

**FELINO QUIAMBAO, PETITIONER, VS. THE COURT OF APPEALS,
NATIONAL APPELLATE BOARD, REPRESENTED BY ITS CHAIRMAN
FEDERICO S. COMANDANTE AND MEMBERS, ATTY. ROBERTO T.
AGAGON AND ADE...**

G.R. NO. 128305. March 28, 2005

Ponente: TINGA, J.

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TINGA, J.:

This petition assails the Resolution[1] dated 10 January 1997 of the Court of Appeals which affirmed the Decision[2] dated 25 October 1993 and the Resolution[3] dated 27 December 1993 of National Appellate Board (Board), Third Division, National Police Commission (NAPOLCOM). The Board's ruling in turn, which likewise affirmed the Decision[4] dated 31 October 1992 of Acting PNP Chief and Police Deputy Director General dismissing PO3 Felino Quiambao from the police service.

The operative facts of the case follow:

On 22 December 1990, at around 8:00 in the evening, Espie Catolico (Catolico) was walking along Capulong Street in Tondo, Manila, inquiring as to the whereabouts of her housemaid Gynalin Garais who left the house the day before. After having asked her neighbors and bystanders to no avail, an old woman told her that a certain policeman was looking for her as her housemaid was in his custody. She went to the area as directed by the old woman but there she was allegedly accosted by petitioner, PO3 Felino Quiambao, a member of the Philippine National Police (PNP), Western Police District Command, and five (5) other persons. Quiambao and his companions forcibly took Catolico's handbag and carried away its contents consisting of precious assorted merchandise, jewelry and other personal items worth approximately Nine Thousand Pesos (P9,000.00). Thereafter, petitioner forcibly herded Catolico to his owner-type jeep and brought her to the dimly lit portion of North Harbor and, while thereat, he slapped her on the face several times and warned her not to look anymore for her housemaid.[5]

In view of the incident, Catolico filed a sworn statement on 24 June 1991 with the PNP Inspectorate Division, accusing petitioner and six (6) others, with robbery-holdup and mauling committed on 22 December 1990.[6] The complaint was corroborated by Grace Commendador who witnessed the actual incident and confirmed the statement of Catolico.[7]

On 22 August 1991, Catolico filed another administrative complaint with the Office of the Hearing Officer at NAPOLCOM, Western Police District, Manila, charging petitioner with grave misconduct for the same incident which occurred on 22 December 1990.[8] An investigation was conducted on this administrative charge by the Office of the Hearing Officer of NAPOLCOM. On 30 March 1993, the case was forwarded to the City of Manila's People's Law Enforcement Board (PLEB) for adjudication.[9]

The PNP Inspectorate Division likewise conducted an investigation on the charges filed. On 31 October 1992, the

Summary Dismissal Hearing Officer (SDHO) recommended the dismissal of petitioner. This recommendation was approved by Acting PNP Chief and Police Deputy Director General, Raul S. Imperial (Acting PNP Chief).[10]

Petitioner appealed the 31 October 1992 resolution to the National Appellate Board (NAB) of the NAPOLCOM. On 25 October 1993, the Third Division of the NAB, rendered a decision affirming the dismissal of petitioner from police service.[11] The motion for reconsideration filed by petitioner was denied in a Resolution dated 27 December 1993.[12] But it was only on 23 September 1996 when petitioner received a certified xerox copy of the Resolution of the NAB denying his petition for reconsideration.[13]

On 7 October 1996, petitioner filed a petition for review with the Court of Appeals.[14] On 10 January 1997, the appellate court dismissed the petition for review for lack of merit.

The appellate court ruled that the petition did not state all the specific material dates showing that it was filed within the reglementary period provided by law as it failed to state the date when petitioner received a copy of the Resolution of NAB dated 27 December 1993, denying his motion for reconsideration of NAB's decision dated 25 October 1993. It found out that NAB's decision dated 25 October 1993 was received by petitioner on 22 November 1993, and on 2 December 1993, he filed his motion for reconsideration. The said motion, however, was denied on 27 December 1993, but according to the appellate court, petitioner did not disclose the date when he received such denial. The fifteen-day reglementary period for filing a petition for review with the Court of Appeals started to run from such date.[15]

Further, the appellate court ruled that the issue of which administrative disciplinary authority had jurisdiction over the case was raised by petitioner only for the first time before it. He did not raise it before the SDHO nor before the NAB. More importantly, it found that the PNP Inspectorate Division had original, exclusive and summary jurisdiction over the instant case, and that NAB did not commit any reversible error in deciding the appealed case without a priori pronouncement as to which among the disciplinary authorities under Republic Act No. 6975 had jurisdiction over the case.[16] It also added that NAB's not having all the records requested by petitioner after it had rendered its decision did not necessarily mean that it did not have such documents at the time it rendered its decision.[17] Petitioner's claim was further belied by the fact that Catolico was able to obtain certified true copies of the relevant documents which the PNP Chief transmitted to the NAPOLCOM.

Additionally, the appellate court found that a perusal of the annexes to the comment of Catolico would readily show that NAB resolved petitioner's case based on substantial evidence appearing on the record before it.[18] It observed that petitioner's claim that his case was decided on the basis of an incomplete record was merely an afterthought. Said defense was not raised by petitioner in his motion for reconsideration of NAB's decision dated 25 October 1993.[19] Likewise, petitioner was not denied due process as he was afforded reasonable opportunity to be heard and to submit his evidence before the SDHO and to appeal to NAB the decision of the Acting PNP Chief dismissing him from the police service, the Court of Appeals ruled.[20]

On 27 January 1997, petitioner filed a Motion for Extension of Time to File Motion for Reconsideration followed by the filing of his Motion for Reconsideration on 17 February 1997. On the same day, the appellate court issued a Resolution denying petitioner's motion for extension of time. On 5 March 1997, it issued a resolution stating that the Motion for Reconsideration was merely "NOTED," the Resolution dated 10 January 1997 being already final.[21] Hence, the instant judicial recourse.

The primordial thrust of the petition seeks the reversal of the decisions and resolutions of Acting PNP Chief, the NAB and the Court of Appeals, all upholding the validity of the dismissal of petitioner from police service, and his corresponding reinstatement in the police service.

Petitioner argues that the appellate court erred and acted without or in excess of jurisdiction and/or with grave abuse of discretion in holding that the petition is not meritorious.[22] He specifically assigns the following as errors which need to be rectified, to wit: (1) that the appellate court ruled that petition did not state the date when petitioner received a copy of the Resolution of NAB dated 27 December 1993 to determine if it was filed within the reglementary period;[23] (2) that the appellate court sustained the findings of the Acting PNP Chief and the NAB without first resolving and/or giving a reason why it was the Acting PNP Chief and neither the NAPOLCOM Hearing Officer nor the PLEB that had the power to hear and decide the case;[24] (3) that the appellate court sustained, through misapprehension of facts and/or contrary to evidence, the decision of NAB which was not based on the complete records of the case;[25] (4) that the appellate court ruled that the petition was not meritorious and sustained the findings of the Acting PNP Chief and the NAB although such findings were arrived at without a hearing and absent substantial evidence;[26] (5) that the appellate court's denial of the motion for reconsideration was based on purely technical considerations;[27] and (6) that the appellate court had been passive to Catolico's surreptitious introduction into the records of the case evidentiary documents of which petitioner was not furnished and to the latter's prejudice.[28]

The petition is not imbued with merit.

Readily glaring upon examination of the petition filed by petitioner is its title "Petition for Review on Certiorari." [29] The title would immediately lead us to conclude that the petition is primarily anchored on Rule 45 of the 1997 Revised Rules of Civil Procedure. Under this mode of appeal, only questions of law may be entertained by this Court and factual issues raised are beyond the ambit of this review. Yet, the issues raised by petitioner in the petition are fundamentally factual in nature which are inappropriate for resolution via the mode of review he availed of.

However, a perusal of issues in the petition would indicate that the petition is actually anchored on Rule 65 as the issues principally sought to assail the resolution rendered by the appellate court on the ground of grave abuse of discretion amounting to lack or excess of jurisdiction.[30]

Nonetheless, even assuming that the petition was brought under Rule 65, the petition would still not lie as the implausibility of the grounds on which the petition rests are convincingly manifest and the grave abuse of discretion amounting to lack or excess of jurisdiction as the core of this mode of review is strikingly wanting.

Grave abuse of discretion means such capricious and whimsical exercise of judgment which is equivalent to an excess, or a lack of jurisdiction, and the abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility.[31] In certiorari proceedings under Rule 65, questions of fact are not generally permitted, the inquiry being limited essentially to whether or not the respondent tribunal had acted without or in excess of its jurisdiction or with grave abuse of discretion.[32] These grounds under Rule 65 are not attendant in the instant case. Even if we take this case as so exceptional as to permit a factual review, the petition at bar fails to persuade us to rule in favor of petitioner.

Petitioner contends that the appellate court acted with grave abuse of discretion amounting to lack or excess of jurisdiction in holding that the petition was not meritorious since the petition filed with the appellate court did not state the date when petitioner received a copy of the Resolution of NAB dated 27 December 1993 to determine if the petition was indeed filed within the reglementary period. There is reason basis for such contention.

The petition with the appellate court by petitioner substantially complied with Revised Administrative Circular No. 1-95[33]. The pertinent portion of the circular reads,

SECTION 6. Contents of the petition. – The petition for review shall (a) state the full names of the parties to the case, without impleading the court 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.[34]

The records reveal that the petition filed with the Court of Appeals by petitioner provides the following,

18. On December 27, 1993, respondent National Appellate Board rendered its Resolution denying the motion in this manner:

WHEREFORE, finding no merit on this instant petition, the same is hereby denied.

A certified xerox copy thereof, duly RECEIVED BY PETITIONER ON SEPTEMBER 23, 1996 is hereto attached as ANNEX “M.”[35]

A reading of the foregoing allegation, however, disclosed the fact that on 27 December 1993, NAB rendered a resolution denying petitioner’s motion for reconsideration. Although it would seem anomalous as it is unnatural that the purported resolution was received only by petitioner on 23 September 1996, we are inclined to sustain petitioner’s assertion for the same is supported by the certified xerox copy of the resolution[36] and the evidence is bereft of any showing that will warrant a contrary conclusion. Thus, the aforecited allegation substantially complied with the requirements under Section 6. The appellate court believed that petitioner had already been served with a copy of the resolution prior to 23 September 1996.[37] Such a conclusion, however, is bereft of any evidentiary basis and, thus, has no leg to stand on. It is noteworthy that the date when petitioner received NAB’s resolution denying his motion for reconsideration is material in determining when the fifteen (15)-day reglementary period for filing a petition for review with the Court of Appeals starts to run.[38]

The failure to specifically state in the petition on material dates such as the date when the resolution or order denying a motion for reconsideration was received is a ground for dismissal in accordance with Section 7 of the administrative circular and Rule 43.[39] But the scenario is not present in the case at bar for the aforecited paragraph 18 of the petition filed with the appellate court reflected the date when petitioner actually received the resolution denying his motion for reconsideration, which is 23 September 1996. Procedural rules must be liberally interpreted and applied so as not to frustrate substantial justice that this Court seeks to achieve.

Now, on substantial issues rather than on mere technicality. The pivotal questions posed in this petition are whether the Acting Chief of the PNP had authority to conduct summary dismissal proceedings over members of the PNP and whether the summary dismissal of petitioner was sufficiently established by the evidence on record.

Republic Act (R.A.) No. 6975 or the Department of the Interior and Local Government Act of 1990, which took effect on 1 January 1991, defines the structural components, powers and functions of the PNP as the citizens’ guardian of peace and order and enforcer of the law. The statute likewise delineates the procedural framework in pursuing administrative complaints against erring members of the police organization. Section 41 of the law enumerates the authorities to which a complaint against an erring member of the PNP may be filed, thus;

Section 41. (a) Citizen’s Complaints. – Any complaint by an individual person against any member of the PNP shall be brought before the following:

(1) Chiefs of police, where the offense is punishable by withholding of privileges, restriction to specified limits, suspension or forfeiture of salary, or any combination thereof, for a period not exceeding fifteen (15)

days;

(2) Mayors of cities or municipalities, where the offense is punishable by withholding of privileges, restriction to specified limits, suspension or forfeiture of salary, or any combination thereof, for a period of not less than sixteen (16) days but not exceeding thirty (30) days;

(3) People's Law Enforcement Board, as created under Section 43 hereof, where the offense is punishable by withholding of privileges, restriction to specified limits, suspension or forfeiture of salary, or any combination thereof, for a period exceeding thirty (30) days; or by dismissal. . . . (Emphasis added)[40]

It is readily apparent that a complaint against a PNP member which would warrant dismissal from service is within the jurisdiction of the PLEB. However, Section 41 should be read in conjunction with Section 42 of the same statute which reads, thus:

Sec. 42. Summary Dismissal Powers of the PNP Chief and Regional Directors. - The Chief of the PNP and regional directors, after due notice and summary hearings, may immediately remove or dismiss any respondent PNP member in any of the following cases:

- (a) When the charge is serious and the evidence of guilt is strong;
- (b) When the respondent is a recidivist or has been repeatedly charged and there are reasonable grounds to believe that he is guilty of the charges; and
- (c) When the respondent is guilty of conduct unbecoming of a police officer. (Emphasis ours)

Evidently, the PNP Chief and regional directors are vested with the power to summarily dismiss erring PNP members if any of the causes for summary dismissal enumerated in Section 42 is attendant. Thus, the power to dismiss PNP members is not only the prerogative of PLEB but concurrently exercised by the PNP Chief and regional directors. This shared power is likewise evident in Section 45.

SEC. 45. Finality of Disciplinary Action. – The disciplinary action imposed upon a member of the PNP shall be final and executory: Provided, That a disciplinary action imposed by the regional director or by the PLEB involving demotion or dismissal from the service may be appealed to the regional appellate board within ten (10) days from receipt of the copy of the notice of decision: Provided, further, That the disciplinary action imposed by the Chief of the PNP involving demotion or dismissal may be appealed to the National Appellate Board within ten (10) days from receipt thereof: Provided, furthermore, That the regional or National Appellate Board, as the case may be, shall decide the appeal within sixty (60) days from receipt of the notice of appeal: Provided, finally, That failure of the regional appellate board to act on the appeal within said period shall render the decision final and executory without prejudice, however, to the filing of an appeal by either party with the Secretary. (Emphasis ours)

Once a complaint is filed with any of the disciplining authorities under R.A. No. 6975, the latter shall acquire exclusive original jurisdiction over the case although other disciplining authority has concurrent jurisdiction over the case. Paragraph (c) of Section 41 explicitly declares this point.

(c) Exclusive Jurisdiction – A complaint or a charge filed against a PNP member shall be heard and decided exclusively by the disciplining authority who has acquired original jurisdiction over the case and notwithstanding the existence of concurrent jurisdiction as regards the offense; Provided, That offenses which carry higher penalties referred to a disciplinary authority shall be referred to the appropriate authority which has jurisdiction over the offense. (Emphasis ours)

Clearly, the PLEB and the PNP Chief and regional directors have concurrent jurisdiction over administrative cases filed against members of the PNP which may warrant dismissal from service.

This Court in *Summary Dismissal Board and the Regional Appellate Board, PNP, Region VI, Iloilo City v. Torcita*[41] recognized the authority of both the Summary Dismissal Board and the Regional Appellate Board of the PNP, Region VI, Iloilo City, to act on twelve (12) administrative complaints filed against C/Insp. Lazaro Torcita, even though the controversy occurred in 1994, after the effectivity of R.A. No. 6975. The Court further declared that R.A. No. 6975 defines the summary dismissal powers of the PNP Chief and regional directors, among others in cases, “where the respondent is guilty of conduct unbecoming of a police officer.”

Memorandum Circular No. 92-006 prescribes the rules and regulations in the conduct of summary dismissal proceedings against erring PNP members and defines conduct unbecoming of a police officer under Section 3(c), Rule II, as follows:

Conduct unbecoming of a police officer refers to any behavior or action of a PNP member, irrespective of rank, done in his official capacity, which, in dishonoring or otherwise disgracing himself as a PNP member, seriously compromise his character and standing as a gentleman in such a manner as to indicate his vitiated or corrupt state of moral character; it may also refer to acts or behavior of any PNP member in an unofficial or private capacity which, in dishonoring or disgracing himself personally as a gentleman, seriously compromises his position as a PNP member and exhibits himself as morally unworthy to remain as a member of the organization.[42]

The same Memorandum Circular also defines the phrase “serious charge” as a ground for summary dismissal of PNP members. This includes charges for commission of heinous crimes and those committed by organized/syndicated crime groups wherein PNP members are involved, gunrunning, illegal logging, robbery, kidnapping for ransom, white slave trade, illegal recruitment, carnapping, smuggling, piracy, drug trafficking, falsification of land title and other government forms, large scale swindling, film piracy, counterfeiting, and bank frauds. Clearly, the robbery-holdup and mauling incident which occurred on 22 December 1990 fall under the summary dismissal power of PNP Chief and regional directors.

In the case at bar, the complaint for grave misconduct against petitioner was first filed by Catolico before the PNP Inspectorate Division on 24 June 1991. However, another case was filed by Catolico with the Office of the Hearing Officer, NAPOLCOM, WPD, on 22 August 1991. The charges filed with the PNP Inspectorate Division were investigated, and on 31 October 1992, the SDHO recommended the dismissal of petitioner which was approved by the Acting PNP Chief. Petitioner appealed the case to the NAB which affirmed the decision of the Acting PNP Chief. The motion for reconsideration was also denied. Thus, in accordance with paragraph (c) of Section 41, the PNP Inspectorate Division had acquired exclusive original jurisdiction over the complaint of Catolico to the exclusion of other investigating body. It is as if the second complaint filed by Catolico with the Office of the Hearing Officer, NAPOLCOM, WPD, had not been filed.

Even assuming *ex gratia argumenti* that the Acting PNP Chief and the NAB were bereft of jurisdiction to rule on the complaint filed by Catolico, petitioner, at the earliest opportunity, neither raised the issue of lack of jurisdiction before the PNP Inspectorate Division nor with the NAB but only before the appellate court.[43] Despite the existence of a jurisprudential rule[44] that jurisdictional question may be raised at any stage of the proceedings, an equitable exceptional rule has also been laid down by this Court bars a party from raising jurisdictional question on ground of laches or estoppel.[45] Although the lack of jurisdiction of a court may be raised at any stage of the action, a party may be estopped from raising such questions if he has actively taken part in the very proceedings which he questions, belatedly objecting to the court’s jurisdiction in the event that the judgment or order subsequently rendered is adverse to him.[46]

Petitioner also argues that the appellate court erred in affirming the findings of the Acting PNP Chief and the NAB, which was arrived at without hearing and substantial evidence. We are not persuaded.

Summary dismissal proceedings are governed by specific requirements of notification of the charges together with copies of affidavits and other attachments supporting the complaints, and the filing of an answer, together with supporting documents. It is true that consistent with its summary nature, the duration of the hearing is limited, and the manner of conducting the hearing is summary, in that sworn statements may take the place of oral testimonies of witnesses, cross-examination is confined only to material and relevant matters, and prolonged arguments and dilatory proceedings shall not be entertained.[47]

Notably, the recommendation of the SDHO was approved by the Acting PNP Chief whose decision was affirmed by the NAB. The findings of the NAB was also affirmed by the Court of Appeals. The unanimity in their conclusions cannot just be disregarded and their factual determinations are conclusive upon this Court for the records show that petitioner was afforded reasonable opportunity to defend his side, as he filed position papers to substantiate his defense and arguments and even filed motions for reconsideration to set aside adverse decisions rendered against him. This opportunity to defend himself was more than sufficient to comply with due process requirements in administrative proceedings

Well-entrenched is the rule that courts will not interfere in matters which are addressed to the sound discretion of the government agency entrusted with the regulation of activities coming under the special and technical training and knowledge of such agency. Administrative agencies are given a wide latitude in the evaluation of evidence and in the exercise of their adjudicative functions, latitude which includes the authority to take judicial notice of facts within their special competence.[48]

The instant case filed by Catolico is an administrative case for grave misconduct against petitioner for the alleged robbery-holdup and mauling incident that took place on 22 December 1990. In resolving administrative cases, conduct of full-blown trial is not indispensable to dispense justice to the parties. The requirement of notice and hearing does not connote full adversarial proceedings.[49] Submission of position papers may be sufficient for as long as the parties thereto are given the opportunity to be heard. In administrative proceedings, the essence of due process is simply an opportunity to be heard, or an opportunity to explain one's side or opportunity to seek a reconsideration of the action or ruling complained of.[50] This constitutional mandate is deemed satisfied if a person is granted an opportunity to seek reconsideration of an action or a ruling.[51] It does not require trial-type proceedings similar to those in the courts of justice. Where opportunity to be heard either through oral arguments or through pleadings is accorded, there is no denial of procedural due process.[52]

In administrative proceedings, only substantial evidence or that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion is required.[53] Thus, findings of fact of quasi-judicial agencies are generally accorded respect and even finality by the Supreme Court, if supported by substantial evidence, in recognition of their expertise on the specific matters under their consideration.[54] Thus, factual determinations made by the SDHO and the NAB as affirmed by the Court of Appeals are undoubtedly beyond review and conclusive upon this Court, they being triers of facts. The congruence in their conclusion forecloses any possibility of reversible error or misappreciation of facts. Such being the case, we cannot but affirm their common conclusion as petitioner failed to advance substantial and convincing evidence and arguments that will merit the reversal of prior decisions on the case.

Finally, petitioner also argues that the appellate court erred in being passive to Catolico's surreptitious introduction into the records of the case evidentiary documents of which petitioner was not furnished and to the latter's prejudice. Sad to say, the matter is a factual one which is outside the ambit of this mode of review. Besides, this issue was not even raised in the motion for reconsideration filed by petitioner with the Court of Appeals.[55]

WHEREFORE, foregoing premises considered, the Petition is hereby DISMISSED and the Decision of the Court of Appeals dated 10 January 1997 AFFIRMED. Costs against petitioner.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Rollo, p. 175. Resolution penned by Justice Hector HofileHa and concurred in by Justices Jainal Rasul and Artemio Toquero.

[2] Id. at 98-100.

[3] Id. at 109-110.

[4] Id. at 138-139.

[5] Id. at 54-55. See also 48.

[6] Id. at 176.

[7] Supra note 4.

[8] Supra note 6.

[9] Supra note 6. See also p. 178. Petitioner claims that PLEB had already rendered a decision dismissing the case against him but failed to adduce a copy of the decision before the Court.

[10] Ibid. See also pp. 138-139. The pertinent portion of the decision reads:

....

After perusal of the records and evidences (sic) presented, the allegations of complainant was (sic) substantially corroborated by the testimony of Grace Commendador who actually witnessed the incident. Although no proof that complainant sustained physical injuries except the referral for Medico-Legal Examination (issued by the Office of the NBI), it can be inferred from the facts that complainant was maltreated by respondent and his cohorts. On the contrary, the denial of respondent on the charged (sic) imputed against him was not substantiated by testimonial or documentary evidence, hence, his allegations (sic) is considered self-serving. The Summary Dismissal Hearing Officer (SDHO) finds substantial evidence that the respondent committed Grave Misconduct (Abuse of Authority and Physical Injuries) which may warrants (sic) his dismissal from the PNP service, pursuant to Section 42 of Republic Act No. 6975, for which Chief, Internal Affairs Division concurs with and recommends approval thereto.

WHEREFORE, premises considered, this Headquarters hereby approves the recommendation of the SDHO dismissing PO3 Felino Quiambao from the police service, pursuant to Section 42, RA No. 6975, effective upon issuance of orders (sic).

SO ORDERED.

[11] Supra note 2. The pertinent portion of the decision reads:

....

After a careful perusal of the records of the case and thorough evaluation of the evidence adduced by both parties, this Board finds no compelling reason to disturb the finding of guilt upon appellant by the PNP Director General. The detailed narration of circumstances surrounding the acts complained of which were corroborated in their material points by one, Grace Commendador, who actually witnessed the incident, more

than constitutes (sic) the substantial evidence necessary to sustain an administrative action against appellant, notwithstanding the dismissal of the criminal aspect of the case by the Manila City Prosecutor's Office on the basis of the alleged failure of the complainant and her witnesses to identify the perpetrators of the aforesaid offense. However, the legal basis in said Prosecutor's Resolution is belied by respondent's own admission that during the incident, he took complainant's bag to ascertain her identity and thereafter returned the same to her with all the items intact. Besides, prior thereto, appellant (sic) was pointed at and identified as the one responsible for the concealment of complainant's maid, for which reason a personal confrontation between the parties ensued. Under these circumstances it is highly improbable to maintain that both parties did not know each other's identity.

Regarding appellant's claim that he was exonerated in the administrative aspect of the case by the People's Law Enforcement Board of Manila, no written decision was submitted in support thereof. Assuming that the same case between the herein parties is still pending thereat, the PNP Dismissal Authority had already taken cognizance of the case, assumed jurisdiction over it and had already validly rendered judgment thereon. Thus, the PLEB of Manila would have no other alternative except to dismiss the case for lack of jurisdiction.

WHEREFORE, in the light of all the foregoing, the decision of the PNP Director General dismissing appellant from the police service is hereby AFFIRMED.

SO ORDERED.

[12] Supra note 6.

[13] Id. at 13.

[14] Ibid.

[15] Id. at 177.

[16] Id. at 181.

[17] Id. at 182.

[18] Id. at 183.

[19] Ibid.

[20] Ibid.

[21] Id. at 15.

[22] Id. at 16.

[23] Id. at 17.

[24] Id. at 18.

[25] Id. at 21.

[26] Id. at 23.

[27] Id. at 24.

[28] Id. at 26.

[29] Id. at 7.

[30] Supra note 22.

[31] *Duero v. Court of Appeals*, 424 Phil. 12 (2002).

[32] *Busmente, Jr. v. National Labor Relations Commission*, G.R. No. 73647, April 8, 1991, 195 SCRA 710; *Taihei Company, Ltd. v. National Labor Relations Commission*, G.R. Nos. 75052-53, August 12, 1991, 200 SCRA 498.

[33] Rules Governing Appeals to the Court of Appeals from Judgments or Final Orders of the Court of Tax Appeals and Quasi-Judicial Agencies. This administrative circular took effect on February 15, 1995 and was substantially incorporated as Rule 43 in the 1997 Revised Rules of Civil Procedure.

[34] Now incorporated in the 1997 Revised Rules of Civil Procedure as Section 6 of Rule 43.

[35] *Id.* at 85.

[36] Annex “M,” CA Rollo, p. 80.

[37] Rollo, p. 178.

[38] Section 4 of Rule 43 is substantially similar to section 4 of the administrative circular. Thus,

SEC.4. Period of appeal. – The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, 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 duly filed in accordance with the governing law of the court or agency a quo. xxx

[39] Section 7, *supra*, provides:

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

[40] Pertinent portions of Memorandum Circular No. 92-006 or the Rules and Regulations in the Conduct of Summary Dismissal Proceedings Against Erring PNP Members which was approved on 6 August 1992 provide:

RULE I

PNP SUMMARY DISMISSAL AUTHORITIES

Section 1. Officials Authorized. – The Chief PNP is the summary dismissal authority for all members of the PNP. On the other hand, the PNP Regional Directors, including the Northern and Southern CAPCOM Directors in Metro Manila, are the summary dismissal authorities for PNP personnel within their respective jurisdiction. For presidential appointees, no summary dismissal proceedings may be conducted without prior authority from the President.

Section 2. Who May Conduct Summary Dismissal Proceedings. – The Chief PNP, PNP Regional Directors and the Directors of the Northern and Southern CAPCOM in Metro Manila are the officials authorized to conduct summary dismissal proceedings. However, this authority may be delegated to their designated representative or any officer or body authorized by them.

[41] 386 Phil. 350 (2000).

[42] *Ibid* at 162-163.

See also NAPOLCOM Memorandum Circular No. 91-007. Sections 2 and 3 thereof provide:

Section 2. Perfection of an appeal. – An appeal shall be perfected by the respondent-appellant by filing and

serving upon the PNP Summary Dismissal Authority a Notice of Appeal within ten (10) days from receipt of the notice of appeal, the PNP Summary Dismissal Authority concerned shall forward the entire records of the case, to include the transcription of stenographic notes, should there be any, to the NAPOLCOM appellate board concerned.

Section 3. Period within which to Decide Appealed cases: Finality of RAB/NAB Decision. – The NAPOLCOM appellate board concerned shall decide the appealed cases within sixty (60) days from receipt of the entire records of the case from the PNP Summary Dismissal Authority.

[43] Rollo, p. 101. In petitioner's Motion for Reconsideration filed with the NAB-NAPOLCOM dated December 2, 1993, only the following issues were raised with the said body, to wit:

I. With due respect, the Honorable Board erred in holding that the complainant was able to prove by substantial evidence the guilt of the respondent because:

A. Complainants (sic) evidence is unreliable and suspect;

B. Complainants (sic) evidence is hearsay;

C. Complainant has no competent and admissible evidence that she suffered physical injuries.

II. With due respect, the Honorable Board's decision as well as the summary dismissal order of the PNP Director General on 31 October 1992 is based on assumptions, surmises and conjectures prejudicial to the respondent.

III. With due respect, the Honorable Board failed to appreciate the dismissal of the criminal case as well as the exoneration of the respondent by the People's Law Enforcement Board of Manila for the same offense allegedly committed by the respondent.

[44] *Monsanto v. Zerna*, 423 Phil. 150 (2001); *Del Rosario v. Bonga*, G.R. No. 136308, January 23, 2001, 350 SCRA 101.

[45] *Bank of the Philippine Islands, et al v. Als Management and Development Corporation*, G.R. No. 151821, April 14, 2004; *Lopez, et al v. David, Jr., et al*, G.R. No. 152145, March 30, 2004, 426 SCRA 535; *Jose Lam v. Adriana Chua*, G.R. No. 131286, March 18, 2004, 926 SCRA 29; *Tijam v. Sibonghanoy*, 131 Phil. 556 (1968); *Ignacio v. Basilio*, G.R. No. 122824, September 26, 2001, 366 SCRA 15; *TCL Sales Corporation v. Court of Appeals*, G.R. No. 129777, January 5, 2001, 349 SCRA 35; *Prudential Bank and Trust Company v. Reyes*, G.R. No. 141093, February 20, 2001, 352 SCRA 316.

[46] *Alday v. FGU Insurance Corporation*, G.R. No. 138822, January 23, 2001; 350 SCRA 113; *Sta. Lucia Realty and Development, Inc. v. Cabrigas*, 411 Phil. 369 (2001); *Meat Packing Corporation of the Philippines v. Sandiganbayan*, 411 Phil. 959 (2001);

[47] Section 4, Memorandum Circular No. 92-006 of the National Police Commission cited in Summary Dismissal Board and the Regional Appellate Board, PNP, Region VI, Iloilo City v. Torcita, supra note 41.

[48] *Republic v. Express Telecommunication Co., Inc.*, 424 Phil. 372 (2002).

[49] *Artezuela v. Maderazo*, 431 Phil. 135 (2002).

[50] *Utto v. Commission on Elections*, 426 Phil. 225 (2002).

[51] *Garcia v. Pajaro*, 433 Phil. 470 (2002).

[52] *Liquid v. Camano, Jr.*, 435 Phil. 695 (2002).

[53] *Resngit-Marquez v. Llamas, Jr.*, 434 Phil. 124 (2002); *Mariano v. Roxas*, 434 Phil. 742 (2002).

[54] *Baybay Water District v. Commission on Audit*, 425 Phil. 326 (2002); *Utto v. Commission on Elections*, *Supra* note 50; *Camacho v. Coresis, Jr.* 436 Phil. 449 (200); *JMM Promotions and Management, Inc. v. Court of Appeals*, 439 Phil. 1 (2002); *Tuazon, Jr. v. Godoy*, 442 Phil. 130 (2002).

[55] *Rollo*, pp. 185-186.

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