

AURORA S. NEGADO, PETITIONER AND APPELLANT, VS. HON. FRED RUIZ CASTRO, ETC., ET AL., RESPONDENTS AND APPELLEES.*G. R. No. L-11089. June 30, 1958*

Ponente: BENGZON, J.

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Statement of the case.—In January 1951 and years before, Mrs. Aurora S. Negado worked in the Bureau of Posts. Charged with connivance with persons illegally trafficking in money orders in the post-office premises, she was administratively investigated. The Civil Service, finding the evidence inconclusive, nevertheless recommended her transfer. She appealed to the Civil Service Board of Appeals, which in due course decreed exoneration. The Director of Posts took the matter to Malacañan. The Executive Secretary for the President reversed, and ordered her separation from the service.

Thereafter, she instituted this proceeding in the Manila court of first instance to secure her reinstatement. It is a petition for certiorari, alleging lack of jurisdiction or abuse of discretion on the part of the Executive Secretary. It is also quo warranto against the present holder of her former post, Hermogenes E. Cera.

After hearing the parties, said court dismissed her complaint. Hence this appeal, involving only questions of law.

Facts.—On or about January 22, 1951, some special policemen of the Bureau of Posts, then under instructions apprehend persons illegally trafficking in dollars and U. S. treasury warrants within the premises of said Bureau, saw Virginia Sebastian and Aniceta Robledo in act of buying and selling U. S. money orders. They immediately approached the two women and requested them to go to the office of the Bureau of Posts Inspector for investigation. While they were on their way to the investigation room, Virginia Sebastian surreptitiously passed a U. S. money order to herein petitioner Aurora Sebastian-Negado, then Chief of a Section of the Bureau of Posts. The latter hastened to return to her office, but she was overtaken by one of the policeman and was there-upon requested to join them for investigation. Caught in possession of a U. S. money order, petitioner was administratively charged with: (1) having connived with the dollar black-marketers plying their illegal trade within the premises of the Post Office; and/or (2) having illegally attempted to frustrate the detection of said illicit transaction[1] through her assistance in the concealment of the evidence.

After investigating the charges, the Commissioner of Civil Service, for lack of positive evidence could not find Mrs. Negado guilty of the offenses charged; nevertheless, he found her conduct to be not above board, and consequently recommended her transfer to another branch of the service with a reduction of salary. Not satisfied with such administrative determination, Mrs. Negado appealed to the Civil Service Board of Appeals which exonerated her. Convinced that the decision of the Board of Civil Service Appeals was erroneous, the Director of Posts, with the concurrence of the Secretary of Public Works and Communications elevated the records of said administrative case to the President of the Philippines.

After a careful review, respondent Executive Secretary, acting by direction and authority of the President, reversed the decision of the Civil Service Board of Appeals and held that although the evidence was not

conclusive of her guilty connivance, her conduct in the premises was not above suspicion; and as her continued stay in the service would not be for the public interest, she was considered resigned from her position, effective the date of her suspension incident to another pending administrative charge for misconduct in office.

Lack of jurisdiction.—In her first assignment of error, appellant questions the President's authority and jurisdiction to act upon the appeal of the Director of Posts, because (a) said Director had no right to appeal from the determination of the Civil Service Board of Appeals, and (b) supposing he could appeal, such appeal had been made outside the thirty-day period fixed by law. She quotes the pertinent provisions of Commonwealth Act No. 598.

"SECTION 1. . . He may, for neglect of duty or violation of reasonable office regulation or in the interest of public service, remove any subordinate officer or employee from the service, suspend him without pay for not more than two months, reduce his salary or compensation, or deduct therefrom any sum not exceeding: one month's pay. From the decision of the Commissioner of Civil Service on administrative investigation an appeal may be taken by the officer or employee concerned to the Civil Service Board of Appeals within thirty days after receipt by him of the decision."

"SEC. 2. . . The Civil Service Board of Appeals shall have the power and authority to hear and decide all administrative cases brought before it on appeal, and its decision in such cases shall be final, unless a reversed or modified by the President of the Philippines . . ."

Explaining her first proposition, she points out that under section 1, it is only "the officer or employee concerned" who may appeal. In the first place, the section refers to appeals to the Board of Appeals—not appeals to the President. In the second place, "officer or employee concerned" does not exclusively mean the employee under investigation. The Director or Chief of the Bureau may also be the officer concerned. And such has been the administrative practice. Let it not be argued that the appeal by the Director places the employee in a second jeopardy. The administrative proceeding is not a criminal case.

As to the thirty-day period, it does not apply to appeals to President, which section 2 permits, without any limitation as to time or persons. In fact, even without appeals, the President could *motu proprio* review" or revise the decision of the Civil Service Board of Appeals by virtue of his constitutional control of the Executive Departments. Furthermore, as Department Head of the said Appeals Board (section 74 Administrative Code) the President has statutory authority to reverse its adjudication. (Section 79 [c] Administrative Code.)

Abuse of discretion.—Given the President's power to review, still the appellant imputes grave abuse of discretion to the decision "calling for her separation despite his express findings that she cannot be found guilty of the two charges against her." "And even granting, without admitting, that she was found guilty of these charges," the petitioner submits that her conduct was "not a sufficient and legal ground for removal from the service, as it is not the cause contemplated by the law and the Constitution for the reason that the alleged misconduct is only her personal misbehavior, not her official misconduct, such misconduct not being directly related to or connected with her official duties."

The pertinent portion of the President's decision reads as follows:

"However, respondent's conduct is, to say the least, not above suspicion. When Miss Sebastian gave her the money order wrapped in Kleenex paper with the verbal advice "do not open this until you reach your table," the respondent must have sensed something wrong, considering that these words were uttered by a person who was virtually under arrest or in the custody of an officer of the law. Prudence should have impelled her not to accept what was being handed to her under such circumstance. Her subsequent conduct cannot but engender serious doubts as to her good faith, it appearing that after finding out that the thing given to her was a dollar money order, she made no attempt to return it immediately to Miss Sebastian with a view to precluding any

possible suspicion of her being involved in any dollar trafficking.

It appearing that the respondent was involved in another administrative case in which she was charged with various irregularities; that by reason of said case she was suspended from duty effected January 18, 1954; that in the decision of the Commissioner of Civil Service dated April 17, 1954, she was found guilty of violation of regulations for having engaged in the business of selling fancy jewelry without permission, sometimes utilizing the office premises for that purpose, and was considered resigned effective the date of her suspension, without prejudice to reinstatement except in the Bureau of Posts; and that the case is now on appeal in the Civil Service Board of Appeals.

In view of the foregoing, it is believed that respondent's further employment in the Bureau of Posts will not be in the public interest. The decision appealed from is therefore modified in the sense that the respondent is considered resigned effective January 18, 1954, the date of her suspension, without prejudice to reinstatement except in the Bureau of Posts."

The findings are definite and explicit. Although the evidence was not "conclusive" Mrs. Negado's conduct was "to say the least, not above suspicion." That was a tactful way of saying "but I am morally convinced she was not innocent." So the Executive Secretary held, her further employment in the Bureau of Posts "will not be in the public interest." Under Commonwealth Act No. 598[2] any subordinate officer or employee may be removed from office "in the interest of public service or for violation of reasonable office regulations." In the circumstances, there was we believe, no abuse of discretion, much less grave abuse thereof. There is no valid ground to contend that her conduct had no connection with her duties. The Bureau of Posts where she was employed, dealt officially with money orders.

Administrative discipline—The question whether the facts disclosed in the investigation required the separation of the employee in the interest of public service is largely one to be determined by the corresponding administrative authorities. Not for the judiciary to reexamine the record and test the official verdict in the light of organizational needs and/or command responsibility—unless of course, there was no due process, or the objectionable conduct was so clearly unrelated to the employee's duties, that the adjudication evinced a capricious and whimsical exercise of judgment overstepping the limits of official jurisdiction.[3]

It is not true that Mrs. Negado was punished for mere suspicion. In her hands was found a "contraband" article: a money order being illegally negotiated. Violating her duty as a government employee to help prevent such illegal negotiations, she practically helped the concealment or attempted concealment from the officers of the "contraband" goods. This, added to her other transgressions (violation of regulations, by selling jewelry without permission, sometimes utilizing the office premises for that purpose) constituted in our opinion more than sufficient ground for her dismissal. Instead of being thus removed, she was just considered resigned, a lesser disciplinary measure.

Substitution of parties.—The first three respondent officers have ceased to hold their respective positions. Yet the plaintiff failed to make substitution of parties in accordance with section 18, Rule 3. In view however, of the resultant opinion, we have deemed it unnecessary to require compliance with the said procedural step.

Judgment.—Wherefore, the order quashing this action should be, and it is hereby, affirmed with costs against appellant

Paras, C. J., Montemayor, Reyes, A., Bautista Angelo, Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

[1]Violating the Central Bank law and regulations.

[2]Amending sec. 595 Administrative Code.

[3]See *Abad Santos vs. Province of Tarlac*, 38 Off. Gaz. 8300.

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