

NARCISO E. MAMARIL, PETITIONER, VS. HON. EUFEMIO C. DOMINGO, IN HIS CAPACITY AS CHAIRMAN COMMISSION ON AUDIT (COA), RESPONDENT.

G.R. No. 100284. October 13, 1993

Ponente: QUIASON, J.

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QUIASON, J.:

This is petition for certiorari under Section 7 of Article IX of the Constitution and Rule 65 of the Revised Rules of Court to set aside the Decision No. 1614 of the Commission on Audit (COA), finding petitioner negligent in the performance of his duties and holding him liable, jointly and severally, with the agency head of the Land Transportation Office (LTO) at San Pablo City for the audit disallowance in the total amount of P44,515.90 (Rollo, p. 16).

Petitioner was formerly an Evaluator/Computer of the Land Transportation Office (LTO) at its San Pablo City Branch. In the course of the performance of his duties, he committed errors in his evaluation and computation, resulting in the under collection of registration, license and other miscellaneous fees and penalties.

Petitioner availed of the Early Retirement Program under RA 6683. As a result of the decision of the COA, holding that the amount of P44,515.90 be withheld from petitioner's terminal leave pay other than his retirement gratuity, he has not received in full the benefits due him from his retirement.

Petitioner contended that he could not be held liable on the audit disallowances because he was not an accountable officer within the meaning of Section 101 of P.D. No. 1445 (1978) since: (a) his work was purely clerical; (b) he did not come into possession of any money or property for which he is now asked to pay; and (c) he did not act in bad faith or with gross negligence. He further contended that Decision No. 1614 itself advised the agency concerned to take necessary measures towards the collection of the under collections from the delinquent parties liable for the payment of the fees and penalties (Petition, pp. 2-4; Rollo, pp. 6-8).

In his Comment, the Solicitor General manifested his concurrence with the stance of petitioner and his prayer for the granting of the petition. He said that petitioner's job was "purely mechanical" and that there was no showing that petitioner had acted with malice or with gross negligence. He argued that the Auditor's finding of under collection resulting from negligence and inefficiency was arrived at without affording petitioner the right to be heard (Rollo, pp. 70-78).

In view of the position taken by the Solicitor General, the respondent submitted his own comment.

The Court is asked to define the scope of the power of the Commission on Audit under the 1987 Constitution.

The responsibility for state audit is vested by the Constitution on the Commission on Audit.

Under the Constitution, the COA "shall have the power, authority, and duty to examine, audit, and settle all accounts, pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held

in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, xxx. However, where the internal control system of the audited agencies is inadequate, the Commission may adopt such measures, including temporary or special pre-audit, as are necessary and appropriate to correct the deficiencies. It shall keep the general accounts of the Government and, for such period as may be provided by law, preserve the vouchers and other supporting papers pertaining thereto." (Underlining supplied; Art. IX-D, Sec. 2, par. 1).

Section 2(2) of the above article states that the COA is given the "exclusive authority, subject to the limitations in this Article, to define the scope of its audit and examination, establish the technique and methods required therefor, and promulgate accounting and auditing rules and regulations, xxx" (Underlining supplied).

As can be gleaned from the foregoing provisions of the Constitution, state audit is not limited to the auditing of the accountable officers and the settlement of accounts, but includes accounting functions and the adoption in the audited agencies of internal controls to see to it, among other matters, that the correct fees and penalties due the government are collected.

The verification of the correctness of the evaluation and computation of the fees and penalties collectible under the Land Transportation Law (R.A. No. 4136) are parts of the functions of the COA, which examines and audits revenue accounts (The Government Auditing Code of the Philippines, P.D. No. 1445, sec. 60).

When any person is indebted to any government agency, the COA may direct the proper officer to withhold the payment of any money due such person or his estate to be applied in satisfaction of the indebtedness (P. D. No. 1445, sec. 37). Likewise, under the Manual on Certificate of Settlement and Balances, a government auditor is empowered to order the withholding of the payment of any money due a person determined to be liable for disallowances, suspensions, and, other deficiencies in the accounts audited (Sec. 39).

The Solicitor General and the petitioner overlooked that petitioner's duties as an Evaluator/Computer constituted an indispensable part of the process of the assessment and collection of motor vehicle registration fees. In fact, under the Agency's Flow Chart (Annex "2", Rollo, p. 109), the processing of the amount of fees to be collected in the registration of motor vehicles has to pass the Evaluator/Computer twice, not only for his evaluation and computation of the fees but also for his review.

After the official receipt is prepared, it is returned to the Evaluator/Computer who then reviews the computation written on the official receipt. If the same is in order, he signs the boxed portion entitled "Computer." If in his review, he detects an error in the accomplishment of the form or in the computation of the fees, he corrects or recomputes the same. After his review and correction, if there is any, he again signs the boxed portion entitled "Computer" and sends the official receipt to the head of the agency for further review.

From January 1983 to February 1989, petitioner committed 479 erroneous evaluations and computations, ranging in amounts from P1.00 to P1,675.00 (Annex "C", Rollo, pp. 19-28).

From time to time, the Auditor, who was assigned to the San Pablo City branch of the LTO, would issue Certificates of Settlement and Balances and Notices of Suspension addressed to the head of the agency and to petitioner, calling their attention to the errors of petitioner. A total of 17 Certificates of Settlement and Balances and 14 Notices of Suspension were received by petitioner who simply ignored them. The same mistakes and omissions were repeated over the years. As a consequence, the suspensions matured into disallowances and the latter became final for petitioner's failure to appeal the same to the COA.

Petitioner claims that the mistakes he made in his evaluation and computation were not done with malice or gross negligence amounting to bad faith (Rollo, pp. 6-7).

The repeated mistakes made by petitioner in his work cast doubts on his bona fides. Nonetheless, if there are errors or mistakes in the performance of a public officer of his duties which result in an under collection of fees due to the Government, said officer becomes civilly liable, regardless of whether he acted without malice or gross negligence.

Petitioner also questions the correctness of the disallowances (Annex "C", Rollo, pp. 19-28) which allegedly were never explained to him. He claims that the Auditor, who issued the Certificate of Settlement and Balances and Notices of Suspension, may not be aware of the different circulars on the registration of vehicles, resulting in the erroneous classification of the vehicles. As an example, he stated that a diesel-fed motor vehicle could have been considered by the Auditor as gas-fed motor vehicle (Rollo, pp. 9-10).

There is no showing that petitioner had asked the Auditor to explain the disallowances. Neither did he appeal such disallowances to the COA. Under P. D. No. 1445 (1978), petitioner has the right to appeal disallowances issued by an Auditor. Section 48 of said law provides:

"Appeal from decision of auditor. - Any person aggrieved by the decision of an auditor of any government agency in the settlement of an account or claim may within six months from receipt of a copy of the decision appeal in writing to the Commission."

The correctness of the disallowances involves a question of fact, which we are not in a position to review, particularly where petitioner did not specify the items wherein the Auditor allegedly made an erroneous classification.

As to petitioner's claim that because of respondent's Decision No. 1614, he "has not, to date, received in full his gratuity/retirement pay" (Petition, p. 2; Rollo, p. 6), it should be made clear that the COA ordered the withholding of the amount of P44,515.90 "from the terminal leave or any other amount due Mr. Mamaril except his retirement gratuity pay" (Annex "A", Rollo, p. 16).

Petitioner should call the attention of the LTO agency at San Pablo City to compel the private parties concerned to pay their deficiencies or penalties so that he can request for the release of the amounts from his withheld benefits corresponding to the amounts collected from the private parties.

WHEREFORE, the decision of respondent is AFFIRMED and the petition is DISMISSED.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Bidin, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Puno, and Vitug, JJ., concur.

Padilla and Griño-Aquino, JJ., on official leave.

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