

RAQUEL C. MATA, PETITIONER, VS. MUNICIPALITY OF CANDONI, NEGROS OCCIDENTAL AND/OR MAYOR JECHONIAS G. MANZANO, RESPONDENTS.

Ponente: INGLES, G. T., J.

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INGLES, G. T., J.:

THE CASE

Before this court is a petition for review filed under Rule 43 of the 1997 Revised Rules on Civil Procedure, as amended seeking to annul and set aside the Decision[1] dated October 9, 2012, of the Civil Service Commission, Central Office, in CSC Appealed Case No. RO6-ND-II-009 which ordered the dismissal of petitioner's appeal and declared in order respondent Mayor's Executive Order No. 1, Series of 2011 dated January 3, 2011 and the Order dated January 5, 2012 reassigning petitioner as Chairman of the Municipal Economic and Special Projects Committee (MESPC) and to the Office of the Civil Registrar, respectively. Also assailed is its Resolution[2] dated March 4, 2013 denying petitioner's Motion for reconsideration.

THE FACTS:

On July 1, 1992, petitioner Raquel Mata was appointed as Municipal Budget Officer in the Municipal Budget Office of Candoni, Negros Occidental by then Municipal Mayor Quirico G. Manzano. As Budget Officer, she is mandated by the Local Government Code of 1991 to perform the powers and duties under Section 475 thereof.

Private respondent Municipality of Candoni, Negros Occidental is a local government unit, represented by its Municipal Mayor Jechonias Manzano (Mayor Manzano for brevity) in his personal capacity.

On January 3, 2011, private respondent Mayor Jechonias Manzano issued Executive Order[3] (EO) No. 1, Series of 2011 creating the Municipal Economic and Special Projects Committee and designating petitioner as Chairman thereof.

Subsequently, on January 6, 2011, Mayor Manzano issued Memorandum No. 2, Series of 2011 directed at petitioner, stating as follows:

“This Office hereby directs you to vacate the Municipal Budget Office and turn-over all official documents therein to the Officer-in-charge of the office for proper consideration.

Further, you are instructed to occupy a “set” to the Municipal Planning and Development Office being the chairman and head of the Municipal Economic and Special Projects Committee as provided in Executive Order #01 series 2011.”

Aggrieved, on January 18, 2011, petitioner filed an appeal[4] with the Civil Service Commission, Region VI, Iloilo City. Petitioner prayed for the setting aside of Executive Order Nos. 1 and 2, Series of 2011 and reinstatement to her former position as Municipal Budget Officer with permanent appointment without loss or reduction of her seniority rights, rank and all of her monetary benefits.

On April 25, 2011, a Formal Charge[5] was made by respondent Mayor Manzano against petitioner elevating the administrative case filed against her to one of grave misconduct.

Meanwhile, Mayor Manzano issued an Order[6] dated January 5, 2012 in relation to the administrative case for misconduct and discourtesy filed by one Remedios Lambot, Bookbinder II of the Accounting Office of the LGU against petitioner. The Order directed the temporary re-assignment of petitioner to another office, specifically to the Office of the Civil Registrar pending her formal investigation, thus:

“xxx Wherefore premises considered and in accordance with the provisions of Sections 19 and 20 of the Omnibus Rules Implementing Book V of EO 292, as above-quoted, respondent is hereby temporarily re-assigned to another office during the pendency of the formal investigation, specifically in the Office of the Civil Registrar, effective Monday, January 9, 2012, without however, affecting her rank, salary, grade emoluments and compensation. Her work specification in the said office shall be discussed and agreed by her and the Department head therein, subject to the approval of the Mayor's office.

Further, respondent's assignment as Chairman of the Municipal Economic and Special Projects Committee is hereby revoked, effective immediately, in favor of this temporary reassignment. Respondent is thus directed to turn-over her tasks and all documents, things and equipment, if there is any, which pertain to MEPSC, to Mrs. Querla M. Planta before reporting to the Office of the Civil Registrar.

This order shall take effect immediately.

SO ORDERED.”

On January 24, 2012, petitioner also appealed the January 5, 2012 Order to the Civil Service Commission, Central Office.

Thereafter, on October 9, 2012, the Civil Service Commission, Central Office, rendered a Decision[7] against petitioner, the pertinent portion of which reads:

“WHEREFORE, the appeal of Raquel C. Mata, Municipal Budget Officer (Municipal Government Department Head), Office of the Municipal Budget, Candoni, Negros Occidental, is hereby DISMISSED. Accordingly, the assailed Executive Order No. 1, Series of 2011 dated January 3, 2011 and the Order dated January 5, 2012 issued by Mayor Jechonias G. Manzano, reassigning Mata as Chairman of the Municipal Economic and Special Projects Committee (MESPC) and to the Office of the Civil Registrar, respectively, same municipality, are declared IN ORDER.”

Petitioner filed a Motion for reconsideration which was denied in a Resolution[8] dated March 4, 2013, the pertinent portion reads thus:

“WHEREFORE, the Motion for reconsideration of Raquel C. Mata, the Municipal Budget Officer (Municipal Government, Department Head), Office of the Municipal Budget, Candoni, Negros Occidental, is hereby DENIED. Accordingly, the CSC Decision No. 12-0683 dated October 9, 2012, STANDS. However, the duration of the reassignment must also be in accordance with the length of the imposable preventive suspension as provided in the Rules.

Quezon City.”

Aggrieved, petitioner filed this appeal raising the following issues:

THE ISSUES:

I.

“WHETHER OR NOT THE HONORABLE COMMISSION ERRED IN RULING THAT THE REASSIGNMENT OF PETITIONER IS VALID OR IN ORDER, WHEN THE FACTS AND CIRCUMSTANCES OF THE CASE AS WELL AS THE EVIDENCE PRESENTED INDUBITABLY AND CLEARLY SHOW THAT THE REASSIGNMENT WAS INTENTIONALLY AND MALICIOUSLY USED BY APPELLEE MAYOR AS A DEVICE TO OUST APPELLANT AWAY FROM HER ORIGINAL POSITION AS THE PERMANENT MUNICIPAL BUDGET OFFICER OF THE MUNICIPALITY OF CANDONI, NEGROS OCCIDENTAL;

II.

WHETHER THE HONORABLE COMMISSION ERRED IN RULING THAT THE RE-ASSIGNMENT OF APPELLANT IS VALID UNDER RULE 7 SECTION 26 (c) OF THE REVISED RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE (RRACS) WHEN THERE WERE NO FORMAL HEARINGS CONDUCTED BY RESPONDENT MAYOR TO ADDRESS THE LAMBOT ADMINISTRATIVE CASE;

III.

WHETHER OR NOT THE HONORABLE COMMISSION ERRED IN RULING THAT THE RE-ASSIGNMENT OF PETITIONER IS VALID WHEN HER CONSTITUTIONAL RIGHTS TO DUE PROCESS AND SPEEDY DISPOSITION OF CASES WERE CLEARLY VIOLATED AND IGNORED.”

Petitioner's contentions:

Petitioner's re-assignment used as a device
to maliciously oust her of her original position

According to petitioner, respondent Mayor Manzano acted with grave abuse of discretion coupled with bad faith and malice in re-assigning her to different positions rendering both re-assignments questionable, oppressive, and abusive. According to petitioner, respondent Mayor abused his position to circumvent the prohibition safeguarding the tenure of office of those who are in permanent positions. Petitioner enumerated the following circumstances revealing the malicious motive of respondent mayor, as follows:

- (a) the existence of bad blood between her and respondent mayor when the former derailed his plan on December, 2010 pertaining to the processing of irregular disbursement of government funds for his personal benefit;
- (b) without the lapse of one month after December, 2010, respondent Mayor issued EO No. 1s 2011 and Memorandum Order No. 2 s. of 2011 to facilitate reassignment of petitioner;
- (c) a Decision was rendered by the CSC-Iloilo dated October 3, 2012 in another related case involving petitioner's first re-assignment which granted the appeal of petitioner, setting aside EO No.1 s. 2011 and Memorandum Order No. 2 s. of 2011 and Memorandum Order No. 2 s. of 2011 issued by respondent Mayor and restoring petitioner to her previous position as Municipal Budget Officer;
- (d) The Office of the chairman of the MESPC is a non-existent organizational structure of the LGU and petitioner's duties as chairman of MESPC are overlapping and similar with the duties of the Municipal Planning and Development Coordinator under Sec. 476, Art. VI of the Local Government Code of 1991;
- (e) respondent Mayor issued another Order dated January 5, 2012 revoking the appointment of petitioner as chairman of the MESPC and she was reverted to a position as ordinary employee of the Civil Registrar of the LGU;
- (f) petitioner was charged with grave misconduct over an incident between her and a certain Remedios Lambot, a known ally and supporter of respondent Mayor who was once dismissed from service due to frequent unauthorized absences; such charge was made the sole reason for respondent Mayor to re-assign

petitioner for the second time relying on Rule 7, Sec. 26 (c) of the Revised Rules on Administrative Cases in which the CSC which allows reassignment in lieu of preventive suspension for charges of grave misconduct.

(g) respondent Mayor pre-empted the CSC Decision No. 120051 when he re-assigned petitioner to another office instead of restoring her to her former position. In short, respondent Mayor took advantage of the charge of grave misconduct which he formally instituted against petitioner in order to justify her re-assignment

No formal hearings were conducted in violation of Rule 7, Section 26 (c) of the Revised Rules of Administrative Cases in the CSC

According to petitioner, in lieu of preventive suspension, the disciplining authority has the power to re-assign its employee to other units during and not before or after the formal hearings. However, in the case at bar, no such hearing was made by respondent mayor concerning the charge for grave misconduct since the time the complainant Remedios Lambot filed a letter-complaint against her or since her second re-assignment was effectuated. Because of the absence of such hearings, her re-assignment is invalid in violation of Sec. 26 (c), Rule 7 of RRACS. Petitioner posits that the belated scheduled hearing dated January 31, 2013 is a mere afterthought and did not cure the absence of hearings.

Petitioner's re-assignment violates her constitutional right to due process and speedy disposition of cases

Petitioner asserts that her constitutional right to due process was violated because prior to her first re-assignment, no consultation or inquiry was made by the office of respondent mayor. Also, no formal hearing was made by respondent mayor until January 31, 2013 regarding the administrative charge against petitioner which left her employment status uncertain for an unreasonable length of time. Petitioner reiterates that there were no prior notifications of her two re-assignments and she was likewise denied fair treatment with the obvious impartiality of respondent mayor. Also, petitioner claims that she was deprived of her constitutional right to the speedy disposition of cases. Respondent mayor cannot just re-assign an employee for as long as he wants by the simple expedient of prolonging an administrative case against that employee.

THIS COURT'S RULING:

The focal issue to be resolved is whether or not petitioner's indefinite reassignment to the Office of the Civil Registrar is in order and in accordance with Civil Service law and rules and existing jurisprudence.

We rule in the negative.

Section 19 of the Uniform Rules on Administrative Cases in the Civil Service provides, as follows:

“SEC. 19 – Preventive suspension – Upon petition of the complainant or motu proprio, the proper disciplining authority may issue an order of preventive suspension upon service of the formal charge, or immediately thereafter, to any subordinate officer or employee under his authority pending an investigation, if the charge involves:

- a. dishonesty;
- b. oppression;
- c. grave misconduct;
- d. neglect in the performance of duty; or
- e. if there are reasons to believe that the respondent is guilty of charges which would warrant his removal from the service.

“An order of preventive suspension may be issued to temporarily remove the respondent from the scene of his misfeasance or malfeasance and to preclude the possibility of exerting undue influence or pressure on the witnesses against him or tampering of documentary evidence on file with his office.

In lieu of preventive suspension, for the same purpose, the proper disciplining authority or head of office, may reassign respondent to other unit of the agency during formal hearings.” (emphasis ours)

It is not always mandatory on the part of the disciplining authority to automatically place an employee charged with any of the offenses enumerated above under preventive suspension, or in lieu thereof, reassignment.

It bears emphasis that preventive suspension must be resorted to with caution taking into consideration the fact that the same will entail deprivation of work and salary during the period of suspension. Preventive suspension is a remedy resorted to to prevent the accused from hampering the normal course of investigation with his influence and authority over possible witnesses or to keep him off the records and other evidence.^[9] Thus, the disciplining authority may opt to reassign the employee concerned to another unit of the LGU for the same purpose as that of preventive suspension. Too, reassignment should be for the duration of formal hearings conducted against the employee.

Here, there is no dispute that petitioner was charged with an offense included among those enumerated under Section 19, that is, grave misconduct. This alone, however, cannot be used as a basis to preventively suspend or reassign her to another unit of the LGU. There must first be a showing that her presence in the workplace may hamper the normal course of the investigation against her or that she may unduly influence or pressure the witnesses or tamper with the pieces of evidence that may be used against her. Therefore, the disciplining authority should exercise this discretion with care and not use the same to harass or oust the employee from his or her permanent position.

As shown, petitioner was first assigned as Chairman of the Municipal Economic and Special Projects Committee by virtue of Memorandum No. 2, Series of 2011 issued by respondent Mayor on January 6, 2011. Thereafter, she was directed to vacate said position and reassigned to the Office of the Civil Registrar by virtue of the Order^[10] dated January 5, 2012 where she was far from her official place of business and where she likewise performed menial, if not, no work at all. She thus became a mere subordinate of the Municipal Civil Registrar.

In sum, there is no showing that she is in a position to forestall the normal course of investigation against her. Considering her present state, she could not possibly use her position to harass witnesses or tamper with documents that may be used against her. Besides, she already turned over all the official documents pertaining to her office before her reassignment.

Her reassignment to the Office of the Civil Registrar is tantamount to constructive dismissal when she was tasked to do a job as a mere employee of said office far from her job description as Municipal Budget Officer. Besides, her reassignment has lasted for more than one (1) year already. This being so, she should be restored to her position as Municipal Budget Officer. Granting argumenti, that her reassignment at the Office of the Civil Registrar is indeed justified in the exigency of service, she should be restored to her official station after the lapse of one (1) year as this is a case of unconsented reassignment contemplated under Section 6(a), Rule III of CSC Memorandum Circular No. 40, s. 1998 otherwise known as the Revised Omnibus Rules on Appointments and other Personnel Actions which reads thus:

“Section 6 – Other Personnel Movements

a. Reassignments – xxx If reassignment is without the consent of the employee being reassigned it shall be allowed only for a maximum period of one year.”

Moreover, respondent Mayor failed to advance plausible grounds to warrant petitioner's continued reassignment for more than one year which appears too long in view of the importance of her position as municipal budget officer. Her reassignment has now become indefinite which amounts to a diminution of her rank, hence, impermissible under the law. It has been held that an assignment that is indefinite and results in reduction in rank, status and salary is in effect constructive dismissal from the service. [11] Notably, her reassignment to the Office of the Civil Registrar began on January 5, 2012. However, no formal hearings have been conducted until January 31, 2013 when respondent Mayor finally scheduled a preliminary conference for the administrative case filed against petitioner.

Similarly, in *Pastor vs City of Pasig, et al*, GR No. 146873, May 9, 2002, the Supreme Court held that petitioner's reassignment for nearly ten years constituted removal without cause as budget officer of the City of Pasig. Petitioner was likewise considered to have suffered a diminution in rank as her new assignment as head of Pasig City Hall Annex compared with that of City Budget Officer was subject to review by another superior officer and such position was created by mere ordinance only. As such, petitioner was returned to her original position for her indefinite detail to other positions would amount to her removal without cause from the position which she has been permanently appointed.

Furthermore, there is no question that the Supreme Court recognizes the validity and indispensable necessity of the well-established rule that for the good of public service and whenever public interest demands, (a) a public official may be temporarily assigned or detailed to other duties even over his objection without necessarily violating his fundamental and legal rights to security of tenure in the civil service. Such cannot be undertaken, however, when the transfer of the employee is with a view to his removal and if the transfer is resorted to as a scheme to lure the employee away from his permanent position because such attitude is improper as it would in effect result in circumventing of the prohibition which safeguards the tenure of office of those who are in the civil service. [12]

In another vein, we reject petitioner's submission that she was denied due process. The essence of due process is simply an opportunity to be heard or, as applied to administrative proceedings, an opportunity to seek a reconsideration of the action or ruling complained of. In fact, a respondent in an administrative proceeding is not entitled to be informed of the findings and recommendations of any investigating committee created to inquire into charges filed against him. He is entitled only to the administrative decision based on substantial evidence made of record, and a reasonable opportunity to meet the charges and the evidence presented against him during the hearings of the investigating committee. The quintessence of due process is simply that a party be afforded a reasonable opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain one's side and to adduce any evidence he may have in support of his defense. Entrenched is the rule that due process does not necessarily mean or require a hearing but simply a reasonable opportunity or a right to be heard or, as applied to administrative proceedings and opportunity to explain one's side. Where opportunity to be heard either through oral arguments or pleadings is accorded, there is no denial of due process.[13]

In *Samalio vs Court of Appeals*, GR No. 140079, March 31, 2005, the Supreme Court further elucidated that: "The standard of due process that must be met in administrative tribunals allows a certain degree of latitude as long as fairness is not ignored. In other words, it is not legally objectionable for being violative of due process for an administrative agency to resolve a case based solely on position papers, affidavits or documentary evidence submitted by the parties as affidavits of witnesses may take the place of their direct testimony."

In the instant case, petitioner was given an opportunity to answer the charge against her through pleadings. It was not necessary to confront respondent and take his testimony to test his truthfulness. Apparently, petitioner's concept of the opportunity to be heard is the opportunity to ventilate one's side in a formal hearing where he can

have a face-to-face confrontation with the complainant. However, it is well-settled that, in administrative cases, the requirement of notice and hearing does not connote full adversarial proceedings. [14] Petitioner was thus afforded fair and reasonable opportunity to explain her side of the controversy at hand. Verily, denial of due process cannot be successfully invoked by a party who has had the opportunity to be heard as in the case at bar.

WHEREFORE, the petition is GRANTED. The Decision dated October 9, 2012, of the Civil Service Commission, Central Office in CSC Appealed Case No. RO6-ND-II-009, is SET ASIDE. Petitioner's reassignment to the Office of the Civil Registrar is declared not in order. Respondent is ordered to REINSTATE petitioner to her original position as Municipal Budget Officer of Candoni, Negros Occidental.

SO ORDERED.

Maxino, P.A.A., and Francisco, R.C., JJ., concur.

[1] Rollo, p. 84

[2] Rollo, p. 109

[3] Rollo, p. 67

[4] Rollo, p. 47

[5] Rollo, p. 79, stemming from a complaint of misconduct, discourtesy, oral defamation, alarm and scandal filed by Remedios Lambot against petitioner

[6] Rollo, p. 72

[7] Rollo, p. 84

[8] Rollo, p. 109

[9] Bunye vs Escareal, 226 SCRA 332

[10] Rollo, p. 72

[11] Bentain vs Court of Appeals, 209 SCRA 644

[12] Cruz vs Navarro, 66 SCRA 79

[13] Rivera vs Corral, AC No. 3548, July 4, 2002

[14] Artezuela v. Maderazo, 431 Phil. 135 (2002).

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