

RUBLE RUBENECIA, PETITIONER, VS. CIVIL SERVICE COMMISSION, RESPONDENT.*G.R. No. 115942. May 31, 1995*

Ponente: FELICIANO, J.

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Petitioner Ruble Rubenecia assails Civil Service Commission ("CSC" or "Commission") Resolution No. 94-0533, dated 25 January 1994, acquitting him of a charge of insubordination but finding him guilty of several other administrative charges and imposing upon him the penalty of dismissal from the service. He also questions the validity of CSC Resolution No. 93-2387 dated 29 June 1993, which allegedly abolished the Merit System Protection Board ("MSPB") and authorized the elevation of cases pending before that body to the Commission.

Teachers of Catarman National High School in Catarman, Northern Samar, filed before the MSPB an administrative complaint against petitioner Rubenecia, the School Principal, for dishonesty, nepotism, oppression and violation of Civil Service Rules. After a preliminary inquiry, the MSPB on 15 January 1992 formally charged Rubenecia and required him to file an answer with the CSC Regional Office in Tacloban City. On 24 February 1992, petitioner Rubenecia, instead of filing an answer, requested that he be furnished with copies of the documents submitted by complainants in support of the charges against him.[1]

On 15 May 1992, the CSC Regional Director assigned to investigate the case invited Rubenecia to the Regional Office and there identify and pick up the documents he desired. The Regional Office had then just received the records of the case transmitted by the MSPB.

In response, Rubenecia requested that his visit to the CSC Regional Office be deferred because of alleged problems in his school relating to the enrollment period. The CSC reiterated on 10 June 1992 its order to Rubenecia to file his answer. In turn, petitioner through counsel in a letter dated 9 July 1992, reiterated his request that the CSC Regional Office furnish him copies of the documents submitted in connection with the charges against him.

Although petitioner did not file his answer, the Regional Director set the case for hearing on 20 August 1992. This hearing, however, did not take place as the complainants did not there show up. Petitioner Rubenecia appeared at that hearing, but filed no answer. In an order issued on the same day, i.e., 20 August 1992, the Regional Office declared that the case was deemed submitted for resolution on the basis of the documents theretofore filed.

On 25 August 1992, Rubenecia wrote to the Chairman of the Civil Service Commission, praying that the case against him be dismissed and attaching to that letter many documents in support of his claim of innocence.

On 28 September 1992, the Regional Director submitted an investigation report to the Chairman, MSPB. Before the MSPB could render a decision, the Commission issued on 29 June 1993 Resolution No. 93-2387 which provided, among other things, that cases then pending before the MSPB were to be elevated to the Commission for decision.

The Commission, accordingly, took over the case against petitioner and on 25 January 1994, rendered its Resolution No. 94-0533 finding petitioner guilty and ordering his dismissal from the service. Petitioner moved for reconsideration, asserting lack of jurisdiction on the part of the Commission and attaching most if not all of the same documents he had annexed to his letter-answer to support his assertion of innocence. The motion for reconsideration was denied in a resolution of the Commission on 31 May 1994.

Two (2) principal issues are raised in this Petition for Certiorari:

1)

Whether or not the CSC had authority to issue its Resolution No. 93-2387 and assume jurisdiction over the administrative case against petitioner; and

(2)

Whether or not petitioner had been accorded due process in connection with rendition of CSC Resolution No. 94-0533 finding him guilty and ordering his dismissal from the service.

I

In respect of the first issue, petitioner Rubenecia contends that the Commission had no jurisdiction to take over the administrative case against him from the MSPB for the reason that CSC Resolution No. 93-2387 was invalid. The argument of the petitioner is that since the MSPB was a creation of law, it could be abolished only by law, and that Resolution No. 93-2387 was accordingly an ultra vires act on the part of the Commission.

Resolution No. 93-2387 reads in full:

"WHEREAS, the Civil Service Commission recognizes the government-wide call and the need for streamlining of operations which requires simplification of systems, cutting of red tape and elimination of unnecessary bureaucratic layer;

WHEREAS, one of the powers and functions of the Commission provided for in Section 12 (11) of Book V of the Administrative Code of 1987 is to 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 attach to it;

WHEREAS, Section 47 (1) of Book V of the Administrative Code of 1987 specifically provides that the Commission shall decide upon appeal all administrative disciplinary cases involving the imposition of penalty of suspension for more that thirty days, or fine in an amount exceeding thirty days salary, demotion in rank or salary or transfer, removal or dismissal from office;

WHEREAS, under Section 16 (2) of Book V of the Code, the Merit System Protection Board (MSPB), an office of the Commission, has the function to hear and decide administrative cases involving officials and employees of the civil service concurrently with the Commission;

WHEREAS, most decisions on administrative cases rendered by the MSPB are later appealed to the Commission for review and final resolution;

WHEREAS, the existing procedure wherein most administrative cases are first reviewed by the MSPB before they are elevated to the Commission makes it difficult for these cases to be finally resolved within a short period of time;

WHEREAS, the present situation requires immediate streamlining of the operation of the Civil Service Commission to achieve a speedier delivery of administrative justice and economical operation without impairing due process and the substantive rights of the parties in administrative cases;

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;

- 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 to the MSPB; and
- Decisions and administrative cases involving the officials and employees of the Civil Service including contested appointments which have already been appealed to the MSPB, and other pending administrative cases brought directly before the MSPB, shall now be elevated to the Commission for final resolution.

Parties in administrative cases pending before the MSPB shall be notified in writing that their respective cases have already been elevated to the Commission for final resolution. They shall have 15 days from receipt of notice to submit their comments on or objections to the new procedures.

This Resolution shall take effect on 1 July 1993 and the new procedure shall remain effective until rescinded by the Commission in another resolution.

Adopted this 29th day of June 1993.

Patricia A. Sto. Tomas
Chairman

Ramon P. Ereneta, Jr.
Commissioner

Thelma P. Gaminde
Commissioner

Juanito Demetrio
Board Secretary VI"

(Italics supplied)

The Merit System Protection Board was originally created by P.D. No. 1409, dated 8 June 1978, Section 1 of which said: "There is hereby created in the Civil Service Commission a Merit Systems Board." The Board was composed of "a commissioner and two (2) associate commissioners" appointed by the CSC.[2] The powers and functions of this Board were set out in Section 5 of P.D. No. 1409 in the following terms:

"Sec. 5. Powers and Functions of the Board. — The Board shall have the following powers and functions, among others:

- (1) Hear and decide administrative cases involving officers and employees of the civil service.
- (2) Hear and decide cases brought before it by officers and employees who feel aggrieved by the determination of appointing authorities involving appointment, promotion, transfer, detail, reassignment and other personnel actions, as well as complaints against any officers in the government arising from abuses arising from personnel actions of these officers or from violation of the merit system.
- (3) Hear and decide complaints of civil service employees regarding malpractices of other officials and employees.

(4) Promulgate, subject to the approval of the Civil Service Commission, rules and regulations to carry out the functions of the Board.

(5) Administer oaths, issue subpoena and subpoena duces tecum, and take testimony in any investigation or inquiry. The Board shall have the power to punish for contempt in accordance with the rules of court under the same procedure with the same penalties provided therein.

(6) Perform such other functions as may be assigned by the Civil Service Commission.

x x x x x x x x"

Decisions of the Board involving removal of officers and employees from the service were "subject to automatic review by the Commission;" all other decisions of the Board were also subject to appeal to the Commission.[3]

As noted, P.D. No. 1409 had "created in the Civil Service Commission [the] Merit Systems Board." Section 16 of the present Civil Service Law found in the 1987 Administrative Code followed the same line and re-created the Merit Systems Board as an office of the Commission and gave it a new name: "Merit System Protection Board."

Section 16 of the present Civil Service Law reads as follows, in pertinent part:

"Sec. 16. Offices in the Commission. The Commission shall have the following offices:

(1) The Office of the Executive Director x x x

(2) The Merit System Protection Board composed of a Chairman and two (2) members which have the following functions:

(a)

Hear and decide on appeal administrative cases involving officials and employees of the Civil Service. Its decision shall be final except those involving dismissal or separation from the service which may be appealed to the Commission;

(b)

Hear and decide cases brought before it on appeal by officials and employees who feel aggrieved by the determination of appointing authorities involving personnel actions and violations of the merit system. The decision of the Board shall be final except those involving division chiefs or officials of higher ranks which may be appealed to the Commission;

(c)

Directly take cognizance of complaints affecting functions of the Commission, those which are unacted upon by the agencies, and such other complains which required direct action of the Board in the interest of justice;

(d)

Administer oaths, issue subpoena and subpoena duces tecum, take testimony in any investigation or inquiry, punish for contempt in accordance with the same procedures and penalties prescribed in the Rules of Court; and

(e)

Promulgate rules and regulations to carry out the functions of the Board subject to the approval of the Commission.

(3) The Office of Legal Affairs. x x x.

x x x x x x x x"

The 1987 Administrative Code thus made clear that the MSPB was intended to be an office of the Commission like any of the other thirteen (13) offices in the Commission: e.g., the Office of Legal Affairs; the Office of Planning and Management; the Central Administrative Office, and so forth. The MSPB was, in other words, a part of the internal structure and organization of the Commission and thus a proper subject of organizational change which the Commission is authorized to undertake under Section 17 of the present Civil Service Law:

"Sec. 17. Organizational Structure. — Each office of the Commission shall be headed by a Director with at least one (1) Assistant Director, and may have such divisions as are necessary to carry out their respective functions. As an independent constitutional body, the Commission may effect changes in the organization as the need arises." (Italics supplied)

Since it was part and parcel of the internal organization of the Commission, the MSPB was not an autonomous entity created by law and merely attached for administrative purposes to the Civil Service Commission. In *Aida Eugenio v. Civil Service Commission*,^[4] the Court invalidated a CSC Resolution which had transferred the Career Executive Service Board to the Office for Career Executive Service of the CSC precisely because the Career Executive Service Board was an autonomous entity created by a special law and attached, for administrative purposes only, to the Civil Service Commission; that Board did not fall within the control of the Civil Service Commission.

It will be noted that under the provisions of Section 16 (2) (a) and (b) quoted earlier, cases originating outside the Civil Service Commission itself and appealed to the MSPB were, in cases involving division chiefs and higher officials and cases where the penalty imposed was dismissal or separation from the service, subject to further appeal to the Commission itself. At the same time, cases filed originally with the MSPB could also be filed directly with the Commission itself under Section 12 (11) of the Civil Service Law. It was this apparent duplication or layering of functions within the Commission that the Commission sought to rationalize and eliminate by enacting Resolution No. 93-2387 quoted in full earlier.

The change instituted by CSC Resolution No. 93-2387 consisted basically of the following: decision in administrative cases appealable to the Commission pursuant to Section 47 of the present Civil Service Law may now be appealed directly to the Commission itself and not to the MSPB. Administrative cases already pending on appeal before the MSPB or previously brought directly to the MSPB, at the time of the issuance of Resolution No. 93-2387, were required to be elevated to the Commission for final resolution. The functions of the MSPB relating to the determination of administrative disciplinary cases were, in other words, re-allocated to the Commission itself. These changes were prescribed by the Commission in its effort to "streamline the operation of the CSC" which in turn required the "simplification of systems, cutting of red tape and elimination of [an] unnecessary bureaucratic layer." The previous procedure made it difficult for cases to be finally resolved within a reasonable period of time. The change, therefore, was moved by the quite legitimate objective of simplifying the course that administrative disciplinary cases, like those involving petitioner Rubenecia, must take. We consider that petitioner Rubenecia had no vested right to a two-step administrative appeal procedure within the Commission, that is, appeal to an office of the Commission, the MSPB, and thereafter a second appeal to the Civil Service Commission itself (i.e., the Chairman and the two [2] Commissioners of the Civil Service Commission), a procedure which most frequently consumed a prolonged period of time.

We note also that Resolution No. 93-2387 did not purport to abolish the MSPB nor to effect the termination of the relationship of public employment between the Commission and any of its officers or employees. At all events,

even if Resolution No. 93-2387 had purported to do so, petitioner Rubenecia, who does not claim to be an officer or employee of the MSPB, has no personality or standing to contest such termination of public employment. In *Fernandez and De Lima v. Hon. Patricia A. Sto. Tomas, etc., et al.*,^[5] the Court upheld Resolution No. 94-3710 of the Civil Service which effected certain changes in the internal organization and structure of the Commission. The Court said:

"We consider that Resolution No. 94-3710 has not abolished any public office as that term is used in the law of public officers. It is essential to note that none of the 'changes in organization' introduced by Resolution No. 94--3710 carried with it or necessarily involved the termination of the relationship of public employment between the Commission and any of its officers and employees. We find it very difficult to suppose that the 1987 Revised Administrative Code having mentioned fourteen (14) different offices of the CSC, meant to freeze these offices and to cast in concrete, as it were, the internal organization of the Commission until it might please Congress to change such internal organization regardless of the ever changing needs of the civil service as a whole. To the contrary, the legislative authority had expressly authorized the Commission to carry out 'changes in the organization,' as the need [for such changes] arises."

Petitioner Rubenecia also claims that the Civil Service Commission itself (as distinguished from the MSPB) did not acquire jurisdiction over his case because he had not been notified by individual written notice sent by mail that his case had been elevated to the Civil Service Commission as required by Resolution No. 93-2387. We consider this objection unmeritorious. CSC Resolution No. 93-2387, quoted earlier, did not require individual written notice sent by mail to parties in administrative cases pending before the MSPB. Assuming that Rubenecia had not in fact been sent an individual notice, the fact remains that Resolution No. 93--2387 was published in a newspaper of general circulation (*The Manila Standard*, issue of 16 July 1993^[6]); the Commission may accordingly be deemed to have complied substantially with the requirement of written notice in its own Resolution. Moreover, petitioner himself had insisted on pleading before the Commission, rather than before the MSPB; he filed before the Commission itself his letter-cum--annexes which effectively was his answer to the Formal Charge instituted before the MSPB. He cannot now be heard to question the jurisdiction of the Commission.

II

We turn to petitioner's contention that he had been denied due process when the Commission rendered its Resolution No. 94-0533 finding him guilty and ordering his dismissal from the government service.

The fundamental rule of due process requires that a person be accorded notice and an opportunity to be heard. These requisites were respected in the case of petitioner Rubenecia.

The Formal Charge prepared by the MSPB and given to petitioner Rubenecia constituted sufficient notice which, in fact, had enabled him to prepare his defense. The Formal Charge contained the essence of the complaint and the documents in support thereof and the conclusion of the MSPB finding a *prima facie* case against Rubenecia. Rubenecia himself admitted that he had been furnished with copies of an affidavit and testimonies of the principal witnesses against him that were given during the preliminary hearing of the case against Rubenecia.^[7]

We are also not persuaded by petitioner's complaint that he had not been furnished copies of all the documents that had accompanied the Formal Charge. Rubenecia was given an opportunity by the Investigating Officer, the Regional Director of CSC, to obtain those documents from the CSC Regional Office. Rubenecia did not avail himself of that opportunity and he cannot now be heard to complain that he was not given such documents. At all events, as already noted, he sent a formal letter-answer to Chairman Sto. Tomas controverting the charges against him and submitted voluminous documents in support of his claim of innocence and prayed for dismissal of the

Formal Charge. This letter-answer constitutes proof that he did have notice of the accusations against him and was in fact able to present his own defense.

Petitioner's answer to the Formal Charge was considered by the Investigating Officer. This Officer, however, concluded in his report that "the evidence presented by respondent [Rubenecia] could not outweigh that of the prosecution as contained in the records." [8]

Finally, the motion for reconsideration filed by Rubenecia before the Commission cured whatever defect might have existed in respect of alleged denial of procedural due process. [9] Denial of due process cannot be successfully invoked by a party who has had the opportunity to be heard on his motion for reconsideration. [10] In the instant case, petitioner was heard not only in respect of his motion for reconsideration; he was also in fact afforded reasonable opportunity to present his case before decision was rendered by the Commission finding him guilty.

Rubenecia also claims that the Commission had erred in disregarding the "overwhelming evidence" in his favor. The settled rule in our jurisdiction is that the findings of fact of an administrative agency must be respected, so long as such findings of fact are supported by substantial evidence, even if such evidence might not be overwhelming or even preponderant. It is not the task of an appellate court, like this Court, to weigh once more the evidence submitted before the administrative body and to substitute its own judgment for that of the administrative agency in respect of sufficiency of evidence. [11] In the present case, in any event, after examination of the record of this case, we conclude that the decision of the Civil Service Commission finding Rubenecia guilty of the administrative charges prepared against him, is supported by substantial evidence.

In Resolution No. 94-0533, the Commission drew the following conclusions in respect of the charges against petitioner Rubenecia:

"I. VIOLATION OF CIVIL SERVICE RULES AND REGULATIONS

The records show that Rubenecia committed the said offense. He himself admitted that he did not accomplish his DTR but this was upon the suggestion of the Administrative Officer. Rubenecia cannot use as an excuse the alleged suggestion of an Administrative Officer. As the principal of a national high School, he is expected to know the basic civil service law, rules, and regulations.

II. DISHONESTY

The Commission finds Rubenecia liable. He was charged for misrepresenting that he was on 'Official Travel' to Baguio City to attend a three-week seminar and making it appear in his CSC Form No. 7 for the month of October 1988 that he has a perfect attendance for that month. Rubenecia in order to rebut the same simply reiterated previous allegation that he attended the SEDP Training in Baguio City during the questioned months without even an attempt on his part to adduce evidence documentary or testimonial that would attest to the truth of his allegation that he was indeed in Baguio during those weeks for training purposes. A mere allegation cannot obviously prevail over a more direct and positive statement of Celedonio Layon, School Division Superintendent, Division of Northern Samar, when the latter certified that he had no official knowledge of the alleged 'official travel' of Rubenecia. Moreover, verification with the Bureau of Secondary Schools reveals that no training seminar for school principal was conducted by DECS during that time. It was also proven by records that he caused one Mrs. Cecilia Vestra to render service as Secondary School Teacher from January 19, 1990 to August 30, 1991 without any duly issued appointment by the appointing authority.

III. NEPOTISM

With respect to the charge of Nepotism, Rubenecia alleged that he is not the appointing authority with regard to the appointment of his brother-in-law as Utilityman but merely a recommending authority. With this statement, the Commission finds Rubenecia guilty. It should be noted that under the provision of Sec. 59, of

the 1987 Administrative Code, the recommending authority is also prohibited from recommending the appointment to a non-teaching position of his relatives within the prohibited degree.

IV. OPPRESSION

Rubenecia is also guilty of Oppression. He did not give on time the money benefits due to Ms. Leah Rebadulla and Mr. Rolando Tafalla, both Secondary Teachers of CNHS, specifically their salary differentials for July to December 1987, their salaries for the month of May and half of June 1988, their proportional vacation salaries for the semester of 1987-1988, and the salary of Mr. Tafalla for the month of June, 1987. Rubenecia did not even attempt to present countervailing evidence. Without being specifically denied, they are deemed admitted by Rubenecia.

V. INSUBORDINATION

He is not liable for Insubordination arising from his alleged refusal to obey the 'Detail Order' by filing a sick leave and vacation leave successively. The records show that the two applications for leave filed by Rubenecia were duly approved by proper official, hence it cannot be considered an act of Insubordination on the part of Rubenecia when he incurred absences based on an approved application for leave of absence.

Rubenecia is therefore found guilty of Dishonesty, Nepotism, Oppression and Violations of Civil Service Rules and Regulations.

WHEREFORE, foregoing premises considered, the Commission hereby resolves to find Ruble Rubenecia guilty of Dishonesty, Nepotism, Oppression and Violation of Civil Service Rules and Regulations. Accordingly, he is meted out the penalty of dismissal from the service."^[12]

We find no basis for overturning the above conclusions as the product merely of arbitrary whims and caprice or of bad faith and malice.

We conclude that petitioner Rubenecia has failed to show grave abuse of discretion or any act without or in excess of jurisdiction on the part of public respondent Commission in issuing its Resolution No. 93-2387 dated 29 June 1993 and Resolution No. 94-0533 dated 25 January 1994.

WHEREFORE, for all the foregoing, the Petition for Certiorari is hereby DISMISSED for lack of merit.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, and Francisco, JJ., concur.

Quiason, J., on official leave.

[1] Petitioner cited in this connection Section 48 (2) of Book V, Title I, Subtitle A, Chapter 1, of the 1987 Administrative Code, the present Civil Service Law which provides:

"x x x If a prima facie case exists, he shall notify the respondent in writing of the charges against the latter, to which shall be attached copies of the complaint, sworn statements and other documents submitted, x x x."

[2] Section 2, P.D. No. 1409.

[3] Section 8, P.D. No. 1409.

[4] G.R. No. 115863, 31 March 1995.

[5] G.R. No. 116418, 27 March 1995.

[6] See CSC Resolution No. 94-2857, 31 May 1994, Rollo, p. 36.

[7] Petitioner's letter dated 27 August 1992 to Patricia Sto. Tomas, p. 2; Rollo, p. 85.

[8] Investigation Report, p. 3; Rollo, p. 268.

[9] *Medenilla vs. CSC*, 194 SCRA 278 [1991]; *Remarco Garments Manufacturing vs. Minister of Labor*, 135 SCRA 167 [1985]; *De Leon vs. Comelec*, 129 SCRA 117 [1984].

[10] *Mendiola vs. CSC*, 221 SCRA 295 [1993].

[11] *Assistant Executive Secretary for Legal Affairs of the Office of the President vs. Court of Appeals*, 169 SCRA 27 [1989].

[12] Rollo, pp. 33-35.

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