

TEODORICO E. MENDIOLA, PETITIONER, VS. CIVIL SERVICE COMMISSION AND ECONOMIC INTELLIGENCE AND INVESTIGATION BUREAU, RESPONDENTS.

G.R. No. 100671. April 07, 1993

Ponente: CAMPOS, JR., J.

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CAMPOS, JR., J.:

Before Us is a Petition for Certiorari and Mandamus filed by Petitioner Teodorico Mendiola against respondents Civil Service Commission (Commission) and Economic Intelligence and Investigation Bureau (Bureau). Petitioner seeks from this Court the annulment of the resolutions passed by the Commission on February 1, 1989[1] and June 6, 1991,[2] respectively, and an order for his immediate reinstatement to the service.

The following facts are undisputed.

Petitioner has been an employee of the Bureau since May 21, 1973. He started as a Covert Agent of the Bureau and was appointed Budget Examiner III in 1978. He held that position until April 30, 1988 although he concurrently performed the functions of Intelligence Agent and Acting Chief, Administrative Branch of the CID.[3]

In 1987, President Corazon Aquino issued Executive Order No. 127 mandating the reorganization of the Department of Finance. In accordance with the said Executive Order, the Commissioner of the Bureau issued a memorandum dated January 19, 1988[4] to streamline the Bureau. The said memorandum provided the priority for the separation of personnel, to wit:

"CATEGORY I - Personnel with administrative, criminal and/or patently undesirable personnel.

CATEGORY II - Personnel above 60 yrs of age as of January 1, 1988, and NOT occupying, sensitive or key supervisory/managerial positions, as follows (sic):

- a. Commissioner/Deputy Commissioner/or Assistant Commissioner;
- b. Chiefs of Offices;
- c. Division Chiefs (Operations Chiefs);
- d. Chiefs of Special Units: Medical, Finance, and Special Operations Group;
- e. Regional Directors; and
- f. Plantilla Positions which may be exempted by EIIB Commissioner.

CATEGORY III - Personnel with family relations within the Second Degree of consanguinity or affinity.

CATEGORY IV - Personnel directly or indirectly in the management or control of any private enterprise which may be affected by the functions of EIIB, and

CATEGORY V - Personnel other than the above but willing to be separated to take advantage of gratuity pursuant to Executive Order Nr. (sic) 127."

On March 30, 1988, petitioner received a notice of termination from service effective at the close of office hours of April 30, 1988. Alleging that he was not informed of the cause of his dismissal, petitioner appealed his case to the chairman of the Appeals Board. His appeal was denied. Subsequently, he appealed to the Commission and averred that he was denied due process when he was dismissed from the service. Furthermore, he claimed that he could have been included in Category I of the January 19, 1988 memorandum. However, he contested such inclusion because he had been commended and satisfactorily rated for his performance. On September 21, 1988, the Commission resolved the case in petitioner's favor and held thus:

"The guidelines for separation of personnel established and adopted by the EIIB are not in accordance with the guidelines prescribed under CSC Memorandum Circular No. 5, s. 1988, where employees can be separated from the service as a result of reorganization only for the following reasons:

1. When there is a reduction in the number of positions in the new staffing pattern and the employee separated is the least competent and qualified; or
2. Where there has been a change in the agency functions or orientation rendering the position of the separated employee redundant.

Ms. Leyesa and Mr. Mendiola were not informed of the particular grounds for their separation. Hence, they assumed that they might have been covered by Category No. 1 of the unnumbered Memorandum of the EIIB which pertains to employees with administrative or criminal charges. However, under CSC Memorandum Circular No. 5, s. 1988, even employees with pending administrative charges should be included in the evaluation process and should they meet the standards for retention or placement set forth under CSC Memorandum Circular No. 10, s. 1986, they should be appointed. However, they should not be placed in positions higher than what they previously held and their administrative cases shall be pursued until decided.

On the basis of the above findings, it is apparent that appellants were not accorded due process of law and were separated from the service not in accordance with the prescribed rules on reorganization. The actions of the Bureau were violative of the guidelines and procedures set forth under Presidential Memorandum dated October 2, 1987, CSC Memorandum Circular No. 10, s. 1986, CSC Memorandum Circular No. 5, s. 1988, and Republic Act No. 6656. The appellants' separation from service is, therefore, considered illegal.

In view therefore, it is hereby ordered that appellants be reappointed to their previous positions or to positions of comparable or equitable rank without loss of seniority and that they be paid back salaries reckoned from the dates of their termination. However, reappointment to the service does not mean exoneration from any accusations of wrongdoing or from any administrative charges that may be filed against them."[5]

On December 13, 1988, petitioner filed a motion for execution of the cited resolution.

The controversy started when the motion for execution was left unacted upon. This, according to petitioner prompted him to serve on August 16, 1989 a letter prepared by his former counsel, Atty. Nestor Bamba, to the Bureau Commissioner. That letter requested the Bureau to reinstate him. On September 12, 1989, petitioner also filed with the Commission a letter informing the latter of the Bureau's refusal to reinstate him and requesting for the taking of remedial action by the Commission. These actions on the part of petitioner allegedly remained unheeded. And on July 26, 1990, petitioner found out that the Bureau filed on October 27, 1988 a motion for reconsideration of the September 21, 1988 resolution. On February 1, 1989, the Commission gave due course to the motion for reconsideration thereby setting aside its September 21, 1988 resolution. On July 30, 1990, petitioner filed an Omnibus Motion[6] with the Commission praying that the motion for reconsideration of the Bureau be stricken off the records and that the February 1, 1989 resolution be set aside. On June 6, 1991, the

Commission promulgated a resolution denying the omnibus motion. We quote the relevant portion of the resolution, thus:

"At the outset, the Commission is inclined to dismiss the instant motion for lack of merit. The grounds relied upon by the movant are not any of those provided for under Section 39 of PD 807 as amended wherein a motion for reconsideration may be entertained and/or prosper. Furthermore, the primary ground raised has already been discussed in the resolution sought to be reconsidered. However, the legality of movant's removal deserves discussion in order to settle this particular issue once and for all.

Record shows that movant was holding a position of Intelligence Agent. As clearly stated in the pertinent provision of LOI 71 dated September 4, 1978, all positions in the Bureau are considered highly confidential in nature and incumbent thereof can be removed for loss of confidence. The Supreme Court, in a number of decisions has consistently ruled that employees holding confidential positions do not necessarily enjoy security of tenure. As such they can be removed for loss of confidence. The removal contemplated is not in the nature of dismissal but merely expiration of term. Hence, such removal does not constitute violation of the constitutional guarantee of security of tenure (Ingles vs. Mutuc, 26 SCRA 171; Corpus vs. Cuaderno, 13 SCRA 591). In view thereof, the removal of movant from the office is legal and in accordance with existing civil service law and jurisprudence.

WHEREFORE, foregoing premises considered, the instant motion for reconsideration is hereby denied. Accordingly, the Resolution dated February 1, 1989 is hereby affirmed. x x x."[7]

This resolution and that of February 1, 1989, are now the subjects of the present petition. Petitioner raises the following allegations before this Court:

"Respondent Civil Service Commission acted without or in excess of its jurisdiction, or with grave abuse of discretion, in acting upon EIIB's motion for reconsideration without notice to the petitioner, thus depriving petitioner of his day in court."[8]

"Respondent Civil Service Commission acted without or in excess of its jurisdiction, or with grave abuse of discretion, in altering and/or reconsidering its judgment which has already become final and executory."[9]

"Respondent Civil Service Commission refused to perform its ministerial duty of issuing a writ of execution to enforce its already final and executory Resolution of September 21, 1988."[10]

Did the respondent Commission err in giving due course to the motion for reconsideration of respondent Bureau? This is the crux of the instant petition.

Petitioner argues that respondent Commission acted without jurisdiction when it acted upon the motion because the resolution had already become final and executory. According to him, respondent Bureau received the resolution of September 12, 1988 on October 6, 1988 and from said date, the Bureau had fifteen (15) days within which to move for a reconsideration. Petitioner cites Section 39, Presidential Decree 807 and Resolution No. 88-135 of the Commission.[11] Section 39(a), P.D. 807 states:

"Sec. 39 Appeals. - (a) Appeals, where allowable, shall be made by the party adversely affected by the decision within fifteen days from receipt of the decision unless a petition for reconsideration is reasonably filed, which petition shall be filed within fifteen days. x x x."

While Resolution No. 88-135[12] of the Commission contains the following provisions:

"Section 9. PETITION FOR RECONSIDERATION. - Any party adversely affected or not satisfied with the decision of the Commission may file a petition for reconsideration within fifteen (15) days from receipt of the decision. Only one (1) petition for reconsideration shall be allowed.

Section 10. FINALITY OF DECISION. - The decision of the Commission shall be final and executory after fifteen (15) days from receipt of the copy thereof by the parties, if no petition for reconsideration thereof is seasonably filed. The Commission may, for exceptional and valid grounds, stay its execution.

Sec. 11. EFFECTIVITY - This Resolution shall take effect immediately.

Quezon City, April 8, 1988."

In refuting petitioner's claim, respondent Bureau alleges that it had thirty (30) days from the date of receipt of the resolution of the Commission within which to file its Motion for Reconsideration. It cites as authorities Section 7, Article IX of the Constitution and Section 12(11), Chapter III, Title I, Book V of the Revised Administrative Code.[13]

"Sec. 7. x x x Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof."

The cited provision of the Revised Administrative Code (1987) states:

"Sec. 12 x x x

x x x x x x

(11) Hear and decide administrative cases instituted by or brought before it directly or on appeal, including contested appointments, and review decisions and actions of its offices and of the agencies attached to it. Officials and employees who fail to comply with such decisions, orders, or rulings shall be liable for contempt of the Commission. Its decisions, orders, or rulings shall be final and executory. Such decisions, orders, or rulings may be brought to the Supreme Court on certiorari by the aggrieved party within thirty (30) days from receipt of a copy thereof;

x x x x x x."

Respondent Bureau also claims that it received a copy of the resolution of September 21, 1988 on October 21, 1988, not on October 6, 1988 as alleged by petitioner. And, according to respondent Bureau, granting that it actually received the resolution on October 6, 1988, it still timely filed its Motion for Reconsideration on October 27, 1988 because the thirty (30)-day period allowed by law has not yet lapsed. Respondent Bureau then concludes that having timely filed its Motion, the resolution of the Commission ordering reinstatement did not become final and executory. Therefore, petitioner cannot compel the Commission by a petition for mandamus to execute the decision and reinstate him to the service.

After a consideration of the legal provisions invoked by the parties to buttress their respective claims, this Court agrees with petitioner that an aggrieved party only has a period of fifteen (15), not thirty (30) days, within which to file a motion for reconsideration of the assailed resolution. Resolution No. 88-135 of the Commission is clear in providing that a party "not satisfied with the decision of the Commission may file a petition for reconsideration within fifteen (15) days from receipt of the decision." The provisions of this resolution are the applicable rules because they have been especially adopted to govern appeals to the Commission of cases arising from reorganization. Thus, Section 1 of Resolution 88-135 provides:

"Section 1. OBJECTIVES - These rules are promulgated to effect a speedy, fair, and just resolution of appeals relative to the reorganization of the different Departments or Agencies as authorized under their respective Executive Orders."

Furthermore, the whereas clauses of the resolution state:

"WHEREAS, pursuant to Unnumbered Memorandum Circular dated October 2, 1987, the President directed each Department or Agency which had undergone reorganization to constitute a Reorganization. Appeals Board (RAB) at the Central Office on or before October 21, 1987, to review or reconsider appeals or complaints relative to reorganization;

WHEREAS, the foregoing Memorandum Circular dated October 2, 1987 provides for the remedy of appeal from decisions of the Reorganization Appeals Board (RAB) of each Department or Agency to the Civil Service Commission;"

It has been established in this case that petitioner was dismissed from service pursuant to the Executive Order No. 127 which ordered the reorganization of the Department of Finance. He contested such separation until his case reached the Commission which ruled favorably for him on September 21, 1988. And the Bureau, according to Resolution 88-135 should have filed its motion for reconsideration fifteen days after its receipt of a copy of the September 21, 1988 resolution.

Respondent Bureau cannot rely on the constitutional nor the Revised Administrative Code's provisions because they refer to filing of petitions for certiorari of decisions of the constitutional commission concerned to the Supreme Court. The provisions are clear and leave no room for interpretation. Nowhere in the cited provisions can it be seen that the same can be applied to filing a Motion for Reconsideration before an administrative office which rendered the assailed decision.

It is wrong, however, for petitioner to cite Section 39(a) of Presidential Decree 807. This provision falls under Article IX thereof entitled Discipline. Section 39 refers to appeals of disciplinary administrative cases to the Commission. The present case did not originate from a disciplinary administrative proceeding.

Since only fifteen (15) days are allowed an aggrieved party to file a motion for reconsideration, respondent Bureau should have filed its motion within fifteen (15) days from its receipt of the questioned resolution or on or before October 21, 1988, if the prescriptive period is based on October 6, 1988. And the filing by respondent Bureau of the motion for reconsideration on October 27, 1988 is indubitably too late. But there is an allegation that respondent Bureau received its copy of the resolution on October 21, 1988. This claim, however, is unsupported by evidence. On the other hand, petitioner supported his allegation that respondent Bureau received its copy on October 6, 1988 by a transmittal document[14] of the Commission which was signed by a Bureau agent.[15] Between the two conflicting claims, we accept the latter since it has been adequately backed by evidence. Consequently, We hold that the fifteen-day period for filing a motion for reconsideration should be reckoned from October 6, 1988. And the failure of respondent Bureau to request for reconsideration of the September 21, 1988 resolution of the Commission within the allowed period made the resolution final and executory by operation of law. And this Court has ruled that "(t)he Civil Service Commission has no power or authority to reconsider its decision which has become final and executory"[16] even if the Commission later discovers that its decision is erroneous. "The doctrine of finality of judgment is grounded on fundamental considerations of public policy and sound practice x x x." [17] Thus, We have ruled in *Young vs. Court of Appeals*[18] that:

"x x x Once a decision becomes final and executory, it is removed from the power and jurisdiction of the court which rendered it to further alter or amend it, much less revoke it. This doctrine of finality of judgment is grounded on fundamental considerations of public policy and sound practice that at the risk of occasional error, the judgments of the courts must become final at some definite date fixed by law. To allow courts to amend final judgments will result in endless litigation."

This doctrine applies equally to quasi-judicial agencies. Thus, in *Filcon Manufacturing Corp. vs. NLRC*, [19] We also said:

"A judgment which has become final and executory can no longer be amended or corrected by the court except for clerical errors or mistakes. Likewise, an executory and final decision cannot be lawfully altered or modified even by the court which rendered the same, especially where the alteration or modification is material or substantial. In such a situation, the trial court loses jurisdiction over the case except for execution of the final judgment. Any amendment or alteration made which substantially affects the final and executory judgment is null and void for lack of jurisdiction, including the entire proceedings held for that purpose."

Since the September 21, 1988 resolution has already become final and executory after October 21, 1988, the Commission could no longer alter the resolution, much less entertain a motion for reconsideration of the said resolution and reverse the same. The only power left with the Commission as far as the resolution is concerned is to execute it. The rule is well-settled that the prevailing party is entitled as a matter of right to a writ of execution and the issuance thereof is the court's ministerial duty compellable by mandamus.[20]

With respect to petitioner's contention that he was denied due process when the Commission heard the Bureau's motion for reconsideration without notice to him, We agree with respondent Bureau's argument that the defect was cured by the filing by petitioner of his Omnibus Motion on July 30, 1990. Thus, in *Medenilla v. Civil Service Commission*,[21] We said that the lack of notice to petitioner regarding the pending appeal and the hearing of said appeal was cured by the filing of a motion for reconsideration. Denial of due process cannot be successfully invoked where a party was given the chance to be heard on his motion for reconsideration.[22]

WHEREFORE, the petition is GRANTED. The Resolutions of the Civil Service Commission dated February 1, 1989 and June 6, 1990 are hereby declared NULL and VOID. This Court orders respondents Civil Service Commission and Economic Intelligence and Investigation Bureau to reinstate petitioner Teodorico E. Mendiola to his former position or to an equivalent position if the former is no longer available without loss of seniority rights and privileges granted by law.

SO ORDERED.

Narvasa, C.J., (Chairman), Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, and Quason, JJ., concur

[1] Annex "B" of Petition; Rollo, pp. 19-21.

[2] Annex "C" of Petition; Rollo, pp. 22-23.

[3] Petition, p. 3; Rollo, p. 4.

[4] Rollo, pp. 28-29.

[5] Annex "A" of Petition; Rollo, pp. 17-18.

[6] Annex "K" of Petition; Rollo, pp. 45-54.

[7] *Supra*, note 2.

[8] Petition, p. 8; Rollo, p. 9.

[9] Petition, p. 10; Rollo, p. 11.

[10] Petition, p. 12; Rollo, p. 13.

[11] Reply, p. 9; Rollo, p. 103.

[12] Annex "C", Reply; Rollo, p. 117.

[13] Rejoinder, p. 8; Rollo, p. 147.

[14] Annex "D", Reply; Rollo, p. 120.

[15] Reply, p. 10; Rollo, p. 110.

[16] *Marcayda vs. Civil Service Commission*, 198 SCRA 447 (1991).

[17] *Filcon Manufacturing Corp. vs. NLRC*, 199 SCRA 814 (1991).

[18] 204 SCRA 584, 599 (1991) citing *Olympia International, Inc. vs. Court of Appeals*, 180 SCRA 353, (1989); *Philippine Long Distance Telephone Co., Inc. vs. Court of Appeals*, 178 SCRA 94 (1989); *Commercial Credit Corporation of Cagayan de Oro vs. Court of Appeals*, 169 SCRA 1 (1989); *United CMC Textile Workers Union vs. Labor Arbiter*, 149 SCRA 424 (1987); *Philippine Rabbit Bus Lines, Inc. vs. Arciaga*, 148 SCRA 433 (1987); *Villanueva vs. CFI of Oriental Mindoro*, 119 SCRA 288 (1982).

[19] *Supra*, note, 17 at p. 822 citing *Marcopper Mining Corp. vs. Liwanag Paras Briones, et al.*, 165 SCRA 464 (1988).

[20] *Maceda, Jr. vs. Moreman Builder Co., Inc.*, 203 SCRA 293 (1991).

[21] 194 SCRA 278 (1991).

[22] *T. H. Valderama and Sons, Inc. vs. Drilon*, 181 SCRA 308 (1990).

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