

THE DEPARTMENT OF HEALTH (DR. JOSE N. RODRIGUEZ MEMORIAL HOSPITAL) AND CESAR J. VIARDO, M.D., IN HIS CAPACITY AS DIRECTOR OF THE DR. JOSE N. RODRIGUEZ MEMORIAL HOSPITAL, PETITIO...

G.R. No. 113212. December 29, 1995

Ponente: HERMOSISIMA, JR., J.

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HERMOSISIMA, JR., J.:

The eternal problem of jurisdiction over Government employees is again posed in this case: Which Government agency — the National Labor Relations Commission or the Civil Service Commission — has jurisdiction over contests relating to the civil service?

This is a Petition for Certiorari and Prohibition filed by the Department of Health in behalf of the Dr. Jose N. Rodriguez Memorial Hospital (DJRMH) and its Director, Cesar J. Viardo, seeking to review and set aside the Resolution of the National Labor Relations Commission in NLRC NCR CA No. 002864-92 (NLRC Case No. 00-09-05194-90), dated September 7, 1993, which dismissed herein petitioners' appeal from the January 2, 1992 Decision of Labor Arbiter Cornelio L. Linsangan.

The antecedent facts, culled from the assailed Decision rendered by Labor Arbiter Cornelio Linsangan and that of the NLRC, respectively, as well as from the pleadings of the parties, are not in dispute:

Private respondent Ceferino R. Laur was a patient of the then Tala Leprosarium (now Jose N. Rodriguez Memorial Hospital), having been admitted thereto in 1951 for treatment of Hansen's disease, commonly termed leprosy. He was discharged in 1956 after he was deemed to have been cured of his affliction.

In 1975, he was employed at the DJRMH as a patient-assistant by the then Hospital Director, Dr. Artemio F. Runez, upon the recommendation of the Barangay Captain of Tala. Specifically assigned as a member of the Patient-Assistant Police Force, he was accorded a compensation/salary, initially, in the amount of P110.00. This was gradually increased through the years, depending upon the availability of funds. His salary was chargeable to the maintenance and operating expenses of the hospital.

On September 15, 1989, complaints for Alarm and Scandal, Oral Defamation, Grave Threats, Concealment of Deadly Weapon, Violation of the Code of Ethics of Policemen, and Conduct Unbecoming of a Police Officer were filed against said private respondent, pursuant to a report made by his Chief of Police. Upon a finding of guilt of the aforesaid offenses, the said private respondent was meted the penalty of suspension for sixty (60) days, with a stern warning that a repetition of the same would result in his outright dismissal by petitioner Dr. Cesar J. Viardo in his capacity as Chief of Hospital.[1]

On July 15, 1990, private respondent Laur got involved in the mauling of one, Jake Bondoc, along with two policemen, Corporal Ferrer and Patrolman Berdon. Private respondent's account of the incident is to the effect that, while private respondent and his companions were manning their posts at the hospital's Administration

Building, a group of twelve (12) young boys engaged another group of four male youngsters (4) in a stone-throwing encounter. This resulted in damage to the windows of the nearby Holy Rosary College. The caretaker of the college, Agustin Chan, while assessing the damage caused, was chased by the smaller group and threw stones at him. Agustin Chan ran and took refuge at the administration building where private respondent and the two policemen were on guard duty. It was at this point that one of the policemen hit one of the stone throwers with a night stick.[2]

A complaint filed by a certain Jake Bondoc, one of the young boys, against private respondent and his companions provoked an investigation conducted on July 27, 1990, during which complainant Bondoc pointed to private respondent as the party responsible for his injuries even as Patrolman Berdon admitted to having hit Bondoc.

On August 21, 1990, private respondent was dismissed by the Chief of Hospital, Dr. Cesar J. Viardo per Office Order No. 101, s-90, on the basis of the Public Assistance Complaints Unit's (PACU) report/investigation finding private respondent and his companions to have indeed mauled Jake Bondoc. The two policemen were merely suspended.

Consequently, on September 26, 1990, private respondent filed with the National Labor Relations Commission a complaint for illegal dismissal with additional claims for payment of wage differentials, holiday pay, overtime pay and 13th month pay, as well as payment of moral and exemplary damages, attorney's fees and expenses of litigation and with prayer for reinstatement without loss of seniority rights against Dr. Jose N. Rodriguez Memorial Hospital (DJRMH) and Dr. Cesar J. Viardo. This was docketed as "NLRC NCR Case No. 00-09-05194-90" and subsequently assigned to Labor Arbiter Cornelio Linsangan.

On January 2, 1993, Labor Arbiter Cornelio Linsangan rendered his Decision in private respondent's favor, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered ordering the respondent hospital to:

1. reinstate complainant to his former position or if not possible, pay him separation pay equivalent to one month salary for every year of service;
2. pay complainant the amount of P198,000.00 representing underpaid wages, unpaid overtime, holiday pay and 13th month pay;
3. pay the complainant full backwages which as of this date amounts to P49,088.00;
4. pay the complainant the amount of P20,000.00 as moral and exemplary damages; and
5. pay the complainant attorney's fees equivalent to 10% of the total award."[3]

Respondent Labor Arbiter Linsangan so ruled because first, he has determined that, contrary to the petitioners' position that private respondent's employment was part of his medication and rehabilitative therapy, private respondent was in truth an employee in contemplation of the Labor Code, the existence of an employer-employee relationship between petitioner hospital and private respondent being evident from the fact that private respondent's work is necessary and desirable for the operation of the hospital. Private respondent was allegedly performing such functions as were inherent to and undertaken by the members of the regular police force. This, the respondent Labor Arbiter believes to be an indication that what private respondent was assigned to do was definitely beyond his rehabilitative therapy. Second, private respondent's dismissal was illegal because it was not for a just cause. The mauling incident was not sufficiently established, and, even if so established, the same would not justify his dismissal. Such dismissal was wanting in due process in view of the non-observance of the

procedure prescribed for a valid exercise of the power to dismiss under Sections 2, 5 and 6 of Rule XIV of the Rules Implementing B.P. Blg. 130.[4]

The aforesaid decision was appealed to the NLRC. In its Resolution, dated September 27, 1993, the NLRC dismissed the appeal, the dispositive portion of which reads:

"WHEREFORE, respondents appeal is hereby dismissed for its failure to perfect the same on time."[5]

The petitioners, thus, instituted this petition for certiorari.

The principal issue presented in this case is whether or not respondents NLRC and Labor Arbiter Cornelio L. Linsangan committed serious error in their decisions and acted without jurisdiction when they took cognizance of the complaint filed by private respondent Ceferino R. Laur before the NLRC instead of the Civil Service Commission.

The petitioners mainly contend that since the DJRMH is a government hospital, its employees are covered by Civil Service rules and regulations and not by the Labor Code. Therefore, any controversy concerning the relationship between the employees on the one hand and the hospital's administration on the other, as is the case of private respondent, comes under the jurisdiction of the Merit Systems Board and the Civil Service Commission.

We find the petition to be impressed with merit.

The petitioner-hospital, the DJRMH, originally known as the Tala Leprosarium, was one of three leper colonies established under Commonwealth Act No. 161. Maintained to this day as a public medical center and health facility attached to the Department of Health, the DJRMH exercises strictly governmental functions relating to the management and control of the dreaded communicable Hansen's disease, commonly known as leprosy. As it is clearly an agency of the Government, the DJRMH falls well within the scope and/or coverage of the Civil Service Law in accordance with paragraph 1., Section 2, Article IX B, 1987 Constitution and the provisions of Executive Order No. 292, otherwise known as the Administrative Code of 1987 and Presidential Decree No. 807, otherwise known as the Civil Service Decree of the Philippines.

As the central personnel agency of the Government, the Civil Service Commission administers the Civil Service Law. It is, therefore, the single arbiter of all contests relating to the civil service.[6] The discharge of this particular function was formerly lodged in one of its offices, the Merit Systems Protection Board (MSPB) which was vested with the power, among others, "to hear and decide on appeal administrative cases involving officials and employees of the civil service and its decision shall be final except those involving dismissal or separation from the service which may be appealed to the Commission".[7] However, with the issuance of Civil Service Commission Resolution No. 93-2387 on June 29, 1993, such appeals shall now be filed directly with the Civil Service Commission. Pertinent portion of said resolution reads:

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"NOW, THEREFORE, pursuant to the provisions of Section 17 of Book V of the Administrative Code of 1987 which authorizes the Commission, as an independent constitutional body, to effect changes in its organization as the need arises, the Commission Resolves as it is hereby Resolved to effect the following changes:

1. Decisions in administrative cases involving officials and employees of the civil service appealable to the Commission pursuant to Section 47 of Book V of the Code including personnel actions such as contested appointments shall now be appealed directly to the Commission and not the MSPB;"[8]

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Worthy to note in this connection is the fact that the Labor Code itself provides that "the terms and conditions of employment of government employees shall be governed by the Civil Service Law, rules and regulations".[9]

Conformably to the foregoing, it is, indeed, the Civil Service Commission which has jurisdiction over the present controversy. Its decisions are subject to review by the Supreme Court.[10]

Jurisdiction is conferred by law. Where there is none, no agreement of the parties can provide one.[11] Consequently, it was incorrect for the respondent labor arbiter to have proceeded to hear the case, simply because private respondent Ceferino Laur happened to lodge his complaint before his office,[12] or to hold that petitioners are estopped from assailing the respondent labor authorities' jurisdiction over the present case simply because the petitioners have earlier submitted themselves to the said jurisdiction by virtue of their participation in all the stages of the proceedings in the office of respondent Labor Arbiter Linsangan and in the NLRC, and that they failed to raise the issue of jurisdiction in the said proceedings.[13]

Considering that the decision of a tribunal not vested with appropriate jurisdiction is null and void,[14] the respondent labor arbiter's finding of an employer-employee relationship between the petitioner government agency and the private respondent should serve no purpose whatsoever. Respondent labor arbiter's order of payment of private respondent's monetary claims is likewise null and should not be given effect.

WHEREFORE, finding the Dr. Jose N. Rodriguez Memorial Hospital to be within the scope of the Civil Service Law and not of the Labor Code, the questioned decision of the respondent labor arbiter dated January 2, 1992 and the resolution of the NLRC, dated September 7, 1993, are hereby REVERSED and SET ASIDE for having been rendered without jurisdiction. The Temporary Restraining Order issued on February 28, 1994 is hereby made permanent.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

[1] Petition, p. 6; Rollo, p. 6.

[2] Comment, p. 4; Rollo, p. 76.

[3] Decision, pp. 12-13; Rollo, pp. 41-42.

[4] Decision, pp. 3-6; Rollo, pp. 32-35.

[5] Rollo, pp. 25-27).

[6] Lopez, Jr. v. Civil Service Commission, 195 SCRA 777, 780; Dario v. Mison, 176 SCRA 84. 112.

[7] Sec. 16[2] [a], Chapter 3, Book V, Executive Order No. 292.

[8] See Ruble Rubenecia v. Civil Service Commission, G.R. No. 115942, May 31, 1995.

[9] Article 276, Presidential Decree No. 442, as amended.

[10] Now by the Court of Appeals pursuant to Revised Circular Nor 1-91, as amended by Revised Administrative Circular No. 1-95 which took effect on June 1, 1995.

[11] Southeast Asian Fisheries Development Center. Aquaculture Department v. NLRC, 206 SCRA, 283, 288.

[12] Decision, p. 8; Rollo, p. 37.

[13] Comment, pp. 12-13; Rollo, pp. 84-85.

[14] *Javier v. Court of Appeals*, 214 SCRA 572, 577.

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