

DELIA R. NERVES, PETITIONER, VS. CIVIL SERVICE COMMISSION, AND COURT OF APPEALS DEPARTMENT OF EDUCATION CULTURE AND SPORTS, RESPONDENTS.

G.R. No. 123561. July 31, 1997

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This petition for review on certiorari under Rule 45 seeks to set aside the 27 November 1995 and 22 January 1996 Resolutions of the Court of Appeals dismissing the petition for certiorari of Delia R. Nerves filed pursuant to Art. IX-A, Sec. 7, of the Constitution, and Rule 65 of the Rules of Court, for being an inappropriate remedy or wrong mode of appeal.

Petitioner Delia R. Nerves, a teacher of Torres High School, was among the twenty (20) public school teachers who were administratively charged and subsequently dismissed by then Secretary Isidro D. Carino of the Department of Education, Culture and Sports (DECS) for allegedly participating in the mass action/illegal strike of teachers on 19-21 September 1990 at Liwasang Bonifacio and for defying a Return-to-Work Order issued by DECS, which acts constituted grave misconduct, gross neglect of duty, gross violation of Civil Service Law, Rules and Regulations, refusal to perform official duty, gross insubordination, conduct prejudicial to the best interest of the service, and absence without official leave (AWOL), in violation of P.D. No. 807 otherwise known as The Civil Service Decree of the Philippines.[1]

Petitioner Nerves appealed the DECS Decision to the Merit Systems Protection Board (MSPB) and later, “after a complicated procedure,” to the Civil Service Commission (CSC). The CSC set aside the Decision and rendered a new one the dispositive portion of which reads

WHEREFORE, the Commission hereby finds Delia R. Nerves guilty of Conduct Prejudicial to the Best Interest of the Service for which she is meted the penalty of six (6) months suspension. Considering the period of time that she has been out of the service, the penalty of suspension is already deemed served. Accordingly, she is automatically reinstated in the service without back salaries.[2]

Nerves elevated the CSC Decision to the Court of Appeals in a 26-paged petition filed 21 November 1995 stating among others:

1. This is a petition for certiorari filed pursuant to Article IX-A, Section 7 of the Constitution of the Philippines and under Rule 65 of the Rules of Court.
2. But per Supreme Court Revised Administrative Circular No. 1-95 (Revised Circular No. 1-91) petitioner is filing the instant petition with this Honorable Court instead of the Supreme Court.[3]

However, in a Resolution dated 27 November 1995, the Court of Appeals summarily dismissed the petition -

The instant petition for certiorari filed on 21 November 1995 is hereby ordered dismissed outright for being the wrong or inappropriate mode of appeal. (par. 4, Supreme Court Circular No. 2-90, dated 9 March 1990.)

Under Supreme Court Revised Administrative Circular No. 1-95 (Revised Circular No. 1-91) appeals from judgments or final orders or resolutions of the Civil Service Commission is by petition for review (par. 1 and 5, supra.). Petition for certiorari dismissed.[4]

On 22 January 1996 the motion for reconsideration of the resolution was denied.[5] Hence the instant petition.

The issue before us is whether respondent Court of Appeals was correct in dismissing outright the petition of 21 November 1995.

Revised Administrative Circular 1-95 (Revised Circular No. 1-91) prescribing the rules governing appeals to the Court of Appeals from judgments or final orders of the Court of Tax Appeals and quasi-judicial agencies pertinently provides -

(4) Period to appeal. - The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration filed in due time after judgment x x x x

(5) How appeal taken. - Appeal shall be taken by filing a verified petition for review in seven (7) legible copies with the Court of Appeals, a copy of which shall be served on the adverse party and on the court or agency a quo. Proof of service of the petition on the adverse party and on the court or agency a quo shall be attached to the petition. The original copy of the petition intended for the Court of Appeals shall be indicated as such by the petitioner.

Upon filing the petition for review, the petitioner shall pay to the Clerk of Court of the Court of Appeals the docketing and other lawful fees and deposit the sum of P500.00 for costs x x x x

(6) Contents of the petition. - The petition for review shall (a) state the full names of the parties to the case, without impleading the lower courts or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record as are referred to therein and other supporting papers; and, (d) contain a sworn certification against forum shopping as provided in Revised Circular No. 28-91. The petition shall state the specific material dates showing that it was filed within the period fixed herein.

(7) Effect of failure to comply with requirements. - The failure of petitioner to comply with the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient grounds for the dismissal thereof.

Similarly, under Circular 2-90 which lays down the guidelines in appeals to the Court of Appeals and the Supreme Court -

(4) Erroneous appeal. - An appeal taken to either the Supreme Court or the Court of Appeals by the wrong or inappropriate mode shall be dismissed.

The Solicitor General contends that petitioner Nerves failed to fully comply with Revised Administrative Circular 1-95 because what was filed with the Court of Appeals was, in form and substance, a petition for certiorari under Rule 65 of the Rules of Court and not a petition for review, and that no less than petitioner herself stated in par. 1 of her petition: "This is a petition for certiorari x x x under Rule 65 of the Rules of Court," and the fact that it was qualified by par. 2 quoted above did not automatically convert it to a petition for review in compliance with Revised Administrative Circular 1-95.[6]

A cursory reading of the records shows the following factual backdrop: (a) The petition was filed on 21 November 1995 or within 15 days from notice of the denial of petitioner's motion for reconsideration by the Civil Service Commission, which was on 6 November 1995; (b) The petition was verified,[7] with proof of service of a copy thereof on the adverse party (DECS) and the court or agency a quo (Civil Service Commission).[8] The original copy of the petition intended for the Court of Appeals was indicated as such by petitioner;[9] (c) Upon filing the petition, petitioner paid to the Court of Appeals the docketing and other lawful fees and deposited the sum of P500 for costs; and, (d) The petition stated the full names of the parties to the case, contained a concise statement of the facts and issues involved and the grounds relied upon for the review, accompanied by clearly legible certified copies of the resolutions of the Civil Service Commission that were sought to be set aside, stated the material dates and contained the required certification against forum-shopping.

Prescinding from the foregoing, we hold that the petition filed by Nerves with the Court of Appeals substantially complied with Revised Administrative Circular 1-95. That it was erroneously labelled as a petition for certiorari under Rule 65 of the Rules of Court is only a minor procedural lapse, not fatal to the appeal. Although it is stated in par. 1 of her petition it is one "for certiorari filed pursuant to Article IX-A, Section 7 of the Constitution of the Philippines," and, additionally, "under Rule 65 of the Rules of Court." The same par. 1 is explained by par. 2 which states that, "But per Supreme Court Revised Administrative Circular No. 1-95 (Revised Circular No. 1-91) petitioner is filing the instant petition with this Honorable Court (Court of Appeals) instead of the Supreme Court." It must be emphasized that as long as there is substantial compliance with Revised Administrative Circular No. 1-95, the petition should be given due course. Moreover, the circular must be so interpreted and applied as to attain, not defeat, the ultimate purpose of all rules of procedure - which is to achieve substantial justice as expeditiously as possible.[10]

More importantly, the appeal on its face appears to be impressed with merit. Hence, the Court of Appeals should have overlooked the insubstantial defects of the petition - including the fact that the Civil Service Commission was impleaded as party respondent not otherwise required in par. 6 (a) of Revised Administrative Circular 1-95 - in order to do justice to the parties concerned. There is indeed nothing sacrosanct about procedural rules, which should be liberally construed in order to promote their object and assist the parties in obtaining just, speedy and inexpensive determination of every action or proceeding.[11] As it has been said, where the rigid application of the rules would frustrate substantial justice,[12] or bar the vindication of a legitimate grievance, the courts are justified in exempting a particular case from the operation of the rules.

Besides, we have already ruled in *A-One Feeds, Inc., v. Court of Appeals*,[13] -

Litigations should, as much as possible, be decided on the merits and not on technicality. Dismissal of appeals purely on technical grounds is frowned upon, and the rules of procedure ought not to be applied in a very rigid, technical sense, for they are adopted to help secure, not override, substantial justice and thereby defeat their very aims. As has been the constant ruling of this Court, every party litigant should be afforded the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities.

WHEREFORE, the Petition is GRANTED. The assailed Resolutions of the Court of Appeals dated 27 November 1995 and 22 January 1996 are hereby SET ASIDE. The Court of Appeals is directed to REINSTATE the 21 November 1995 petition. No costs.

SO ORDERED.

Padilla, (Acting Chief Justice), Regalado, Davide, Jr., Romero, Melo, Puno, Vitug, Mendoza, Francisco, and Panganiban, JJ., concur.

Narvasa, C.J., Kapunan, Hermosisima, Jr. and Torres, Jr., JJ., on leave.

- [1] Rollo, p. 33; Annex “C.”
- [2] Id., p. 59; Annex “A.”
- [3] Id., p. 29; Annex “C.”
- [4] Id., p. 28; Annex “B.”
- [5] Id., p. 27; Annex “A.”
- [6] Memorandum of the Solicitor General, pp. 5-8.
- [7] Rollo, p. 55; Annex “C.”
- [8] Id., pp. 56-57.
- [9] Records, pp. 1-29.
- [10] Gabionza v. Court of Appeals, G.R. No. 112547, 18 July 1994, 234 SCRA 192.
- [11] Rule 1, Sec. 2, Rules of Court.
- [12] Blanco v. Bernabe, 63 Phil. 124 (1936).
- [13] No. L-35560, 30 October 1980, 100 SCRA 590, 594.

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