

NATIONAL POLICE COMMISSION (NAPOLCOM) NATIONAL APPELLATE BOARD (SECOND DIVISION) AND PHILIPPINE NATIONAL POLICE (PNP), PETITIONERS, VS. POLICE CHIEF INSPECTOR LEONARDO BERNABE, ...

G.R. No. 129914. May 12, 2000

Ponente: PARDO, J.

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PARDO, J.:

The case before the Court is an appeal from the decision of the Court of Appeals setting aside the decision of the National Appellate Board, National Police Commission affirming the summary dismissal of Police Chief Inspector Leonardo W. Bernabe as ordered by the Chief, Philippine National Police for grave misconduct and conduct unbecoming a police officer. The Court of Appeals ordered respondent reinstated, entitled to payment of his salary and allowances withheld from him by reason of the erroneous dismissal, unless suspended for some other lawful cause.[1]

The facts are as follows:

1. On March 03, 1993, there appeared an article in a newspaper that respondent headed a syndicate encashing treasury warrants of PC soldiers, policemen, firemen and jail personnel who were already dead, on awol, suspended and separated from the service.[2]
2. On March 03, 1993, President Fidel V. Ramos instructed the Secretary of the Interior and Local Government to conduct an investigation and prosecute respondent if necessary.[3]
3. Acting thereon, the Secretary referred the directive to the PNP Director General, who ordered the Criminal Investigation Service Command to investigate the charges.[4]
4. On the same day, respondent was informed of the Batuigas article with the President's marginal note on it and S/Supt. Romeo Acop ordered him to explain through affidavit.[5]
5. On March 5, 1993, respondent submitted his affidavit answering point by point the charges against him. He alleged that all the cases against him were either dismissed by the Ombudsman or pending resolution, except one which was pending before the Sandiganbayan involving the encashment of seven treasury warrants.[6]
6. On March 18, 1993, CICS Director Angel Quizon submitted to the Chief, PNP, a memorandum which stated:
"As a backgrounder, in January 1989, then PC Captain Leonardo W. Bernabe, along with several other officers, enlisted personnel and employees of the 16th Finance Service Unit (FSU) in Camp Bagong Diwa, Bicutan, Taguig, Metro Manila was charged by the CISC of several counts of Estafa thru Falsification of Documents in five (5) separate cases filed before the Constabulary JAGO. These cases involved some THREE HUNDRED SEVENTY SIC (376) pieces of treasury warrants (TWs) of AWOL, deceased, discharged, separated and terminated PC/INP personnel for the pay period of 1-15 and 16-30 April 1988. These TWs, which were supposedly cancelled but were fraudulently encashed by the officers, were identified and

turned-over to the CIS Investigators by the Auditing/Investigating team of the PC/INP Finance Center. Later on, the cases were referred to the Office of the Ombudsman when former PCA waived Military jurisdiction over the suspected officers. At present, however, only one of the cases involving seven (7) TWs is being tried at the 3rd Division of the Sandiganbayan. The other four (4) cases are pending resolution at the Office of the Ombudsman."^[7]

7. On April 23, 1993, by command of the Police Deputy Director General, respondent was suspended from the police service for a period of ninety (90) days effective April 23, 1993.^[8] Subsequently, he was given notice of complaint/charge and order to answer within five days from receipt of the complaint.^[9]

8. On March 31, 1993, respondent filed a motion for bill of particulars.^[10]

9. In reply, the CICS submitted a manifestation asserting that the technical procedures obtained in the regular courts are strictly applicable to administrative proceedings; hence, the allegations in the complaint are sufficient to enable respondent to file an intelligent answer.^[11]

10. On April 26, 1993, the Summary Dismissal Hearing Officer issued a resolution recommending for respondent's dismissal from the PNP service.^[12]

11. On July 13, 1993, the PNP Inspector General concurred with the recommendation of the Summary Dismissal Officer.^[13]

12. On July 20, 1993, the Chief PNP ordered the dismissal of respondent from the police service based on the following facts:

"x x x That he is in the head of the payroll syndicate; that this syndicate was responsible for the encashing of PC/INP treasury warrants for personnel on leave, AWOL, deceased or terminated from the police service; that the TWs were supposed to be cancelled not to be encashed; that members of this syndicate are strategically assigned in various PC/INP, now PNP units which are dealing with money matter; that subject officer was able to transfer from one finance unit to another inspite of the dozens of criminal and administrative cases filed against him. The investigation also disclosed that subject officer has unexplained assets or wealth consisting of three (3) mansions, two (2) condominium units, three (3) residential lots, ten (10) passenger jeeps, three (3) big cargo trucks, fish pens at Laguna de Bay, residential houses at Legaspi City, coffee and coconut plantations at Basilan City and a big furniture shop at Sucat, Parañaque, Metro Manila; that his total assets, mostly hidden in the names of his blood and in-law relatives, can reach hundreds of millions of pesos. As early as 1989, CISC already filed against then CINSP BERNABE, three (3) other officers and six (6) EPs, all of 16th Finance Support Unit, METROCOM, five (5) cases of Estafa through Falsification of Public Documents before the JAGO, PC/INP. The cases were later forwarded to the Ombudsman and out of these cases the latter office filed seven (7) information or charges before the Sandiganbayan (Annex "D"). Four (4) other cases against CINSP BERNABE, a case of Viol. of Secs. 7 and 8, RA3019 (Unexplained Wealth) which case is still pending resolution thereat. Upon the effectivity of the PNP Law, another case of Viol. of AW 96 (Conduct Unbecoming of An Officer and A Gentleman) was forwarded by GHW, AFP against CINSP BERNABE, to the Directorate for Investigation (DIN) GHW, PNP (Annex "E"). CINSP BERNABE was also charged before the Board of Accountancy, Professional Regulations Commission (PRC), after CISC found out that he falsified his transcript of records with the Polytechnic University of the Philippines (PUP), that he was a graduate of Commerce, major in accounting, when in fact his name does not appear in the school records that he graduated thereat. In fact, school records show that he was still lacking of 16 subjects before he could graduate. Likewise he was able to present a diploma that he was a graduate of the school. The administrative case for dishonorable misconduct was filed before the PRC (Annex "F"). The criminal aspect of the PUP case was filed before the Manila Prosecutor's Office, for falsification of public documents, under I. S. No. 91-06895. However, Manila Assistant Prosecutor Jacinto Delos Reyes, Jr. recommended dismissal of the case. In his resolution, Asst. Prosecutor Delos Reyes, Jr. declared that Atty. Manuel Cruz of the Legal Div. CISC withdr(e)w the case from

further prosecution, allegedly with understanding with Supt. Lucas Managuelod, PNP, then Chief, NCR CISC, which office initiated the filing of the case (Annex "G"). CINSP BERNABE, in his counter-affidavit submitted before the Summary Hearing Officer, denied point by point the allegations contained in the Ruther Batuigas newspaper column; that he is not untouchable; that he is asking for a bill of particulars as regards the administrative charges against him; that these cases be consolidated with his other cases pending resolution with the Ombudsman (Annex "H"). That these various anomalies and irregularities (had) placed (the police organization in) a bad light, with more reason that PNP now is in "cleansing" process to get rid of undesirables." [14]

13. On August 30, 1993, respondent appealed to the NAPOLCOM National Appellate Board. [15]

14. On October 18, 1994, the National Appellate Board, Second Division, rendered a decision sustaining the summary dismissal of respondent from the PNP, as follows:

"WHEREFORE, in the light of the foregoing, the Decision of the Director General, PNP summarily dismissing respondent-appellant Police Chief Inspector LEONARDO BERNABE from the police service is hereby affirmed. Further, the Director General is hereby directed to investigate the seemingly anomalous dismissal of the administrative case for Dishonorable conduct filed against respondent-appellant before the Board of Accountancy, Professional Regulation Commission as recommended by the Office of the Inspector General in its DF dated July 13, 1993 to the Chief, PNP, including the other recommendations therein, with the instruction that this Board be informed accordingly of the result of the action taken thereof.

"SO ORDERED." [16]

15. On February 28, 1995, the National Appellate Board denied his motion for reconsideration. [17]

On July 31, 1995, respondent filed with the Court of Appeals a petition for review challenging his dismissal from the police service on the ground of lack of due process and the unconstitutionality of Section 42, R. A. 6975.

After due proceedings, on March 13, 1997, the Court of Appeals promulgated its decision upholding the constitutionality of Section 42, R. A. 6975, but setting aside the decision of the National Appellate Board for failure to comply with the due process requirement of the Constitution. The dispositive portion reads:

"WHEREFORE, the assailed decision of the National Appellate Board is SET ASIDE. Let the original records be remanded to the Chief, PNP for proper compliance with the Summary Dismissal Proceedings provided for in NAPOLCOM Memorandum Circular No. 92-006. In the meantime, petitioner is ordered reinstated, entitled to payment of his salary and allowances withheld from him by reason of the erroneous dismissal, unless he is suspended for some other lawful cause in another forum.

"No costs.

"SO ORDERED." [18]

On April 7, 1997, petitioners moved to reconsider the decision. [19] However, on July 11, 1997, the Court of Appeals denied the motion for lack of merit. [20]

Hence, this appeal. [21]

On December 24, 1997, respondent filed his comment. [22]

In his comment, respondent submitted that the case was decided by the Chief, PNP without the benefit of a hearing, and therefore he was not given the opportunity to fully present his evidence and was denied the opportunity to cross-examine his accusers. [23]

At issue in this petition is whether or not the Court of Appeals erred in setting aside the decision of the National

Appellate Board, National Police Commission, on the ground that respondent was denied due process in the conduct of the investigation of the charges filed against him.

We regret that the Court of Appeals erred in its ruling on the issue raised. As we held quite recently, "On the question of due process, we find that the requirements thereof were sufficiently complied with. Due process as a constitutional precept does not always and in all situations require a trial-type proceeding. Due process is satisfied when a person is notified of the charge against him and given an opportunity to explain or defend himself. The essence of due process is simply to be heard, or as applied to administrative proceedings, an opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of." [24]

In this case, the record shows that respondent was given notice of the complaints/charges against him and an opportunity to answer. He submitted an affidavit answering point by point the charges against him. He even appealed from the decision of the Chief, PNP dismissing him from the police service to the National Appellate Board, and submitted a memorandum.

Consequently, respondent was given more than adequate opportunity to explain his side. Hence, there was no violation of his right to procedural and substantive due process. [25]

WHEREFORE, the Court hereby GRANTS the petition for review on certiorari and SETS ASIDE the decision of the Court of Appeals. The Court AFFIRMS the decision of the Chief, PNP dismissing respondent Police Chief Inspector Leonardo W. Bernabe from the police service. No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] In CA-G.R. SP No. 37993, Austria-Martinez, J., ponente, Paras and Salas, JJ., concurring, promulgated March 13, 1997, Rollo, pp. 44-63.

[2] Petition, Annex "C", Rollo, p. 66.

[3] See handwritten instruction, bottom portion, Annex "C", supra.

[4] Petition, p. 3, Rollo, p. 9.

[5] Petition for Review in CA-G.R. SP No. 37993, pp. 8-9.

[6] Petition, Rollo, p. 9.

[7] Petition, Rollo, pp. 9-10.

[8] Petition for Review, Annex "J" in CA-G.R. SP No. 37993, CA Rollo, p. 105.

[9] Petition, Annex "F", Rollo, p. 72.

[10] Petition, Annex "G", Rollo, p. 73.

[11] Petition, Rollo, p. 14.

[12] Ibid., p. 15.

[13] Ibid.

[14] Petition, Rollo, pp. 15-18.

[15] Petition for Review, Annex "N", in CA-G.R. SP No. 37993, CA Rollo, pp. 127-134.

[16] Petition, Rollo, p. 18.

[17] Petition, Annex "M", Rollo, pp. 128-130.

[18] Petition, Annex "A", CA Decision, Rollo, pp. 44-63.

[19] Petition, Annex "R", Rollo, pp. 207-227.

[20] Petition, Annex "B", Rollo, p. 65.

[21] Petition filed on September 8, 1997, Rollo, pp. 7-41. On October 08, 1997, the Court required respondents to comment on the petition within ten (10) days from notice (Rollo, p. 228)

[22] Rollo, pp. 233-253.

[23] Comment, Rollo, p. 251.

[24] *Libres vs. NLRC*, 307 SCRA 675, 683 (1999), citing *Philippine Long Distance Telephone Company vs. NLRC*, 175 SCRA 437 (1989). Cf. *Lagatic vs. NLRC*, 285 SCRA 251 (1998); *Vinta Maritime Co., Inc. vs. NLRC*, 284 SCRA 656, 664-665 (1998)

[25] *Libres vs. NLRC*, *supra*.

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