which College is part of the UP and under the administrative control of the University President and Board of Regents, the requisite harmony and cooperation between the Medical College and the Hospital would be greatly impeded by subjecting the two units to different administrative

controllers, with one governed by the UP President and Board of Regents and the other by the Civil Service Commissioner and the Civil Service Board of Appeals. The simplicity, economy and efficiency sought to be attained by Republic Act No. 51 in authorizing the reorganization of the Executive branch of the Government would not be achieved by such division of authority; and the maintenance of the dichotomy (which would invite obnoxious comparisons and friction between two sets of employees) is not to be implied, absent solid evidence of the existence of any such purpose on the part of the Legislature or the President of the Philippines. We have found no such evidence to exist.

Ultimately, what is important is that the provisions of Article XII, Section 4, of the Constitution, that "no officer or employee in the Civil Service shall be removed or suspended except for cause as provided by law", as well as the due process clause of the Bill of Rights, should be fully observed and implemented; and the record is clear that in the case of herein respondents Peña and Cajipe, no deficiency exists on this score. Pursuant to the express precept in the University charter [in its Section 6 (e)] that its employees be removed only "for cause after investigation and hearing shall have been had", the herein respondents were investigated by a committee of the University and the committee recommended their dismissal after mature deliberation. Before the proceedings were closed, these respondents manifested that they had no complaints regarding the procedure adopted, and were satisfied with the way the investigation was conducted; and the Court of Appeals explicitly stated in its decision that:

" x x x we find that the petitioners-appellees had a fair hearing and full opportunity to defend themselves, and that their substantive right to due process was not violated by the action of the University authorities in adopting the report and recommendation of the UP-PGH investigating committee for the dismissal of petitioners-appellees."

Under the circumstances, provided due process is observed, who is to have the final say on the dismissal of these respondents actually becomes of secondary importance. The Constitutional provisions on the Civil Service (Article XII) are silent on the point, thus emphasizing its trifling weight. Whether the final decision should be made by the Civil Service Commissioner, and on appeal by the Civil Service Board of Appeals (as they contend), or by the President of the University and its Board of Regents, does not in any way impair any of the substantial rights of these respondents. But the autonomy necessary to the fulfillment of the educational and academic mission of the University demands that the administrative decision of its authorities be made final as to its employees, there being no statutory or administrative provision to the contrary.

The considerations adopted by this Court in the *Castillo vs. Bayona* case (ante) in support of the administrative and disciplinary authority of the Monetary Board of the Central Bank over its civil service employees apply, *mutatis mutandis*, to the President and Board of Regent of the University of the Philippines:

" x x x In other words; the Civil Service Law is the general legal provision for the investigation, suspension or removal of civil service employees, whereas Section 14 is a special provision of law which must govern the investigation, suspension or removal of employees of the Central Bank, though they be subject to the Civil Service Law and regulations in other respects. We must not lose sight of the fact that the Central Bank is called upon to administer the monetary and banking business in the country (Section 2, Republic Act No. 265); and its powers and functions are exercised by the Monetary Board. So, it is but just and reasonable that in order to perform the functions assigned to it by law, it be given broad powers in issuing such rules and regulations as it considers necessary to direct and effect the operation and administration of the Central Bank, and with the recommendation of the Governor, the authority to appoint, fix the remunerations, and remove all officials and employees of the Central Bank with the exception of the Governor, which power to remove naturally includes the authority to investigate."

PREMISES CONSIDERED, we rule that the President and Board of Regents of the University of the Philippines

possess full and final authority in the disciplining, suspension and removal of the civil service employees of the University, including those of the Philippine General Hospital, independently of the Commissioner of Civil Service and the Civil Service Board of Appeals.

WHEREFORE, the writ of certiorari applied for is granted, and the decisions under appeal are reversed and set aside. Costs against private respondents Camilo Peña and Domingo Cajipe.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Castro, Fernando, Teehankee, Villamor, and Makasiar, JJ., concur. Barredo, J., no part.

[1] Act 1407 of the Philippine Legislature, of 29 October 1905; Executive Order No. 5, dated 9 January 1909; Executive Order No. 39, 23 June 1936; Adm. Code, section 695, as amended by Commonwealth Act No. 177 (section 23), and Commonwealth Act No. 598.

[2] Executive Order No. 39 (23 June 1936), section 4; Republic Act No. 2260.

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