

CONSTANTINO U. UCLUSIN, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (THIRD DIVISION), QUEZON CITY POLYTECHNIC UNIVERSITY (OWNED AND CONTROLLED BY THE QUEZON CITY GOVERNMENT...)

Ponente: LIBREA-LEAGOGO, J.

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LIBREA-LEAGOGO, J.:

Before this Court is a Petition for Certiorari[1] dated 24 October 2013 under Rule 65 of the Rules of Court assailing the Decision[2] dated 28 June 2013 and Resolution[3] dated 28 August 2013 of the National Labor Relations Commission (Third Division) in the case entitled “Constantino U. Uclusin v. Quezon City Polytechnic University (Owned and Controlled by Quezon City Government)/Salvador Enriquez/Santiago Flora/Fabian Avila,” docketed as NLRC LAC No. 06-001816-13 (NLRC-NCR-04-06440-12), which dismissed the appeal for lack of jurisdiction and denied the Motion for Reconsideration, respectively.

Private respondents filed their Comment[4] dated 13 February 2014. Per JRD verification,[5] no reply was filed as per CMIS entry. Thus, the fourth paragraph of the Resolution[6] dated 24 January 2014 is reiterated, and the Petition is submitted for decision.

FACTUAL ANTECEDENTS

Complainant Constantino U. Uclusin filed an Amended Complaint[7] dated 02 May 2012 for illegal dismissal and payment of backwages and other money claims, damages and attorney's fees, against respondents Quezon City Polytechnic University (“QCPU”, for brevity), as Owned and Controlled by the Q.C. Government, Salvador Enriquez, Santiago Flora, and Fabian Avila. In his Position Paper[8] dated 22 November 2012, the complainant alleged, inter alia, that: the NLRC has jurisdiction over the instant case; he is a regular employee of the respondents; he is entitled to security of tenure; he was illegally dismissed; respondents dismissed him without just or valid cause, and without due process; and he is entitled to his money claims. It appears that the respondents also filed their Position Paper.[9]

Labor Arbiter Arden S. Anni rendered a Decision[10] dated 30 April 2013 dismissing the case for lack of jurisdiction and merit, which reads:

“Respondent QCPU is a government school/agency or institution created by the City Council of Quezon City under three (3) local ordinances, to wit: Ordinance No. SP-171, S-94; Ordinance No. SP-544, S-97 and Ordinance No. SP-1050, S-2001. It is operated and supported by the Quezon City Government through the prescribed officials under its charter, with the Quezon City Mayor as the (C)hairperson of the Board of Regents, the University President as the Chief Executive Officer/chairman of administrative and academic council as well as the different deans and directors of departments. (Annexes '1', '2' and '3' of respondents' position paper.)

On the other hand, complainant was hired on contract basis by the Quezon City Government, represented by

Quezon City Mayor Feliciano Belmonte, Jr., as Full-time Instructor 1 at the QCPU for School Year 2008-2009 (June 1, 2008 to May 31, 2009) under the following terms and conditions:

x x x x

During the term of complainant's employment contract, he was paid all his salaries and benefits due him as contractual employee of (sic) Quezon City government, the last of which was on May 16-31, 2009 in the amount of P5,583.50 (Annex '5' of respondents' position paper).

In the discussion of issues, Uclusin claims that he was dismissed from employment without just cause and without due process of law, therefore, he should be reinstated to his former position with full backwages, in addition to the payment of his monetary claims. Respondents, upon the other hand, argue that this Office has no jurisdiction over the instant complaint since (sic) local government unit, like a (sic) Quezon City Government, cannot be sued without its consent. That (sic) if there is a breach of the Service Contract, the same should be ventilated in the regular court of justice, and not with the NLRC. Granting that this Office has jurisdiction over this case, the same should be dismissed outright because complainant was not dismissed from employment; (r)ather, his service contract expired at the end of the stipulated period.

We sustain the position of respondents in view of Section 1, Rule 1, Book VI of the Omnibus Rules Implementing the Labor Code, viz:

'Section 1. Coverage. --- This rule shall apply to all establishments and undertakings, whether operated for profit or not, including educational, medical, charitable and religious institutions and organizations, in cases of regular employment with the exception of the Government and its political sub-division (sic) including government-owned or controlled corporation.' (Underline Ours)

Considering that Uclusin is a local government employee hired by the local government unit of Quezon City, the conclusion is inevitable that this Office is without jurisdiction to hear and decide the instant case.

Assuming, arguendo, that there is a breach in his Service Contract, the same should be ventilated in the regular court of justice, and not with the NLRC.

Since complainant was hired as a contractual employee, the non-renewal of his contract after the lapse of the period stipulated therein cannot be considered a dismissal, much more an illegal one. As the period of his employment has ended, he has no longer any right to demand for the renewal of his service contract.

This Office also believes that QCPU had no obligation to extend procedural due process to complainant prior to the expiration of his contract. The respective obligations of the parties automatically and simultaneously ended upon the expiration of the contractual period set forth therein. In this case, there was no dismissal, but an expiration of the contractual term mutually agreed upon by the parties. Consequently, complainant need not ask QCPU for any reason why his contract was not renewed.

WHEREFORE, premises considered, judgment is hereby rendered dismissing the instant case for lack of jurisdiction and merit.

SO ORDERED.”[11]

The complainant appealed and filed his Memorandum of Appeal[12] dated 26 May 2013.

The NLRC (Third Division) issued the assailed Decision[13] dated 28 June 2013, dismissing the complainant's appeal for lack of jurisdiction and utter lack of merit, pertinent portions of which read:

“Since the Quezon City Polytechnic University is a creation of the Quezon City Government, and have been funded completely, (sic) by Quezon City, then the NLRC has no jurisdiction to pass upon any legal issue

concerning terms and conditions of work, plus money claims, as the school although a corporation was not organized in accordance with the Corporation Law.

It is therefore the Board of Regents or the Civil Service Commission who (sic) has the power and authority to adjudicate the matters brought by the complainant.

WHEREFORE, the Appeal is hereby DISMISSED for lack of jurisdiction and utter lack of merit.

SO ORDERED.”[14]

The complainant filed his Motion for Reconsideration^{xv} dated 13 July 2013, which was denied in the assailed Resolution^{xvi} dated 28 August 2013.

Hence, this Petition for Certiorari.

RULING

The petitioner raises the following grounds for allowance of his Petition, viz:

“PUBLIC RESPONDENT NLRC, THIRD DIVISION(,) COMMITTED GRAVE ABUSE OF DISCRETION IN DENYING PETITIONER'S MOTION FOR RECONSIDERATION

x x x x

“I. WHETHER OR NOT THE NATIONAL LABOR RELATIONS COMMISSION (NLRC) HAS JURISDICTION OVER THE INSTANT CASE.

II. WHETHER OR NOT PETITIONER IS AN EMPLOYEE OF RESPONDENTS.

III. WHETHER OR NOT HE IS A REGULAR EMPLOYEE.

IV. WHETHER OR NOT HE IS ENTITLED TO SECURITY OF TENURE.

V. WHETHER OR NOT HE WAS ILLEGALLY DISMISSED.

VI. WHETHER OR NOT HE IS ENTITLED TO HIS MONEY CLAIMS.”[17]

The petitioner contends, inter alia, that: the public respondent has jurisdiction over the case; from the public respondent's Decision itself, it is very clear that the Civil Service Commission (CSC) has no jurisdiction over the instant case; the jurisdiction of the CSC over administrative disciplinary cases or disputes against government employees is in keeping with and designated to carry out the constitutional policy in Section 2 (1) and Section 3 of the Article IX-B of the Constitution, to “promote morale, efficiency, integrity, responsiveness, progressiveness and courtesy in the Civil Service. x x x”; Article 217 (a) of the Labor Code speaks of original and exclusive jurisdiction of the Labor Arbiter and the NLRC over termination disputes of all workers, whether agricultural or non-agricultural, hence, it does not matter whether it is the government or the private sector; the instant case does not involve an administrative disciplinary case or dispute; he was simply dismissed in bad faith, summarily, wantonly, without cause and due process from his job for which he filed an illegal dismissal case; the instant case is a termination dispute, thus, it is the Labor Arbiter and the public respondent and not the CSC or the Board of Regents which has jurisdiction over the instant case; his money claims are an aftermath of his illegal dismissal; he is a regular employee of the private respondents; and he is entitled to security of tenure and his money claims.

Private respondents posit, inter alia, that: there is no reversible error in the assailed Decision and Resolution of the public respondent; the public respondent is clearly without jurisdiction on the complaint of the petitioner; the contract was entered into by QCPU in its governmental capacity; any controversy arising from it is cognizable by

the civil courts; it is the prerogative of QCPU whether or not to renew the contracts it entered into; he was never dismissed from work; there was no employer-employee relationship existing at the time that the petitioner believed he was dismissed; his contract expired, and he could not be considered a regular employee who has security of tenure; his complaint should have been ventilated before the Civil Service Commission; and petitioner's money claims have no legal and justifiable bases.

Stripped of verbiage, the threshold issue in this special civil action for certiorari is whether or not the public respondent acted with grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing the petitioner's appeal.

We find in the negative.

Where a petition for certiorari under Rule 65 of the Rules of Court alleges grave abuse of discretion, the petitioner should establish that the respondent court or tribunal acted in a capricious, whimsical, arbitrary or despotic manner in the exercise of its jurisdiction as to be equivalent to lack of jurisdiction.[18] The term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." The abuse of discretion must be so patent and gross as to amount to an "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility." Furthermore, the use of a petition for certiorari is restricted only to "truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void." From the foregoing definition, it is clear that the special civil action of certiorari under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross.[19] It does not encompass an error of law. Nor does it include a mistake in the appreciation of the contending parties' respective evidence or the evaluation of their relative weight.[20]

In the instant case, the public respondent did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing the petitioner's appeal for lack of jurisdiction.

Section 2 (1), Article IX-B of the 1987 Constitution provides:

"Section 2. (1) The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters.

x x x x"

The Constitution grants to the CSC administration over the entire civil service. As defined, the civil service embraces every branch, agency, subdivision, and instrumentality of the government, including every government-owned or controlled corporation.[21] It is evident that CSC has been granted by the Constitution and the Administrative Code jurisdiction over all civil service positions in the government service, whether career or non-career. From this grant of general jurisdiction, the CSC promulgated the Revised Uniform Rules on Administrative Cases in the Civil Service. We find that the specific jurisdiction, as spelled out in the CSC rules, did not depart from the general jurisdiction granted to it by law. The jurisdiction of the Regional Office of the CSC and the Commission central office (Commission Proper) is specified in the CSC rules.[22]

Sections 4, 5 and 6, Rule I of the Uniform Rules on Administrative Cases in the Civil Service Commission (Resolution No. 991936) provide:

"Section 4. Jurisdiction of the Civil Service Commission. - The Civil Service Commission shall hear and decide administrative cases instituted by, or brought before it, directly or on appeal, including contested

appointments, and shall review decisions and actions of its offices and of the agencies attached to it.

Except as otherwise provided by the Constitution or by law, the Civil Service Commission shall have the final authority to pass upon the removal, separation and suspension of all officers and employees in the civil service and upon all matters relating to the conduct, discipline and efficiency of such officers and employees.

Section 5. Jurisdiction of the Civil Service Commission Proper. - The Civil Service Commission Proper shall have jurisdiction over the following cases:

x x x x

B. Non-Disciplinary

- Decisions of Civil Service Regional Offices brought before it;

x x x x

Section 6. Jurisdiction of Civil Service Regional Offices. - The Civil Service Commission Regional Offices shall have jurisdiction over the following cases:

x x x x

B. Non-Disciplinary

x x x x

- Decisions of national agencies and local government units within their geographical boundaries relative to personnel actions and non-disciplinary cases brought before it on appeal; and

x x x x.”

Sections 71 and 75 of Rule V (B) further provide:

“B. OTHER PERSONNEL AND NON-DISCIPLINARY ACTIONS

Section 71. Complaint or Appeal to the Commission. - Other personnel actions, such as, but not limited to x x x termination of services, may be brought to the Commission, by way of an appeal.

x x x x

Section 75. Effect of Decision. - x x x

In case of illegal termination, the employee shall be reinstated with payment of back salaries. x x x

x x x x.”

In the present case, the Quezon City Polytechnic University is a local university owned and controlled by the Quezon City Government.[23] The (QCPU) was created on 01 March 1994 by virtue of City Council Ordinance No. SP 171. The institution was established primarily to undertake the training and development of qualified technicians and skilled workers xxx. QCPU established its reputation among local government units as a show window and model technology-based institution paving the way for its recognition of Technical Education and Skills Development Authority (TESDA) and developing a strong alliance with the Japanese International Cooperation Agency (JICA). The Polytechnic was enhanced into a University through Council Ordinance No. SP 544, S-97 on 20 August 1997.[24] In 2001, Ordinance SP-1030 created a charter for the establishment of (QCPU). QCPU started its operation by offering one (1) year programs and short term courses. By the year 2005, QCPU started offering college degree courses.[25] Ordinance No. SP-171, S-94[26] entitled “An Ordinance Establishing

a Quezon City Polytechnic, Directing its Objective and Providing Funds for the Purpose” was passed in relation to Sections 2(1) and 3(2), Article XIV of the Constitution. Section 2 of the Ordinance No. SP-544, S-97[27] entitled an “Ordinance Authorizing the Establishment and Operation of a Higher Education Institution for Quezon City, Defining its Purposes and Objectives” provides that “(t)here is hereby authorized the establishment in Quezon City of a Higher Education Institution (College/University) which shall be known as the Pamantasang Politekniko ng Lungsod Quezon or Quezon City Polytechnic University, an educational institution to be operated and supported by the Quezon City government, the same to be organized as a corporation under the same name.” Section 1 of Ordinance No. SP-1030, S-2001,[28] entitled “An Ordinance Providing the Charter of the Quezon City Polytechnic University of 1998 as Authorized by Ordinance No. SP-544, S-97 and Amending the Same” provides that “(t)he Quezon City Polytechnic University located in Novaliches, Quezon City, is hereby provided its CHARTER and amending at the same time Ordinance No. SP-544, S-97, known as the Pamantasang Politeknikal ng Lungsod Quezon or Quezon City Polytechnic University x x x.”

Clearly, the QCPU is under the CSC's administration pursuant to Section 2 (1), Article IX-B of the 1987 Constitution. Likewise, petitioner's allegation of illegal dismissal, as mentioned in his Amended Complaint,[29] is under the CSC's jurisdiction in relation to Sections 4, 5 and 6, Rule I and Sections 71 and 75, Rule V (B) of Resolution No. 991936.

Verily, the (Board of Regents) of (QCPU) has the sole power of administration over the university. But this power is not exclusive in the matter of disciplining and removing its employees and officials. xxx When the law bestows upon a government body the jurisdiction to hear and decide cases involving specific matters, it is to be presumed that such jurisdiction is exclusive unless it be proved that another body is likewise vested with the same jurisdiction, in which case, both bodies have concurrent jurisdiction over the matter. All members of the civil service are under the jurisdiction of the CSC, unless otherwise provided by law x x x Career or non-career, a civil service official or employee is within the jurisdiction of the CSC.[30]

Moreover, the Quezon City Government is not included within the coverage of the termination of employment provision under Section 1, Rule 1, Book VI of the Omnibus Rules Implementing the Labor Code which provides:

“Book VI

POST-EMPLOYMENT

Rule I

TERMINATION OF EMPLOYMENT AND RETIREMENT

“Section 1. Coverage. - This rule shall apply to all establishments and undertakings, whether operated for profit or not, including educational, medical, charitable and religious institutions and organizations, in cases of regular employment with the exception of the Government and its political subdivision including government-owned or controlled corporations.” (Underscoring supplied)

In the instant case, the public respondent has no jurisdiction over the petitioner's Amended Complaint for illegal dismissal and payment of backwages and other money claims, damages and attorney's fees.

In any event, it appears that under the Service Contract For Full-Time Faculty in 2008,[31] the services of the petitioner, as Instructor (Full-time) at the QCPU for SY 2008-2009 (01 June 2008 to 31 May 2009), were engaged by the Quezon City Government. Said contract states that “(t)his contract shall be renewable upon agreement of both parties and may be terminated sooner upon prior advice of either party.”[32] The name of the petitioner is indicated in the QCPU's Contractual Payroll for the payroll period 10 June to 31 July 2008.[33] In a letter[34]

dated 22 May 2009, the petitioner admitted that his contract was not renewed.[35] Thus, the petitioner's contract simply ended, with the non-renewal thereof by the Quezon City Government, resulting in the termination of the contractual employment relationship. The Quezon City Government cannot be compelled to renew the petitioner's contract of employment as Instructor of the QCPU.

Considering the foregoing disquisition, We find no necessity to pass upon the other matters raised by the petitioner.

WHEREFORE, premises considered, the Petition is DENIED. No pronouncement as to costs.

SO ORDERED.

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Diamante and Sadang, JJ., concur.

[1] Rollo, pp. 12-26

[2] Id. at 97-103

[3] Id. at 27-28

[4] Id. at 236-240

[5] Id. at 235 (dorsal side)

[6] Id. at 235

[7] Id. at 230-231

[8] Id. at 29-48

[9] Id. at 76

[10] Id. at 76-79

[11] Id.

[12] Id. at 80-90

[13] Id. at 97-103

[14] Id. at 101-102

[15] Id. at 104-109

[16] Id. at 27-28

[17] Id. at 15-16

[18] *Malayang Manggagawa ng Stayfast Phils., Inc. v. National Labor Relations Commission, et al.*, G.R. No. 155306, 28 August 2013

- [19] *Id.*, citing *Yu v. Judge Reyes-Carpio*, G.R. No. 189207, 15 June 2011, 652 SCRA 341, 348
- [20] *Id.*, citing *Romy's Freight Service v. Castro*, 523 Phil. 540, 546 (2006)
- [21] *The Civil Service Commission v. Henry A. Sojor*, G.R. No. 168766, 22 May 2008
- [22] *Id.*
- [23] *Rollo*, p. 29
- [24] <http://en.wikipedia.org/wiki/User:Qcpu> (last viewed on 04 April 2014)
- [25] http://www.quezoncity.gov.ph/index.php?option=com_content&view=article&id=249%3Aqcpu&catid=62&Itemid=402 (last viewed on 04 April 2014)
- [26] [http://quezoncitycouncil.ph/ordinance/SP/sp-0171,s 1994-1.pdf](http://quezoncitycouncil.ph/ordinance/SP/sp-0171,s%201994-1.pdf) (last viewed on 04 April 2014)
- [27] [http://quezoncitycouncil.ph/ordinance/SP/sp-0544,s 1997-1.pdf](http://quezoncitycouncil.ph/ordinance/SP/sp-0544,s%201997-1.pdf) (last viewed on 04 April 2014)
- [28] [http://quezoncitycouncil.ph/ordinance/SP/sp-1030,s 2001-1.pdf](http://quezoncitycouncil.ph/ordinance/SP/sp-1030,s%202001-1.pdf) (last viewed on 04 April 2014)
- [29] *Rollo*, p. 230
- [30] *The Civil Service Commission v. Henry A. Sojor*, *supra*
- [31] *Rollo*, pp. 51-52
- [32] *Id.* at 51
- [33] *Id.* at 73
- [34] *Id.* at 69-70
- [35] *Id.* at 69

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