

PHILIPPINE COCONUT AUTHORITY, PETITIONER, VS. BIENVENIDO GARRIDO, RESPONDENT.

G.R. No. 135003. January 21, 2002

Ponente: SANDOVAL-GUTIERREZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-135003/>

SANDOVAL-GUTIERREZ, J.:

Petition for review on certiorari[1] assailing the Decision[2] of the Court of Appeals dated March 31, 1998 in CA G.R.-SP No. 41319, "Bienvenido R. Garrido vs. Civil Service Commission, et al.," declaring the separation of respondent Bienvenido R. Garrido from the service illegal and ordering his reinstatement to his former position as Deputy Administrator of the Philippine Coconut Authority (PCA) and payment of his backwages and/or salaries and benefits to which he is entitled.

The facts, as summarized by the Court of Appeals in its Decision, are:

“Sometime in July, 1993, petitioner (now respondent) Bienvenido R. Garrido, then employed as Deputy Administrator of the PCA for Corporate Services Branch, verbally sought permission from respondent (PCA) Administrator Virgilio M. David to take, more or less, five (5)-month vacation leave in connection with his intention to accept a job offer in Sierra Leone, West Africa, as consultant of a private firm. Not knowing at the moment the full detail and justification of petitioner’s request, respondent Administrator David advised petitioner to see to it that his request is sanctioned by the Civil Service Rules and to prepare the necessary documents for his vacation leave.

“On July 21, 1993, petitioner filed his application for leave for ninety-eight (98) days, or from July 28, 1993 to December 17, 1993, with the Human Resources Development Department (HRDD).

“On July 28, 1993, petitioner commenced his vacation leave and departed for Sierra Leone, West Africa.

“Meanwhile, on September 15, 1993, or about two (2) months after the filing of petitioner’s application for leave, respondent PCA Administrator David issued a Memorandum to petitioner Garrido disapproving the latter’s application for leave, thus:

‘In view of legal impediment to your application for leave, please be advised that your application cannot be favorably considered.’

“On December 18, 1993, (or after 4 months and 20 days) petitioner arrived in the Philippines. Two (2) days thereafter, or on December 20, 1993, he reported back to his office and found the said letter of disapproval of his leave dated September 15, 1993 which was allegedly received by his office on September 21, 1993.

“On December 21, 1993, petitioner was rushed and confined at the Philippine Heart Center for Falcifarum Malaria and Multiple Organ Dysfunction until his discharge on January 2, 1994.

“Shortly after his (discharge) from the hospital and upon gaining sufficient strength, petitioner on January 11, 1994 re-filed another vacation leave covering the period from July 28, 1993 to December 17, 1993 and incorporating therewith his application for sick leave for December 20, 1993 to February 28, 1994.

“On February 4, 1994, petitioner received a letter dated January 27, 1994 from respondent David informing him that he has been dropped from the rolls effective December 26, 1993 for being absent without official leave for more than thirty (30) days pursuant to Civil Service Memorandum No. 38, Series of 1993 (CSC MC No. 38, s. 1993).

“On February 18, 1994, petitioner appealed from respondent David’s act of dropping him from the rolls with the respondent Civil Service Commission (CSC).

“On September 5, 1995, respondent CSC rendered the questioned Resolution No. 955443 dismissing petitioner’s appeal. Petitioner moved for the reconsideration of the aforesaid resolution but the same was denied per Resolution dated March 12, 1996.”[3]

Aggrieved by the CSC Resolutions, Garrido filed with the Court of Appeals a petition for review which was granted in its challenged Decision, the dispositive portion of which reads:

“WHEREFORE, the petition is granted and the Resolutions subject of this petition is REVERSED and SET ASIDE. The PCA Administrator is hereby ordered to reinstate petitioner BIENVENIDO R. GARRIDO to his position as Deputy Administrator or its equivalent, without loss of any right or privilege accorded him by the service, and to pay petitioner his back wages and/or salaries and benefits to which he is entitled but has not received as a consequence of his illegal separation from the service.

"SO ORDERED."[4]

The Court of Appeals, in reversing the CSC Resolutions, held that the dropping of respondent Garrido from the rolls without prior notice, as required by Sec. 35, Rule XVI of the Omnibus Rules Implementing Book V of Executive Order No. 292, is illegal. Petitioner erroneously relied on CSC Memorandum Circular No. 38, Series of 1993 which does not require prior notice. This Circular, amending said Section 35, became effective on October 21, 1993. Considering that the disapproval of respondent's application took place on September 15, 1993, or prior to the effectivity of CSC MC No. 38, petitioner should have applied said Sec. 35 by giving respondent due notice of his impending separation from the service. Thus, the Court of Appeals ruled:

"In the instant case, it is beyond cavil that petitioner was not given prior notice of the dropping of his name from the rolls. A reading of respondent PCA Administrator's letter January 27, 1994 which was quoted earlier, reveals that petitioner was in fact being informed in the said letter of the dropping of his name from the rolls "without prior notice" pursuant to CSC MC Circular No. 38, s. 1993. Besides, petitioner was dropped from the rolls effective December 26, 1993 yet the letter informing him of the same was dated January 27, 1994. This only shows that petitioner was dropped from the rolls without prior notice.

"In fine, since respondent PCA Administrator failed to give "prior notice" to petitioner in violation of the applicable CSC Rule, the dropping of petitioner from the rolls is legally infirmed and therefore his reinstatement without loss of any right or privilege accorded him by the service is in order."[5]

The CSC and petitioner PCA filed their respective motions for reconsideration of the Court of Appeals Decision but were denied for having been filed one (1) day late.

Hence this petition by the PCA.

The issues raised for our resolution are:

- Whether or not the Court of Appeals erred in denying petitioner's motion for reconsideration of its assailed Decision for having been filed one (1) day late; and
- Whether or not the Court of Appeals erred in holding that Section 35, Rule XVI of the Omnibus Rules

Implementing Book V of Executive Order No. 292 requiring due notice should have been applied by petitioner in dropping respondent from the rolls.

There is no dispute that petitioner's motion for reconsideration of the assailed Court of Appeals Decision was filed one (1) day late. Section 1, Rule 52 of the 1997 Rules of Civil Procedure provides:

"Section 1. Period for filing. - A party may file a motion for reconsideration of a judgment or final resolution within fifteen (15) days from notice thereof, with proof of service on the adverse party." (n)

The period for filing a motion for reconsideration is non-extendible.[6] The Appellate Court is, therefore, correct in ruling that "(t)he failure of the respondents to file their motion for reconsideration within the reglementary period renders the Decision sought to be reconsidered final and executory, thereby depriving this Court the power to alter, modify or reverse the same." [7]

Even if we brush aside such procedural lapse, we hold that the Court of Appeals did not err in declaring respondent's separation from the service illegal.

Petitioner PCA considered respondent absent without official leave (AWOL) beginning July 28, 1993 to December 19, 1993. This was because it disapproved his application for leave filed before he left for Sierra Leone, West Africa.

We disagree. PCA Administrator Virgilio David admitted that respondent, even before filing his leave application, verbally sought his (David's) permission to go on leave for five (5) months.[8] He further admitted that he "gave him (respondent) the benefit of the doubt by advising him x x x to document his intention and leave application." [9] What is clear, therefore, is that Administrator David did not disapprove at that time respondent's request for leave. In compliance with the said instruction, respondent, on July 21, 1993, officially filed his application for leave.

While the granting or approval of leaves depends upon the needs of the service and is discretionary upon the head of department or agency,[10] we find that such discretion was not exercised properly in this case. We note that petitioner disapproved respondent's leave application only on September 15, 1993, or almost two (2) months from the time he filed the same on July 21, 1993. Such unexplained inaction by petitioner for an unreasonable length of time apparently gave respondent the impression that there was no impediment to his leave application. Indeed, there is no basis to conclude outright that he went on leave on July 28, 1993 without an approved application.

In fine, we rule that respondent cannot be considered on AWOL for more than thirty (30) days. Hence, his separation from the service is illegal.

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals dated March 31, 1998 is AFFIRMED.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Carpio, JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure, as amended.

[2] Penned by Justice Quirino D. Abad Santos, Jr. (Ret.) and concurred in by Justices Ruben T. Reyes and Hilarion L. Aquino.

[3] Rollo, pp. 57-59.

[4] Ibid., p. 64.

[5] Decision of the Court of Appeals dated March 31, 1998, CA Records, p. 117.

[6] Uy vs. Court of Appeals, 286 SCRA 343 (1998).

[7] Resolution dated July 24, 1998, Rollo, p. 67.

[8] PCA Administrator David's Comment on Garrido's appeal before the CSC, CA Records, pp. 37-38.

[9] Ibid., p. 38.

[10] Sec. 20, Rule XVI of the Omnibus Civil Service Rules provides that "(l)eave of absence for any reason other than illness of an officer or employee or of any member of his immediate family must be contingent upon the needs of the service. Hence, the grant of vacation leave shall be at the discretion of the head of department/agency.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.