

JESUS R. GONZALES, PETITIONER, VS. CIVIL SERVICE COMMISSION, AND PHILIPPINE CHILDREN'S MEDICAL CENTER (PCMC), RESPONDENTS.

G.R. No. 139131. September 27, 2002

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Petitioner seeks to annul and set aside the Resolution[1] dated January 14, 1999 of the Court of Appeals (CA) in CA-G.R. SP No. UDK-2819, which dismissed petitioner's appeal via a petition for review,[2] for his failure to comply with Section 6 (c), Rule 43 of the Rules of Court, and its Resolution[3] dated February 16, 1999, denying petitioner's motion for reconsideration. Subject of said appeal before the CA were Resolutions Nos. 98-2359[4] and 98-3021[5] of the Civil Service Commission, which upheld the dismissal of petitioner from respondent Philippine Children's Medical Center (PCMC).

The facts of this case, as culled from records, are as follows:

Petitioner Jesus R. Gonzales was one of the two Utility Workers II assigned at the Pharmacy Section of respondent Philippine Children's Medical Center (PCMC), a government-owned and controlled corporation created under P.D. No. 1631, as amended. At PCMC, petitioner served the patients and the public from 6:00 A.M. to 10:00 P.M., seven days a week.

On March 2, 1998, petitioner started absenting himself without an approved leave (AWOL) and without explaining the reason for his absence to his superiors.

In view of the exigency of petitioner's functions, Ms. Jara Corazon O. Ehera, Human Resources Management Officer III, wrote a letter-notice dated March 5, 1998 to petitioner directing him to report for work within three (3) days from receipt of said notice, otherwise, he would be dropped from the rolls.

During his absence, petitioner was seen on several occasions within the premises of PCMC, particularly in the Budget Office, Billing and Cashier, and Personnel Clinic. He allegedly visited the clinic without consulting any medical problem and when Dr. Galero once made a surprise visit, he was not found in his house.[6]

On March 16, 1998, Dr. Corazon D. Rivera, officer-in-charge of the Pharmacy Section, reported petitioner's irresponsibility and lack of concern for his work to Dr. Lillian V. Lee, Executive Director of PCMC, recommending that petitioner be dropped from the rolls.

Despite the written letter-notice sent to him, petitioner failed to report for work thus constraining PCMC to drop him from the rolls, effective March 20, 1998.[7]

Aggrieved, petitioner appealed to the Civil Service Commission (CSC). In Resolution No. 98-2359 dated September 8, 1998, the CSC upheld the action taken by PCMC, to wit:

WHEREFORE, the appeal of Jesus R. Gonzales is hereby dismissed. Accordingly, the action of the PCMC

Executive Director, dropping him from the rolls, is upheld.[8]

The decision, however, stated that considering that the separation of petitioner was not disciplinary in character, he may be re-employed in the same agency at the discretion of the appointing authority.[9]

Petitioner moved for reconsideration by the CSC of Resolution 98-2359, but it was denied.

When he filed a petition for review in the CA, the petition was denied for failure to comply with Section 6 (c), Rule 43 of the Revised Rules of Court,[10] particularly for failure to attach certified true copies of material portions of the records and supporting papers.

The CA Resolution[11] dated January 14, 1999, concluded:

WHEREFORE, for being formally deficient, the instant petition for review is hereby DISMISSED.

In a Motion for Reconsideration and Compliance,[12] petitioner attached the certified true copies of the required papers. But the CA denied the motion in a Resolution[13] dated February 16, 1999.

Hence, this petition raising the following issues for resolution:

1. Whether or not the Court of Appeals committed grave error in dismissing the appeal of herein petitioner based on pure technicality.
2. Whether or not there is factual and legal basis for respondent PCMC to drop petitioner from the rolls for his alleged absences without leave.[14]

On the first issue, petitioner argues that the dismissal of the petition by CA on mere technicality is unwarranted and unjustified since pertinent jurisprudence abounds declaring in no uncertain terms that dismissals of appeals on purely technical grounds is frowned upon where the policy of the Court is to encourage hearings of appeals based on merits.[15]

The same position is taken by the Office of the Solicitor General in its Manifestation in Lieu of Comment[16] filed before this Court. But respondent PCMC asserts that the dismissal by the CA of the petition for review is in keeping with Section 7[17] in relation to Section 6 of Rule 43 of the Revised Rules of Court.[18]

In *Cadayona vs. Court of Appeals*,[19] however, we already held that Section 6, Rule 43 of the Revised Rules of Court is not to be construed as imposing the requirement that all supporting papers accompanying the petition should be certified true copies. We compared this provision with its counterpart provision in Rule 42, on petitions for review from the RTC to the CA, and noted that under the latter, only the judgments or final orders of the lower court need to be certified true copies or duplicate originals. In numerous resolutions issued by this Court we emphasized that in an appeal via a petition for certiorari under Rule 45 and in an original civil action for certiorari under Rule 65 in relation to Rules 46 and 56, what is required to be a certified true copy is the copy of the questioned judgment, final order or resolution.[20] We see no reason why a stricter requirement should be made for petitions under Rule 43, which governs appeals from the Court of Tax Appeals and quasi-judicial agencies to the CA. This could not have been intended by the framers of the rules. A contrary ruling would be too harsh and would not promote the underlying objective of securing a just, speedy and inexpensive disposition of every action and proceeding.[21]

Further, we note that petitioner had attached certified true copies of the documents supporting his Motion for Reconsideration and Compliance.[22] As previously held, submission of a required document with the Motion for Reconsideration constitutes substantial compliance with Section 3, Rule 46.[23]

On the second issue, petitioner argues that he was denied due process[24] when he was dropped from the rolls. He

avers that he received PCMC's letter dated March 5, 1998 only on March 20, 1998 and thus, had until March 23, 1998 within which to comply with the directive;[25] that in fact, he did report for work on March 21, 1998, but was barred by security personnel from entering the company because his name had already been dropped from the rolls effective March 20, 1998. He contends that his non-compliance with the return to work directive does not constitute abandonment of work as no person in his right mind would abandon his job to his own detriment.[26]

For analogous reasons, the Office of the Solicitor General avers that petitioner was denied due process. The OSG states that he was summarily dismissed without affording him a hearing and the opportunity to introduce witnesses and relevant evidence in his favor.[27] The OSG also opines that the penalty of dismissal was too severe.[28]

In its reply, respondent PCMC insists that the dismissal of petitioner is valid and legal, considering that petitioner's actuations were clearly irresponsible. They showed lack of concern for his work and the smooth operation of PCMC.[29]

Further, PCMC contends that petitioner was given ample opportunity to explain his side and to submit evidence and to explain his absence.[30] PCMC points out that they sent a letter-notice dated March 5, 1998, to petitioner and he should have taken it upon himself to report to work, even without any prompting from PCMC, considering the significance of his work.[31] Besides, PCMC claims, petitioner showed the clear intent to sever his employer-employee relationship with PCMC. Finally, PCMC avers that factual findings of the CSC on this matter are entitled to great weight and must be accorded respect and finality.[32]

To avoid circuitous procedure, we shall now consider the merits of the case. This Court is not a trier of facts, and its function is limited to reviewing errors of law that might have been committed by the lower court.[33] In this case, we find no exceptional circumstance and we find no cogent reason to set aside the factual findings of the CSC in sustaining the action of respondent in the dropping of petitioner from the rolls on the ground that he was found AWOL (absent without official leave).

The CSC noted that petitioner had admitted that effective March 2, 1998, he was absent without approved leave.[34] Petitioner's unauthorized absences, as found by the CSC, constitute conduct prejudicial to the best interest of the service, a ground for disciplinary action under E.O. No. 292 or the Administrative Code of 1987.[35] For his services are essential to the efficient delivery of medical services and the exigencies of the service require his presence in the office.

We agree that there is legal basis for dropping petitioner from the rolls. It is also in accordance with law and rules, notably Section 35 Rule XVI of the Omnibus Rules Implementing E.O. 292 and Paragraph 2.1 (b) of CSC Memorandum Circular No. 12, s. 1994 which provides as follows:

Sec. 35. Officers and employees who are absent for at least thirty (30) days without approved leave are considered on Absence Without Leave (AWOL) and shall be dropped from the service after due notice. However, when the exigencies of the service require his immediate presence and he fails/refuses to return to the service, the head of office may drop him from the service even prior to the expiration of the thirty (30) day period abovestated.[36] (Emphasis ours.)

2.1 Absence without Approved Leave

a. xxx

b. If the number of unauthorized absences incurred is less than thirty (30) calendar days, written return to work order shall be served on the official or employee at his last known address on record. Failure on his part to report for work within the period stated in the order shall be a valid ground to drop him from the rolls.[37] (Emphasis

ours.)

Petitioner's assertion that he was denied due process is untenable. The essence of due process is simply an opportunity to be heard or as applied to administrative proceedings, an opportunity to explain one's side or opportunity to seek a reconsideration of the action or ruling complained of.[38]

Records would show that respondent PCMC had written a letter to petitioner to report for work[39] and another letter informing him that he was being dropped from the rolls, due to his Absence Without Official Leave, with the enumeration of the reasons and basis thereof.[40] That petitioner only received the notice on March 20, 1998 is of no moment. In fact, two notices were given him: (a) the notice requiring him to report for work; and (b) the notice that he would be dropped because of his absences without official leave. Further, petitioner was given sufficient opportunity to report for duty after he received the return-to-work order, but he did not report. Thus, the CSC found no error when respondent PCMC dropped petitioner from the rolls for his refusal to comply with the return-to-work order within a prescribed period.[41]

Finally, it must be emphasized that under CSC Circular No. 12, series of 1994, the action dropping petitioner from the rolls is non-disciplinary in nature and does not result in the forfeiture of his benefits nor his disqualification from re-employment in the government. Likewise, dropping from the rolls of petitioner is without prejudice to his re-appointment at the discretion of the appointing authority and subject to Civil Service laws, rules and regulations.

WHEREFORE, the Resolution of the Court of Appeals dated January 14, 1999 in CA-G.R. SP No. UDK-2819 and its Resolution dated February 16, 1999 are SET ASIDE insofar as it denied petitioner's appeal for his failure to comply with Section 6 (c), Rule 43 of the Revised Rules of Court. But Resolutions Nos. 98-2359 and 98-3021 of the Civil Service Commission, dropping petitioner from the rolls of respondent PCMC, without prejudice to his re-employment in the government service, are AFFIRMED.

No pronouncements as to costs.

SO ORDERED.

Bellosillo, (Chairman), Austria-Martinez, and Callejo, Sr., JJ., concur. Mendoza, J., on official leave.

[1] Rollo, p. 80.

[2] Id. at 48-61.

[3] Id. at 95.

[4] Id. at 62-65.

[5] Id. at 66-68.

[6] Id. at 126.

[7] Id. at 32.

[8] Id. at 39.

[9] Ibid.

[10] Sec. 6, Rule 43. Contents of the petition. - The petition for review shall (a) xxx ; (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 referred to therein and other supporting papers; and xxx.

[11] Rollo, p. 80.

[12] CA Rollo, pp. 46-53.

[13] Rollo, p. 95.

[14] Id. at 17-18.

[15] Id. at 203.

[16] Id. at 133-151.

[17] Sec. 7, Rule 43. 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, 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 ground for the dismissal thereof.

[18] Rollo, p. 233.

[19] 324 SCRA 619, 625 (2000).

[20] Martirez vs. Magallanes, G.R. No. 133766, January 13, 1999; Borja vs. Judge Hontanosas, Jr., G.R. No. 134748, January 13, 1999; Regalado, et al vs. NLRC, G.R. No. 134671, January 13, 1999; G and M [Phils], Inc. vs. NLRC, et al., G.R. No. 133836, January 13, 1999.

[21] Supra, note 19 at 625-626.

[22] CA Rollo, pp. 46-53.

[23] Uy vs. Bureau of Internal Revenue, G.R. No. 129651, 344 SCRA 36, 48 (2000), citing Balagtas Multi-Purpose Cooperative, Inc. vs. Court of Appeals, 314 SCRA 676, 682 (1999).

[24] Rollo, p. 208.

[25] Ibid.

[26] Id. at 209-210.

[27] Id. at 145.

[28] Id. at 148.

[29] Id. at 118.

[30] Id. at 122.

[31] Id. at 119.

[32] Id. at 230.

[33] Bañas vs. Asia Pacific Finance Corporation, G.R. No. 128703, 343 SCRA 527, 535 (2000). See also Cebu Woman's Club vs. De la Victoria, G.R. No. 120060, 327 SCRA 533, 537 (2000).

[34] Rollo, p. 64.

[35] E.O. 292-Administrative Code of 1987, Book V, Title I, Sub-title A.

CHAPTER 7. DISCIPLINE

a. x x x

b. The following shall be grounds for disciplinary action:

x x x

14. Frequent unauthorized absences or tardiness in reporting for duty, loafing or frequent unauthorized absences from duty during regular office hours;

x x x

27. Conduct prejudicial to the best interest of the service;

[36] Sec. 35, Rule XVI of the Omnibus Rules Implementing E.O. 292.

[37] Paragraph 2.1 (b) of CSC Memorandum Circular No. 12, s. 1994.

[38] Audion Electric Co., Inc. vs. National Labor Relations Commission, 308 SCRA 340, 353 (1999).

[39] Rollo, p. 31.

[40] Id. at 32.

[41] Id. at 64.

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