

CHARRY L. GALIA, PETITIONER, VS. GOV. FELIPE HILAN NAVA, CIVIL SERVICE COMMISSION, RESPONDENTS.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

Before Us is a Petition for Review[1] under Rule 43 of the Rules of Court assailing the Decision No. 12-0382[2] dated June 27, 2012 of the Civil Service Commission for Illegal Termination, as well as its Resolution No. 12-01551[3] dated October 2, 2012 which denied herein petitioner's Motion for Reconsideration[4].

The Antecedents

In gist, petitioner alleged that she was appointed by Governor Felipe Hilan Nava of the Province of Guimaras in "co-terminous capacity" as Provincial Government Department Head with Salary Grade of 26 of the Provincial Economic and Development Office on July 1, 2007.

On July 9, 2007, petitioner's appointment was confirmed by the Sangguniang Panlalawigan through Resolution No. 67.[5]

As to petitioner's performance for the years 2007 to 2009, she garnered very high marks[6] on all levels.

When the Governor won for re-election in 2010, petitioner was also re-appointed. Thus, it came as a surprise when on October 12, 2010, Governor Nava issued a termination letter[7] to the petitioner allegedly due to unsatisfactory performance in her previous years of service. Petitioner asked for a reconsideration,[8] but was denied.[9]

Petitioner then brought the matter to the Civil Service Commission Regional Office VI, which denied petitioner's claims. In its Decision No. 110041,[10] dated July 12, 2011, the CSC ruled against the validity of petitioner's appointment. The decretal portion of the Decision states:

"WHEREFORE, the appeal of Charry L. Galia is DISMISSED for lack of merit. Her appointment dated July 1, 2007 as Provincial Government Department Head (Provincial Economic Development Officer) under co-terminous status and her re-appointment dated July 1, 2010 to the same position are INVALIDATED.

The Civil Service Commission Guimaras Field Office is directed to implement this Decision subject to existing Civil Service rules and regulations.

Copies of this Decision are furnished Governor Felipe Hilan A. Nava, Atty. Elijo S. R. Herrera-Bellones, Charry L. Galia, Reyes and Reyes Law Office, and OIC-Director II Nanette H. Borro of the CSC Guimaras Field Office, at their known addresses."[11]

Upon Motion for Reconsideration by the petitioner, the Civil Service Commission Regional Office VI partly granted the motion, in so far as the validity of her appointment. However, as to petitioner's termination, the Commission still found it proper.[12] The dispositive portion of the Resolution dated September 1, 2011 reads:

"WHEREFORE, the motion for reconsideration of Charry L. Galia is PARTLY GRANTED. CSCR06

Decision No. 110041 dated July 12, 2011 is MODIFIED to the extent that Galia's appointment dated July 1, 2007 as Provincial Government Department Head (Provincial Economic Development Officer) under co-terminous status and her re-appointment dated July 1, 2010 to the same position are IN ORDER. Her termination from the service effective October 15, 2010 is likewise IN ORDER."[13]

Unsatisfied, petitioner appealed to the Civil Service Commission. In Decision No. 12-0382, promulgated on June 27, 2012, the CSC agreed with the findings of CSCRO No. VI.

The decretal portion of the Decision is as follows:

"WHEREFORE, the appeal of Charry L. Galia is DISMISSED. Accordingly, the term of Galia as Provincial Economic Development Officer is deemed expired effective October 15, 2010 pursuant to the letter of Governor Felipe Hilan A. Nava for loss of trust and confidence."[14]

Still unsatisfied, petitioner filed a Motion for Reconsideration[15] which was also denied by the CSC in Resolution No. 12-01551, promulgated on October 2, 2012. The dispositive portion of the resolution states in this wise:

"WHEREFORE, foregoing premises considered, the instant motion for reconsideration is hereby DENIED for lack of merit. Accordingly, the Civil Service Commission (CSC) Decision No. 120382 dated June 27, 2012, STANDS."[16]

Undeterred and aggrieved, petitioner thus comes before Us raising the sole issue, to wit:

WITH UTMOST RESPECT, THE CIVIL SERVICE COMMISSION COMMITTED PALPABLE AND GRAVE ABUSE OF DISCRETION IN DISMISSIN [SIC] THE APPEAL ON THE GROUND THAT PETITIONER SERVES MERELY AT THE PLEASURE OF GOV. NAVA GIVEN THAT "LACK OF CONFIDENCE" WAS NOT THE ORIGINAL GROUND FOR TERMINATION BUT "UNSATISFACTORY PERFORMANCE" WHICH HAD NO FACTUAL BASIS

The Ruling of this Court

The petition is not meritorious.

At the outset, settled is the rule that (f)actual findings made by quasi-judicial bodies and administrative agencies when supported by substantial evidence are accorded great respect and even finality by the appellate courts.[17] This is because administrative agencies possess specialized knowledge and expertise in their respective fields.[18] As such, their findings of fact are binding upon this Court unless there is a showing of grave abuse of discretion, or where it is clearly shown that they were arrived at arbitrarily or in disregard of the evidence on record.[19]

In the case at bench, petitioner argued that her termination was not proper. She insists that she could only be removed from office on the ground of loss of trust and confidence. Petitioner further asseverated that the termination letter sent to her by the Governor mentioned only her alleged lack luster performance as the reason for the termination of her services and not loss of trust and confidence.

This stance is futile.

Certainly, the tenor of the letter speaks for itself. It depicts a superior whose trust and confidence upon a subordinate have been diminished because of the latter's dismal performance. The letter in fact enumerates the reasons why the Governor was terminating the services of herein petitioner, which clearly equates to loss of trust and confidence. Pertinent portions of the letter are as follows:

The outcome of my recent assessments however did not give me cause to be ecstatic about. Your office, the Provincial Economic Development Office (PEDO) was belatedly discovered to be encountering administrative

and personnel problems unique in our system. The potentials of the office personnel to work well and deliver the expected results have not been maximized, and the anticipated administrative support from your end has been wanting in a number of important assignments. These need not be more elaborately emphasized, as you may by now have been informed of this. In fact, I have already taken the initial steps to help remedy the situation, particularly by the restructuring of your office and the office of the governor, which was duly authorized by our Sangguniang Panlalawigan.

Then, some of the projects assigned to your office for implementation have not been performing to par. A review of the project rationale of the funded proposals of the PEDO indicate that not much stride has been realized in areas of cooperative strengthening and development, and there were hardly any initiative in the area of labor and employment generation. Except in the tourism sector, there are no outstanding accomplishment reports submitted to punctuate your office's annual performance either.

x x x

These inadequacies in or delays at project implementation are not in consonance with our desire and objective at good, responsive and transparent governance. Obviously, we did not pass the criteria of timeliness in project implementation, and there are discussions on the quality of outputs that our economic projects are generating, the LGPMS ratings notwithstanding.

We are having problems with the implementation of our LGSP-LED project, and the disappointment is aggravated by the fact that we have made commitments with our development partners to effectively and efficiently implement the project.

Obviously, drastic measures need to be in place, in order to arrest the mediocre performance of your office. The organizational restructuring earlier implemented is the first of these measures.

I have also decided that a change in stewardship in your office will have to be initiated, to effect a positive change in the personnel attitude and zeal towards delivering results that we so direly need. A more dedicated and focussed captain is needed to steer your office back to its course, and perform its role in a bigger and well organized system.

I am therefore terminating your services as Head of the Provincial Economic Development Office, Province of Guimaras, effective Friday October 15, 2010, in accordance with the terms and conditions of your co-terminus [sic] appointment, and as explicitly allowed by the Comelec vis-a-vis Section 261 of the Omnibus Election Code.[20]

x x x

Given that the employment of the petitioner was in a co-terminous capacity and the position she occupied was primarily confidential in nature, her termination due to loss of trust and confidence was therefore clearly within the bounds of the Governor's power and prerogative. Indeed, petitioner's continued employment is dependent upon the pleasure of her appointing authority. Suffice it to state, the cessation or expiration of her employment is not contrary to law and jurisprudence, as provided for in the case of *Orcullo, Jr. v. CSC*,[21] thus:

Additionally, Section 14 of the Omnibus Rules Implementing Book V of Executive Order No. 292 provides:

Sec. 14. An appointment may also be co-terminous which shall be issued to a person whose entrance and continuity in the service is based on the trust and confidence of the appointing authority or that which is subject to his pleasure, or co-existent with his tenure, or limited by the duration of project or subject to the availability of funds.

The co-terminous status may be further classified into the following:

- (1) co-terminous with the project - when the appointment is co-existent with the duration of a particular project for which purpose employment was made or subject to the availability of funds for the same;
- (2) co-terminous with the appointing authority - when appointment is co-existent with the tenure of the appointing authority or at his pleasure;
- (3) co-terminous with the incumbent - when the appointment is co-existent with the appointee, in that after the resignation, separation or termination of the services of the incumbent the position shall be deemed automatically abolished; and
- (4) co-terminous with a specific period - appointment is for a specific period and upon expiration thereof, the position is deemed abolished.[22] (emphasis supplied)

By the very nature of her appointment, petitioner knew from the start that she serves at the pleasure or by virtue of the confidence reposed upon her by the Governor, corollary thereto, when this confidence is lost, the expiration of her term of office becomes an inevitable reality. This conclusion finds support in the principle laid down in *Cadiente v. Santos*,[23] to wit:

The tenure of officials holding primarily confidential positions ends upon loss of confidence, because their term of office lasts only as long as confidence in them endures; and thus their cessation involves no removal (*Corpus vs. Cuaderno*, L-23721, March 31, 1965, 13 SCRA 591-596). When such confidence is lost and the officer holding such position is separated from the service, such cessation entails no removal but an expiration of his term.

Finally, We note with approbation the sound ratiocination of the lower tribunal when it aptly addressed the issue on "loss of trust and confidence" in this wise:

A re-evaluation of the records of the case revealed that Galia was appointed in a co-terminous capacity. Her term of office is primarily confidential as pronounced in CSC Resolution No. 060942. Upon loss of trust and confidence of the appointing authority, the term of the confidential employee consequently expires. It may end prior to the expiration of the term of the appointing authority. The "loss of trust and confidence" as a ground for the termination of services of a confidential employee need not be categorically stated in a letter or notice of termination. The termination of the services of Galia because of loss of trust and confidence was due to her unsatisfactory performance. Furthermore, it must be stated that positions primarily confidential in nature are excluded from the merit system, and dismissal at the pleasure of the appointing authority is allowed, and such is not to be considered as dismissal from service but expiration of the term of office. x x x.[24]

WHEREFORE, in view of the foregoing, the Petition is DENIED. The Decision No. 12-0382 dated June 27, 2012 of the Civil Service Commission for Illegal Termination, as well as its Resolution No. 12-01551 dated October 2, 2012 are hereby AFFIRMED.

SO ORDERED.

Hernando, Chairperson and Azcarraga-Jacob, JJ., concur.

[1] Rollo, pp. 4-110.

[2] Rollo, pp. 92-98.

[3] Rollo, pp. 107-110.

[4] Rollo, pp. 100-106.

- [5] Rollo, p. 43.
- [6] See Performance Evaluation, rollo, pp. 44-68.
- [7] Rollo, pp. 73-75.
- [8] See Request for Reconsideration, rollo, pp. 76-78.
- [9] See Letter of the Governor addressed to petitioner's counsel, rollo, pp. 79-83.
- [10] Rollo, pp. 36-41.
- [11] Rollo, p. 41.
- [12] See Decision No. 120382 dated June 27, 2012 of the Civil Service Commission, rollo, pp. 93-94.
- [13] See Decision No. 120382 dated June 27, 2012 of the Civil Service Commission, rollo, p. 94.
- [14] Rollo, p. 98.
- [15] Rollo, pp. 100-106.
- [16] Rollo, p. 110.
- [17] Japson v. Civil Service Commission, G.R. No. 189479, April 12, 2011 citing Cosmos Bottling Corporation v. Nagrama, Jr., G.R. No. 164403, March 4, 2008, 547 SCRA 571, 586-587.
- [18] Id. at 588.
- [19] Japson v. Civil Service Commission, G.R. No. 189479, April 12, 2011 citing Letran Calamba Faculty and Employees Association v. National Labor Relations Commission, G.R. No. 156225, January 29, 2008, 543 SCRA 26, 38.
- [20] See Governor's Letter addressed to the petitioner Charry Galia, rollo, pp. 73-75.
- [21] G.R. No. 138780, May 22, 2001.
- [22] Underscored omitted.
- [23] G.R. No. L-35592, June 11, 1986.
- [24] See Resolution No. 1201551, rollo, p. 109.

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