

CESAR P. PARINAS[], PETITIONER, VS. GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS) REPRESENTED BY WINSTON F. GARCIA, PRESIDENT & GENERAL MANAGER, RESPONDENT.

Ponente: ELBINIAS, M.P., J.

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ELBINIAS, M.P., J.:

Before Us is the Petition for Review[1] (“Petition” for brevity) filed by petitioner Cesar P. Parinas (“petitioner Parinas” or “petitioner” for brevity) under Rule 43 of the Rules of Court.

However, the Petition[2] is dismissible due to petitioner's failure to observe the doctrine of exhaustion of administrative remedies. This was as had been declared by the Supreme Court in *Leonardo A. Paat, etc., et. al. vs. Court of Appeals, et. al.*, G.R. No. 111107, January 10, 1997, to wit:

“This Court in a long line of cases has consistently held that before a party is allowed to seek the intervention of the court, it is a pre-condition that he should have availed of all the means of administrative processes afforded him. Hence, if a remedy within the administrative machinery can still be resorted to by giving the administrative officer concerned every opportunity to decide on a matter that comes within his jurisdiction then such remedy should be exhausted first before court's judicial power can be sought, The premature invocation of court's intervention is fatal to one's cause of action. Accordingly, absent any finding of waiver or estoppel the case is susceptible of dismissal for lack of cause of action.” (Emphasis supplied)

Here, petitioner questioned the Decision[3] dated October 19, 2006 issued by Winston F. Garcia, President and General Manager of respondent Government Service Insurance System (“respondent GSIS” for brevity) in ADM Case No. 06-088, which Decision[4] found petitioner Parinas guilty of “Dishonesty” and “Grave Misconduct”. The dispositive portion of the Decision[5] read as follows:

“WHEREFORE, the Government Service Insurance System finds respondents Reynaldo Untalan, Ma. Joji M. Monton, and Cesar P. Pariñas guilty of Dishonesty and Grave Misconduct. They are meted the penalty of DISMISSAL FROM THE SERVICE together with the appurtenant accessory penalties.

It is so ordered.”[6] (Emphasis was made in the original, underscoring supplied)

Because the assailed Decision[7] of respondent GSIS involved an administrative case against its employee, petitioner Parinas, then petitioner's remedy from such Decision[8] was to file an appeal to the Civil Service Commission (“CSC for brevity). The reason is that the employees of respondent GSIS, including petitioner Parinas, “are part of the [C]ivil [S]ervice [S]ystem and are subject to the law and to the circulars, rules and regulations issued by the CSC on discipline, attendance and general terms and conditions of employment.”[9] This, also considering that respondent GSIS is a “government-owned or controlled corporation with an original charter” which forms part of the Civil Service.[10]

That decisions of heads of government-owned or controlled corporations which are agencies forming part of the Civil Service, such as respondent GSIS, in an administrative case against their employees, such as petitioner Parinas, are appealable to the CSC is in accordance with the following pronouncement of the Supreme Court in

University of the Philippines and UP School of Economics vs. The Hon. Teodoro P. Regino, Presiding Judge, RTC, Br. 83 National Capital Region, Q.C., Angel Pamplina, and the Civil Service Commission[11]:

“As a mere government-owned or controlled corporation, UP was clearly a part of the Civil Service under the 1973 Constitution and now continues to be so because it was created by a special law and has an original charter. As a component of the Civil Service, UP is therefore governed by PD 607 and administrative cases involving the discipline of its employees come under the appellate jurisdiction of the Civil Service Commission.” (Emphasis supplied)

Moreover, considering that the assailed Decision[12] imposed upon petitioner the penalty of dismissal from service, such Decision[13] was therefore appealable to the CSC Proper, as is provided for under Section 5(A)(2), Rule I of the Revised Uniform Rules on Administrative Cases in the Civil Service[14] (“URACCS” for brevity), and under Section 47(1), Chapter 7, Title I(A), Book V of Executive Order No. 292, otherwise known as the “Administrative Code of 1987” (“Administrative Code” for brevity).

Section 5(A)(2), Rule I of the URACCS states:

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

A. Disciplinary

xxx

2. Decisions of heads of departments, agencies, provinces, cities, municipalities and other instrumentalities, imposing penalties exceeding thirty days suspension or fine in an amount exceeding thirty days salary brought before it on appeal;” (Italics was made in the original, Emphasis Supplied)

Section 47(1), Chapter 7, Title I(A), Book V of the Administrative Code states:

“SECTION 47. Disciplinary Jurisdiction.—(1) The Commission shall decide upon appeal all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty days, or fine in an amount exceeding thirty days’ salary, demotion in rank or salary or transfer, removal or dismissal from office. xxx” (Emphasis Supplied)

Thus, petitioner's failure to exhaust an available administrative remedy results to a premature invocation of the court's intervention and renders the Petition[15] at bench dismissible. That this is the consequence is pursuant to the pronouncement of the Supreme Court in *Rosita A. Montanez vs. Provincial Agrarian Reform Adjudicator (PARAD), etc., The Landbank of the Philippines, Mauro T. Alfonso, et. al.*, G.R. No. 183142, September 17, 2009, to wit:

“It is settled that the premature invocation of the court’s intervention is fatal to one’s cause of action. If a remedy within the administrative machinery can still be resorted to by giving the administrative officer every opportunity to decide on a matter that comes within his jurisdiction, then such remedy must first be exhausted before the courts power of judicial review can be sought. The party with an administrative remedy must not only initiate the prescribed administrative procedure to obtain relief but also pursue it to its appropriate conclusion before seeking judicial intervention in order to give the administrative agency an opportunity to decide the matter itself correctly and prevent unnecessary and premature resort to the court.

Corollary to the exhaustion rule is the doctrine of primary jurisdiction, a basic postulate which precludes courts from resolving a controversy over which jurisdiction has initially been lodged with an administrative body of special competence.” (Emphasis supplied)

The right to appeal by Petition for Review under Rule 43 of the Rules of Court “is not a matter of right but a mere

statutory privilege [and] [t]he party who seeks to exercise the right to appeal must comply with the requirements of the rules”.^[16]

IN VIEW OF ALL THESE, the Petition is DISMISSED.

SO ORDERED.

Didican (Chairman) and Paredes, JJ., concur.

[*] Alternately spelled as Parinas and Pariñas in the records

[1] Rollo, pp. 7-24

[2] Rollo, pp. 7-24

[3] Rollo, pp. 61-69

[4] Rollo, pp. 61-69

[5] Rollo, pp. 61-69

[6] Rollo, p. 69

[7] Rollo, pp. 61-69.

[8] Rollo, pp. 61-69.

[9] Winston F. Garcia, in his capacity as President and General Manager of GSIS vs. Mario I. Molina and Albert M. Velasco, G.R. No. 157383, August 10, 2010

[10] Winston F. Garcia, in his capacity as President and General Manager of GSIS vs. Mario I. Molina and Albert M. Velasco, G.R. No. 157383, August 10, 2010

[11] G.R. No. 88167, May 3, 1993

[12] Rollo, pp. 61-69.

[13] Rollo, pp. 61-69.

[14] CSC Resolution No. 99-1936 dated August 31, 1999, circulated through CSC Memorandum Circular No. 19, s. 1999

[15] Rollo, pp. 7-24

[16] BPI Family Savings Bank, Inc., PETITIONER, vs. Pryce Gases, Inc., International Finance Corporation, et. al, G.R. No. 188365, June 29, 2011

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