

CONCHITA G. VILLANOS, PETITIONER AND APPELLEE, VS. THE HONORABLE ABELARDO SUBIDO, COMMISSIONER OF CIVIL SERVICE, RESPONDENT AND APPELLANT.

G.R. No. L-23169. May 31, 1972

Ponente: BARREDO, J.

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BARREDO, J.:

Appeal from the decision of the Court of First Instance of Manila, Branch XVI, in its Civil Case No. 53309, declaring null and void the decision of the respondent-appellant Commissioner of Civil Service Abelardo Subido, dated February 7, 1963, in Administrative Case No. R-23917, dismissing from the government service the petitioner-appellee Conchita G. Villanos. The last two paragraphs of the lower court's decision read as follows:

"Premises considered, the Court holds that the action of the Commissioner of Civil Service in decision (deciding) the administrative case against the herein petitioner without affording her a fair trial and an opportunity to present her defense and in imposing upon her the penalty of dismissal, constitutes a grave abuse of his discretion.

"WHEREFORE, the Court declares the decision of the respondent in Administrative Case No. R-23917 null and void. The writ of preliminary injunction issued in this case is made permanent. No pronouncement as to costs."

As found by the trial court, the facts of this case which are conclusive upon this Court in this appeal are as follows:

Petitioner-appellee is a public school teacher of the Vigan Central School, in Vigan, Ilocos Sur. She holds the degrees of Elementary Teacher's Certificate, Bachelor of Science in Elementary Education and Bachelor of Science in Education. She is a civil service eligible, having passed the junior as well as the senior teachers' civil service examinations in 1937 and 1956, respectively. As of the year 1963, she had to her credit thirty-eight (38) years of teaching experience. In the district of Vigan, she was ranked fifth among 138 classroom teachers, with efficiency ratings of mostly 95%.

On April 1, 1957, petitioner-appellee wrote a letter jointly addressed to Mrs. Esperanza F. Sebastian and Miss Anacleta Faypon, her co-teachers in the same school, containing libelous remarks against the two. Upon receipt thereof, Mrs. Sebastian and Miss Faypon lost no time in instituting a criminal action against petitioner-appellee in the Court of First Instance of Ilocos Sur charging the latter with the crime of libel. On March 30, 1959, petitioner-appellee was convicted of the crime charged and sentenced to pay a fine of P200.00, with subsidiary imprisonment in case of insolvency and to pay costs. This libel conviction was affirmed *intoto* by the Court of Appeals in a decision which it rendered on December 21, 1960. Review of the latter decision was denied for lack of merit by this Court in a resolution dated March 6, 1961.

A few days after the commencement of the criminal action, or on April 11, 1957, Mrs. Sebastian and Miss Faypon lodged before the Division Superintendent of Schools an administrative charge against petitioner-appellee for (1)

gross discourtesy to them as her co-teachers, and for (2) notorious-ly disgraceful and/or immoral language and/or conduct. They supported their charge with the same libelous letter, basis of the criminal action.

The administrative charge was first heard on September 23, 1957 before Mr. Severo Lucero, District Supervisor and Investigator, at which hearing Mrs. Sebastian commenced her direct testimony. Second hearing thereof took place on February 12, 1958 before the same investigator, wherein Mrs. Sebastian's testimony was concluded. Although at the conclusion of the second hearing, the investigator scheduled a third hearing on February 25, 1958, no hearing actually took place on said date. Two years thereafter, on March 1, 1960, petitioner-appellee wrote a letter to the investigator asking for a special investigator from either the Bureau of Public Schools or Bureau of Civil Service. Petitioner's request was, however, denied by the Bureau of Public Schools "in view of dearth of personnel" in the Office. Continuation of the investigation was directed. Pursuant thereto, hearing was again scheduled for August 8, 1960, but investigation could not also proceed on said date because of another plea for postponement by petitioner-appellee who claimed that she made a second request for another investigator, this time from the Civil Service Commission, who will try jointly the charge against her together with another two administrative charges which she herself has filed against Supt. Dizon and one Mr. Padernal and against Mrs. Sebastian and Miss Faypon.

For quite sometime, no action whatsoever was taken on the second request of petitioner-appellee. Hence, on March 16, 1962, the investigator made an indorsement forwarding to the Division Superintendent of Public Schools the explanation of petitioner-appellee on the charges preferred against her and the papers covering the investigation so far conducted. The indorsement stated that continuation of the investigation could not proceed because of another request of the petitioner-appellee for another investigator from the Civil Service Commission, which so far has not been acted upon. The Division Superintendent, in turn, indorsed the same papers to the Director of Public Schools with a statement to the effect that petitioner-appellee refused to submit to investigation. He also forwarded to the Director a copy of the Decision of the Court of Appeals (C.A. - G.R. No. 00189-R) which affirmed the libel conviction of petitioner-appellee. Subsequently, following the indorsement of the Superintendent of Schools, the Assistant Director of Public Schools coursed another indorsement to the Secretary of Education wherein he likewise stated that petitioner-appellee "refused to submit to a formal investigation." The Assistant Director further stated that considering the refusal of petitioner-appellee and her conviction of the crime of libel, he recommends that petitioner-appellee be transferred to another station, reprimanded and warned that the commission by her of the same or similar offense will be severely dealt with. This recommendation met the approval or concurrence of the Secretary of Education who in an indorsement, dated May 21, 1962, manifested said concurrence to the Commissioner of Civil Service, respondent-appellant herein.

Disregarding the recommendation of the Department of Education, respondent-appellant, on February 7, 1963, rendered a decision finding petitioner-appellee guilty of the administrative charge and dismissing her from the service.[1]

On March 7, 1963, petitioner-appellee filed a verified petition for certiorari and/or prohibition, with writ of preliminary injunction, before the lower court, for the nullification of the decision of the respondent-appellant. Petitioner-appellee claimed that she was denied due process of law in that the charge against her was decided without affording her an opportunity to defend herself, the decision being merely based on the criminal conviction for libel. She obtained, on March 11, 1963, a writ of preliminary injunction from the lower court enjoining the respondent-appellant and/or any of his agents or representatives from enforcing his decision.

After due trial, the lower court promulgated the appealed decision on March 2, 1964 in favor of petitioner-appellee. Hence, this appeal.

Pending resolution of this appeal, on January 29, 1969, the Secretary of Education issued an indorsement stating, in effect, that his Office will interpose no objection to the payment of whatever retirement benefits are due to petitioner-appellee, who has already reached the compulsory age of retirement last December 31, 1968. On February 6, 1969, We noted the contents of said indorsement.

Respondent-appellant presents the following three major issues: (1) The lower court had no jurisdiction over the case, considering the fact that petitioner-appellee failed to appeal the decision of respondent-appellant to the Civil Service Board of Appeals; (2) Petitioner-appellee was not given due process in the administrative case before it was decided; and (3) Respondent-appellant did not commit grave abuse of discretion in rendering the decision imposing upon petitioner-appellee the penalty of dismissal with the further injunction that the decision be immediately executed.

We find for the petitioner-appellee on all counts and We, accordingly, affirm the decision of the trial court.

There can be no question that petitioner-appellee has not been given a full hearing. The investigation was not even half-through when the Superintendent of Schools of Ilocos Sur made his indorsement which culminated in the challenged decision of the respondent-appellant. The contention of respondent-appellant that petitioner-appellee was unduly delaying the proceedings and that she refused to submit to investigation has no basis in fact and in law. As rightly held by His Honor:

"That petitioner did not have the opportunity to defend herself during the administrative investigation can not be seriously questioned. As a matter of fact only one witness was able to testify and her cross-examination has not yet been concluded when the hearing was postponed. Even the Solicitor General apparently agrees to this finding when he argues in his memorandum that 'when disciplinary action is based upon conviction of a criminal offense,' the formal administrative hearing may be dispensed with.

"The argument of the Solicitor General is too broad and cannot be true in all cases. In this particular case, three separate administrative charges are inter-linked with each other. One is the administrative charge against the former Superintendent of Schools of Ilocos Sur and his Chief Clerk for alleged bribery or at least corruption in office. From the evidence in the records in the present case, it was insinuated that the Chief Clerk received material favors from the father of Mrs. Sebastian resulting in salary promotions in her favor. Another administrative case is that one filed by petitioner against Mrs. Sebastian and Miss Anacleta Faypon for uttering similar words for which the petitioner is now being dismissed. The third is, of course, the case against the petitioner for writing the libelous letter.

"In view of the close relation between the three administrative cases, the best procedure would have been to investigate them jointly. The investigator must necessarily be not one who occupies the rank of District Supervisor because it is lower than the rank of one of the respondents. He should also not be under the office of the Division Superintendent of Ilocos Sur, in order to avoid any suspicion of partiality.

"In asking for an investigator from the Bureau of Public Schools or from the Office of the Commissioner of Civil Service, the herein petitioner cannot be charged with deliberately delaying the proceedings. Just what happened with the other two cases, the Court has no idea as there is no evidence in the present case about them. What was proven in the present case is that both respondent Commissioner of Civil Service and the Director of Public Schools (Exh. N) were misled by the erroneous conclusions of the Superintendent of Schools of Ilocos Sur (Exh. M-1) to the effect that the 'respondent (herein petitioner) refused to submit to investigation by' his office.

"Such a conclusion is unwarranted for as shown by the evidence, the investigation was delayed first because the investigator was out of Ilocos Sur for over two years and later because apparently the respondent did not act on petitioner's request for an investigator coming from the Civil Service Commission and the old investigator, instead of proceeding with the investigation, merely submitted the records to the Director of

Public Schools through the Superintendent of Schools, who as stated above misunderstood the indorsement of the investigator (Exh. M).

"This misunderstanding of the attitude taken by the herein petitioner is very important not only in the action taken by the Director of Public Schools (Exh. N) who submitted the case to the herein respondent thru the Secretary of Education for decision but also in finding herein petitioner guilty and recommending that she be transferred to another station, reprimanded and warned that the commission by her of the same or similar offense will be severely dealt with."

Indeed, it may be noted that what occurred was precisely what petitioner feared would happen if the investigation were to be conducted by someone from the Office of the Superintendent, considering that she had charged the former Superintendent with bribery or corruption in office. As can be seen, it was the Superintendent who made the initial erroneous indorsement that petitioner-appellee "refused to submit to investigation" and even attached to the records which were sent with said indorsement certified copy of the decision of the Court of Appeals convicting her, thus providing, as it turned out later, the respondent appellant with what he considered a sufficient legal basis for her dismissal. These circumstances give added weight to the charge of petitioner-appellee that the action of respondent-appellant is short of being fair and legal. Undoubtedly, she had a right to request for a different investigator and to await the outcome of such request. That the authorities concerned allowed years to pass without even acting thereon cannot be counted against her. At the stage in which the investigation was at the time when the Superintendent indorsed the records to higher authorities, only one witness of the complainants had testified, so, even the complainants' side had not rested; more importantly, the respondent therein, herein petitioner-appellee had not yet presented any evidence. We hold, therefore, that the action of the education authorities and the respondent-appellant of considering the case submitted for decision is unwarranted. It is obvious that said action constitutes denial to petitioner-appellee of her right to due process, hence the decision of respondent-appellant is null and void.

The plea that the decision of the Court of Appeals which found petitioner-appellee guilty of libel against the complainants in the administrative case, which arose from the same allegedly slanderous remarks, is enough basis for respondent-appellant's decision is equally without merit. To begin with, the said decision was never presented, even informally, as evidence during the investigation. It was just attached to the records by the Superintendent when he indorsed them to the Bureau of Public Schools without even advising petitioner-appellee about it. Thus, she had no chance to present evidence which could have blunted the effects of said decision. And she had a right to present such evidence. A condemnatory decision in a criminal case, even if final, by itself alone, cannot serve as basis for a decision in an administrative case involving the same facts, for the simple reason that matters that are material in the administrative case are not necessarily relevant in the criminal case. So, notwithstanding that findings in criminal cases must be beyond reasonable doubt, they cannot be conclusive for administrative purposes. There are defenses, excuses and attenuating circumstances of value in administrative proceedings which are not admissible in the trial of the criminal cases. At any rate, it is settled in this jurisdiction that even where criminal conviction is specified by law as a ground for suspension or removal of an official or employee, such conviction does not ex-proprio vigore justify automatic suspension without investigation and hearing as to such conviction.

"Not even final conviction of a crime involving moral turpitude, as distinguished from conviction pending appeal, dispenses with the requisite notice and hearing. Final conviction is mentioned in section 2188 of the Revised Administrative Code as ground for proceeding administratively against the convicted officer but does not operate as automatic removal doing away with the formalities of an administrative hearing. (Lacson vs. Roque, 92 Phil. 456, 471.)

Neither can We place our stamp of approval on respondent-appellant's posture that petitioner-appellee has not

exhausted administrative remedies. It is charged and We have found it is true that petitioner-appellee was denied due process. Such being the case, the rule of exhaustion invoked is not applicable here.

"Appellants further maintain that the appellee in this case, had not exhausted administrative remedies, for appeal from the order of the Commissioner of Civil Service to the President was yet available, and it was error on the part of the Court of First Instance of Manila to entertain the premature action instituted against them. We find no merit in this argument. It has been repeatedly held that the principle requiring the previous exhaustion of administrative remedies is not applicable where the question in dispute is purely a legal one (Tapales vs. The President & Board of Regents of the U.P., G.R. No. L-17523, March 30, 1963), where the controverted act is patently illegal or was performed without jurisdiction or in excess of jurisdiction (Mangubat vs. Osmeña, G.R. No. L-12837, April 30, 1959), where the respondent is a department secretary whose acts as an alter ego of the President bear the implied or assumed approval of the latter (Marinduque Iron Mines Agents, Inc. vs. Secretary of Public Works, G.R. No. L-15982, May 31, 1963), or where there are circumstances indicating the urgency of judicial intervention (Alzate vs. Aldaba, G.R. No. L-14407, February 29, 1960; Demaisip vs. Court of Appeals, G.R. No. L-13000, September 29, 1959). Similarly, when, as in this case, in terminating the services of the appellee, the Commissioner of Civil Service acted summarily without any semblance of compliance, or even an attempt to comply with the elementary rules of due process, when the order is immediately execut-ed and petitioner was immediately removed from office, then appeal was not a plain, speedy and adequate remedy in the ordinary course of law (Fernandez, et al. vs. Cuneta, et al., G.R. No. L-14392, May 30, 1960), and the employee adversely affected may forthwith seek the protection of the courts." (Mitra vs. Subido, G.R. No. L-21691, Sept. 15, 1967.)

After this case was submitted for decision, or, under date of February 1, 1969, counsel for appellee brought to the attention of the Court a 3rd indorsement of then Secretary of Education, Hon. Onofre D. Corpuz, of January 23, 1969 reading:

"Respectfully transmitted to the Honorable Commissioner of Civil Service, Manila.

"This has reference to a decision of that Office dated February 7, 1963 wherein for highly improper conduct (libel), Mrs. Conchita G. Villanos, a public school teacher was dismissed from the service. It appears that Mrs. Villanos was able to obtain a writ of preliminary injunction enjoining the immediate execution of the decision of that Office. On March 2, 1964, however, the Court of First Instance of Manila, Branch XVI through Judge Carmelino Alvendia rendered a decision declaring the aforesaid decision of that Office in Administrative Case No. 23917 null and void, thereby making the writ of preliminary injunction permanent. It appears further that the decision of the Court of First Instance is on appeal to the Supreme Court.

"Records show that last December 31, 1968, Mrs. Conchita G. Villanos reached the compulsory retirement age of 65. Devoid of any means of livelihood, she is now requesting for whatever retirement benefits she is entitled to after long years of service in the government.

"It may be mentioned in this connection that in a 1st Indorsement dated May 18, 1961 that Office ruled that the compulsory retirement of one who has reached the age of 65 terminates the administrative proceedings against him. The Secretary of Justice, however, in Opinion No. 5, s. 1962 stated that the 'retirement of an officer or employee does not, * * * nullify or render moot the investigation of the administrative charges filed against him for delinquency or misconduct in Office, although it may render academic the imposition of certain penalties like removal, demotion or reduction in rank. The consequential penalties of forfeiture of retirement benefits and leave privileges incidental to dismissal from the service for cause may still be given effect.' However, the Honorable Commissioner of Civil Service in a 1st Indorsement dated January 17, 1962 rendered an opinion that 'only in case of investigation or prosecution of those offenses, as defined and penalized under Republic Act No. 3019, otherwise known as the Anti-Graft Law and those in the Revised Penal Code on Bribery, may a public officer be prohibited from resigning or retiring.'

"In view thereof, the within request of Mrs. Conchita G. Villanos is being transmitted to that Office for whatever action that Office deems proper to take on the matter. Further, information is being requested as to what Office 'will give effect' to the forfeiture of retirement benefits incidental to dismissal from the service.

"It may be mentioned in this connection that considering the forty three years of service of Mrs. Villanos in the government and in consonance with decisional consensus (e.g., *Lacson vs. Roque, et al.*, 49 Off. Gaz. No. 1, p. 93 and 67 C.J.S. secs. 58, 61, 62 & 67) here and abroad that the construction of rules relating to administrative disciplinary action must be strictly construed against the government and liberally in favor of respondent employee, this Office will interpose no objection to the payment of whatever retirement benefits are due to Mrs. Conchita G. Villanos."

We required further information from the parties, by Our resolution of December 5, 1969, as to whether or not appellee's purported retirement has actually materialized. In a manifestation dated January 19, 1970, all that appellee's counsel could say was that he transmitted copy of the resolution to his client by registered mail but he had not received any reply from her.[2] Under the circumstances, and in view of the above result We have arrived at, the Court has deemed it best to render this judgment, but this decision is not to be understood as upholding any of the views expressed by the different officials referred to in the above-quoted indorsement regarding the question of whether or not an official or employee in the civil service may be allowed to resign before the termination of an administrative investigation being conducted against him, which question, We do not have to decide for the purposes of this case.

Before closing, We may add the observation that the alleged fault of petitioner-appellee had no direct relation to her work. Besides, the alleged libel charged was contained in communications which were not public and could not, therefore, have been in any manner dangerous to the impressionable minds of the young students of the school where she was teaching, contrary to the contention of respondent-appellant. On the other hand, her impressive credentials and record of service, its length and highly rated efficiency are worthy of utmost consideration. It was improper for the respondent-appellant to completely ignore them in making his decision. It is to be presumed that petitioner-appellee knew better than to refuse to submit to an investigation duly ordered by competent authorities and that she would not deliberately throw away her valuable investments in her career in the public service by virtually foregoing her right to present her case fully. It is in this perspective that her position should have been viewed and construed. These observations, however, are not intended to hint in any way the Court's opinion as to petitioner--appellee's guilt or innocence which must be determined by the corresponding authorities after proper and full hearing, albeit, if the education authorities feel that it is best for all concerned to earlier put an end to the case against petitioner-appellee, the Court sees no insurmountable objection to their adopting the course of action suggested in the above communication of Secretary Corpuz, which would naturally mean that, upon the resumption of the proceedings as a consequence of this decision, the administrative case against petitioner-appellee shall be immediately dismissed, without regard to the merits of the charge therein made and she will be granted all the benefits of retirement, if only to compensate the denial to her of due process that We have found above, which would be in the same fashion' in essence to the dismissal of a criminal case without regard to the possible guilt or innocence of the accused when it appears that said accused is being denied speedy trial, which, to be sure, could be said not to be any more objectionable than the lengthy wait that petitioner-appellee was made to suffer in this case.

WHEREFORE, the decision of the court a quo is affirmed. No costs.

Reyes, J.B.L., Acting C.J., Makalintal, and Zaldivar, JJ., concur.

Fernando, J., while in agreement with what has been written by Justice Barredo, would consider the administrative case terminated as explained by him in a separate statement.

[1] The pertinent portions of said decision read:

"This is an administrative case against Mrs. Conchita G. Villanos, a Classroom Teacher in the Vigan Central School, Vigan, Ilocos Sur, for highly improper conduct.

"In a decision of the Court of Appeals in CA G.R. No. 00189-R promulgated on December 31, 1960, confirmatory of that of the Court of First Instance of Ilocos Sur, respondent Conchita G. Villanos was convicted of the crime of libel and sentenced to pay a fine of P200.00 with subsidiary imprisonment in case of insolvency and to pay the costs. The offended parties were Esperanza F. Sebastian and Anacleto Faypon, co-teachers of the respondent in the Vigan Elementary School. The libel against the offended parties was contained in a letter presented in the criminal prosecution of the respondent as Exhibit 'A' and reproduced in its entirety in the criminal complaint both courts that condemned the respondent found the letter libelous *per se*. A cursory reading of the same erases any doubt as to its character. The Court of Appeals made the additional remark that the respondent went 'beyond limits by insulting and slandering not only the complainants but also their mothers.' In the case of *People vs. Alcabao*, 44 Off. Gaz. 5006, the Court of Appeals ruled that the remark coming from a minor 'putang ina mo' is a clear indication of the minor's perverted character. This Office is of the belief that the words contained in Exh. 'A', coming as they are from a public school teacher, underwrites its author as unfit for the role of moulder of the Filipino youth's character.

"In view of the foregoing, respondent Conchita G. Villanos is found guilty as charged for which she is hereby dismissed from the service effective on her last day of service with pay.

"In the public interest, it is hereby ordered that this decision be executed immediately."

[2] Counsel's attention is called to the fact that resolutions of the Court are to be attended to with less indifference than what his manifestation evidences, since it does not appear that counsel has exerted maximum effort to comply with the Court's resolution. A similar nonchalant altitude in the future will be properly dealt with.

CONCURRING OPINION

FERNANDO, J.:

I concur in the main opinion of Justice Barredo but would go further than the concurring opinion of Justice Teehankee as to the disposition of this appeal. The pendency of an administrative case that had its origins in an offensive letter that was written on April 1, 1957 could, to my mind, no longer preclude the full enjoyment of retirement rights to which petitioner-appellee was entitled as of December 31, 1968, thus putting an end to an intolerable situation not traceable to petitioner-appellee. What has been so strongly put forth in both opinions as to the lengthy and honorable service of petitioner-appellee, except for that lapse, for which she had presumably been dealt with according to our penal laws with the offended parties having been given satisfaction, suffices for me to reach the above result. Considering her age, and possibly her state of health, she should not be made to undergo another administrative investigation. The matter should be declared terminated.

Castro, J ., concurs.

CONCURRING OPINION

TEEHANKEE, J.:

I concur with Mr. Justice Barredo's main opinion sustaining the trial court's decision which declares null and void respondent commissioner's decision of dismissal, notwithstanding that ordinarily petitioner-appellee should have appealed the decision to the Civil Service Board of Appeals, as provided by law.

However, the antecedents and merits of the subject administrative case of gross discourtesy and notoriously disgraceful language against petitioner have been substantially discussed before the Court. As far back as 1962, even without hearing petitioner's side, the maximum penalty that the Education department authorities recommended was transfer of station with reprimand and warning.[1] On January 23, 1969, then Education Secretary O.D. Corpuz issued an indorsement to respondent commissioner noting that petitioner "reached the compulsory retirement age of 65 (on December 31, 1968). Devoid of any means of livelihood, she is now requesting for whatever retirement benefits she is entitled to after (43) years of service in the government" and that "this office will interpose no objection to the payment of whatever retirement benefits are due to (her)."

By virtue of such indorsement and considering further that the main opinion notes that "the alleged fault of petitioner-appellee had no direct relation to her work,"[2] and that the alleged libel charged was not contained in public communications, in contrast to her impressive credentials and length and record of service as a public school teacher with efficiency ratings of mostly 95%, I submit that in the interest of justice and equity and to avoid further undue delay and deprivation of petitioner of her right to her justly earned retirement benefits owing her for over three years now, the Court should direct that respondent commissioner accept the original recommendation of reprimanding petitioner (since transfer of station is now moot) and forthwith authorize the payment of all retirement benefits due to petitioner-appellee.

This would render unnecessary the remand of the case for the holding yet of a "proper and full hearing" for the determination of petitioner-appellee's "guilt or innocence" on the administrative charge notwithstanding then Secretary Corpuz' endorsement and the Court's own views as above referred to, and which by the very time and delay entailed, would result in grave prejudice to petitioner who in her twilight years is in great need of the retirement benefits duly earned by her after forty-three years of faithful and efficient service.

Makasiar and Antonio, JJ., concur.

Concepcion, C.J., on leave.

[1] At page 4, main opinion.

[2] At pages 2, 13 of main opinion.

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