EDUARDO P. CORSIGA, FORMER DEPUTY ADMINISTRATOR, NATIONAL IRRIGATION ADMINISTRATION, PETITIONER, VS. HON. QUIRICO G. DEFENSOR, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 36, ...

G.R. No. 139302. October 28, 2002

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Before us is a petition for review seeking the reversal of the decision[1]of the Court of Appeals dated June 30, 1999 in CA-G.R. SP No. 44123, dismissing the petition for review filed by petitioner. The petition assailed the orders dated January 8, 1996 and January 13, 1997 of the Regional Trial Court of Iloilo City, Branch 36, which respectively denied petitioner's motion to dismiss Civil Case No. 22462 and his motion for reconsideration.

The facts are undisputed.

Private respondent Romeo P. Ortizo was the Senior Engineer B in the National Irrigation Administration (NIA), Jalaur-Suague River Irrigation System, Region VI,[2] tasked with the duty of assisting the Irrigation Superintendent in the said station.[3] Sometime in June, 1995, petitioner Eduardo P. Corsiga, then Regional Irrigation Manager of the NIA, Region VI, issued Regional Office Memorandum (ROM) No. 52, reassigning private respondent to Aganan-Sta. Barbara River Irrigation System, likewise to assist the Irrigation Superintendent thereat.[4] Aggrieved, private respondent wrote petitioner Corsiga requesting exemption and citing Memorandum Circular No. 47, Series of 1987 issued by the NIA Administrator, which states that the policy of rotation applies only to Department Managers, Irrigation Superintendents, Provincial Engineers and Division Manager of Field Offices. Petitioner denied the request. On July 31, 1995, private respondent filed with the Regional Trial Court of Iloilo City a complaint for prohibition and injunction, with prayer for issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction.

Petitioner moved to dismiss the petition for lack of jurisdiction and non-exhaustion of administrative remedies, but the motion was denied on January 8, 1996. The Regional Trial Court likewise denied the motion for reconsideration on January 13, 1997. Alleging that these two orders were issued without jurisdiction, petitioner elevated the controversy to the Court of Appeals via a petition for certiorari.

On June 30, 1999, the appellate court rendered a decision[5] finding no merit in the petition and dismissing it. It affirmed the trial court's jurisdiction over Civil Case No. 22462 saying that the doctrine of exhaustion of administrative remedies does not apply where the controverted act is patently illegal, arbitrary, and oppressive. Regional Office Memorandum No. 52, according to the court, was illegal since it violated private respondent's constitutional right to security of tenure. Private respondent's original appointment as Senior Engineer B in the NIA Jalaur River Irrigation System, Region VI is a permanent one; thus, it entitled him to a security of tenure. He cannot, therefore, be reassigned to another position that involves a reduction in rank without his consent. Concluded the appellate court:

> WHEREFORE, IN VIEW OF THE FOREGOING, this petition for certiorari is DENIED DUE COURSE and is hereby DISMISSED. No pronouncement as to costs.[6]

Hence, this petition where petitioner avers that the Court of Appeals erred in not holding that:

> I
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> ... THE COURT A QUO [Regional Trial Court] HAS NO JURISDICTION OVER THE NATURE AND SUBJECT MATTER OF THE CASE PURSUANT TO SECTION 13, RULE VII OF THE OMNIBUS RULES IMPLEMENTING BOOK V OF EXECUTIVE ORDER NO. 292.
>
> II
>
> ... RESPONDENT HAS NO VALID CAUSE OF ACTION AGAINST PETITIONER FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES.[7]

The issues for our resolution are (a) whether the Regional Trial Court has jurisdiction over Civil Case No. 22462, and (b) whether private respondent has a cause of action despite his failure to exhaust administrative remedies.

On the first issue, petitioner avers that law and jurisprudence are clear and incontrovertible on the exclusive jurisdiction of the Civil Service Commission on all cases involving personnel actions including reassignment. Petitioner cites Section 13, Rule VII of the Omnibus Rules Implementing Book V[8] of E.O. 292. He stresses our ruling in Mantala vs. Salvador[9] that disciplinary cases and cases involving personnel actions affecting employees in the civil service — including appointment through certification, promotion, transfer, reinstatement, reemployment, detail, reassignment, demotion and separation, and employment status and qualification standards — are within the exclusive jurisdiction of the Civil Service Commission. Likewise cited is our holding in Dario vs. Mison[10] that no fundamental difference exists between the Commission on Elections and the Civil Service Commission (or the Commission on Audit, for that matter) as to the constitutional intent to leave the constitutional bodies alone in the enforcement of laws relative to elections, with respect to the former, and the civil service, with respect to the latter (or the audit of government accounts, with respect to the Commission on Audit). As the poll body is the "sole judge" of all election cases, so is the Civil Service Commission the single arbiter of all controversies pertaining to the civil service.

Petitioner also avers that private respondent's allegation that the remedy under the Civil Service Rule is neither speedy nor adequate as well as his allegation that he will inevitably and doubtlessly be subjected to administrative charges in case of non-compliance with the memorandum, is pure speculation and conjecture. Private respondent's fears of administrative charges do not, by mere allegation, ipso facto divest the Civil Service Commission of its exclusive jurisdiction on all controversies pertaining to civil service.

In his comment, private respondent maintains that as a civil service appointee to a position with a specification of a particular station, he cannot be validly and legally transferred or assigned to any other unit in the same agency without his consent. To do so is a violation of his constitutional right to security of tenure. For this reason, Regional Office Memorandum No. 52 reassigning him to a station different from that specified in his appointment papers was invalid. Yet, in spite of the patent illegality of the contemplated action, petitioner was adamant in implementing it. This, according to private respondent, left him with no other plain, speedy and adequate remedy but to go to court via a petition for prohibition and injunction, with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction.

We shall now resolve the issues raised in this petition.

(1) Does the Regional Trial Court have jurisdiction over Civil Case No. 22462?

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The Civil Service Commission has jurisdiction over all employees of Government branches, subdivisions, instrumentalities, and agencies, including government-owned or controlled corporations with original charters.[11] As such, it is the sole arbiter of controversies relating to the civil service.[12] The National Irrigation Administration, created under Presidential Decree No. 1702, is a government-owned and controlled corporation with original charter. Thus, being an employee of the NIA, private respondent is covered by the Civil Service Commission.

Section 13 Rule VII of the Rules Implementing Book V of Executive Order No. 292 (the Adm. Code of 1987) provides how appeal can be taken from a decision of a department or agency head. It states that such decision shall be brought to the Merit System Protection Board (now the CSC En Banc per CSC Resolution No. 93-2387 dated June 29, 1993). It is the intent of the Civil Service Law, in requiring the establishment of a grievance procedure in Rule XII, Section 6 of the same rules, that decisions of lower level officials be appealed to the agency head,[13] then to the Civil Service Commission.[14] Decisions of the Civil Service Commission, in turn, may be elevated to the Court of Appeals. Under this set up, the trial court does not have jurisdiction over personnel actions and, thus, committed an error in taking jurisdiction over Civil Case No. 22462. The trial court should have dismissed the case on motion of petitioner and let private respondent question ROM No. 52 before the NIA Administrator, and then the Civil Service Commission. As held in Mantala vs. Salvador,[15] cases involving personnel actions, reassignment included, affecting civil service employees, are within the exclusive jurisdiction of the Civil Service Commission.

(2) Does private respondent have a cause of action[16] although his complaint was filed in the trial court without first exhausting all available administrative remedies?

Being an NIA employee covered by the Civil Service Law, in our view, private respondent should have first complained to the NIA Administrator, and if necessary, then appeal to the Civil Service Commission.[17] As ruled in Abe-Abe vs. Manta, 90 SCRA 524 (1979), if a litigant goes to court without first pursuing his administrative remedies, his action is premature, and he has no cause of action to ventilate in court. Hence, petitioner asserts that private respondent's case is not ripe for judicial determination.

Private respondent contends, however, that the principle of exhaustion of administrative remedies is not an absolute rule. It has exceptions, namely, (1) where the issue involved is one of law and cannot be resolved administratively, (2) where the controverted act is patently illegal, arbitrary, and oppressive, (3) where irreparable injury exists, (4) where there is no plain, speedy, and adequate remedy, (5) or where urgent circumstances require judicial intervention. According to private respondent, the circumstances of the case required him to urgently act on his reassignment since he might be administratively charged if he resisted petitioner's order, yet, at the same time he could be in estopped to question the order had he yielded to it without protest.

According to private respondent, petitioner was guilty of bad faith; his real objective was to assign someone close to him to replace private respondent. Petitioner's action was capricious, whimsical, arbitrary, and discriminatory, said private respondent since he was the only one, from among the officials or employees of the same rank, who was reassigned. This discrimination constituted a grave and patent abuse of discretion amounting to lack of jurisdiction, against which private respondent said he had no plain, speedy and adequate remedy in law except to institute an action before the regional trial court.

However, private respondent failed to reckon with the fact that the issue in Civil Case No. 22462 was not purely a question of law. Certain facts needed to be resolved first. Did private respondent's reassignment involve a reduction in rank? Private respondent claimed his transfer to a new station violated the rule on reassignment for he was allegedly transferred to a lower position.[18] But petitioner had refuted this contention, adding that his order

reassigning private respondent was a lawful exercise of management prerogatives.[19] Also, was private respondent the only one, among the employees of his rank, who was reassigned? Private respondent alleged he was singled out, but he did not present any evidence to prove it. Moreover, there is no convincing evidence of grave abuse of discretion on petitioner's part. Private respondent speculated that petitioner's real intent in reassigning him was to create a vacancy in his position so that petitioner could appoint someone close to him. This is a mere allegation which private respondent failed to substantiate. Official functions are presumed to be regular unless proven otherwise.[20]

Lastly, private respondent claimed urgency in that he had no other recourse but to go to court, or he would be charged administratively. However, under Omnibus Rules Implementing the Civil Service Law, a recourse is available to him by way of appeal which could be brought to the agency head, with further recourse, if needed, to the Civil Service Commission. Worth noting, the possibility of an administrative charge was only speculative on the part of private respondent, who could avail of administrative remedies already cited.

In sum, Civil Case No. 22462 is not an exception to the general rule on exhaustion of administrative remedies. The Court of Appeals, in our view, committed reversible error in finding that the trial court did not err nor gravely abused its discretion for taking jurisdiction over Civil Case No. 22462.

WHEREFORE, the petition is GRANTED, and the decision of the Court of Appeals in CA-G.R. SP No. 44123 is REVERSED. The orders dated January 8, 1996 and January 13, 1997 of the Regional Trial Court of Iloilo City, Branch 36, denying petitioner's motion to dismiss and the motion for reconsideration, respectively, are ANNULLED and SET ASIDE. Civil Case No. 22462 ought to be and is hereby ordered DISMISSED. Costs against private respondent.

SO ORDERED.

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

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[1] Rollo, pp. 35-40.

[2] CA Rollo, p. 18.

[3] Id. at 21.3.

[4]

To: All Division Chiefs

Chiefs of Field Offices and

All Others Concerned

This Region

In view of the approval of rotation of NIA Region VI Officials as authorized under MC No. 47, Series of 1987, per communications dated January 27, 1995, March 1, 1995, May 6, 1995 and May 23, 1995; and the creation of a Regional Manager's Staff to further enhance the operational capability of NIA, Reg. VI, You are hereby informed

of the changes of assignment of the following NIA Officials effective August 1, 1995.

1. x x x x x x x x x

2. x x x x x x x x x

3. x x x x x x x x x

4. x x x x x x x x x

5. x x x x x x x x x

6. Romeo Ortizo — to assist the Irrigation Superintendent of Aganan Sta. Barbara River Irrigation System. (Rollo, pp. 36-37)

[5] Rollo, pp. 35-40.

[6] Id. at 40.

[7] Id. at 23-24.

[8] Sec. 13. Appeals in connection with personnel actions shall be governed by the following:

> (a) A decision, ruling, order or action of any department or agency, ...; may be appealed within fifteen (15) days from receipt of such decision, ruling, order and in the following manner:
>
> (1) x x x x x x x x x
> (2) x x x x x x x x x
> (3) Decision of department/agency is appealable to MSPB. (Now to the Commission En Banc effective 1 July 1993 per CSC Resolution No. 93-2387 dated 29 June 1993.)

[9] 206 SCRA 264, 267 (1992).

[10] 176 SCRA 84, 111-112 (1989).

[11] Article IX-B, Section 2 (1), 1987 Constitution; Title I, Subtitle A, Chapter 2, Section 6 (1) of Book V of Executive Order No. 292.

[12] Rimonte vs. Civil Service Commission, 244 SCRA 498, 502 (1995).

[13] Sec. 6. The grievance procedure to be established by both management/employer and employees/ Recognized Negotiating Unit shall include the following:

> (a) Oral discussion. A complaint shall be presented orally in the first instance to the employee's immediate supervisor who shall within three (3) days from the date of presentation inform the employee orally of his decision.
>
> (b) Grievance in writing. If the employee is not satisfied with the decision of the immediate supervisor he may submit his grievance in writing through his immediate supervisor, to the next higher officer or official who shall within five days from the date of receipt of the written grievance inform in writing the employee through the immediate supervisor of his decision.
>
> (c) Appeal to the agency head. If the employee is not satisfied with prior decisions relative to his grievance, he may submit, through channels, his grievance in writing to his department or agency head, who may refer it to a grievance committee constituted for the purpose.

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> Any party dissatisfied with the decision/resolution of his case after undergoing the grievance procedure may bring the same on appeal to the Merit Systems Protection Board or Public Sector Labor Management Council through the Office for Personnel Relations, as the case may be.

[14] Par. 1 of CSC Resolution No. 93-2387: Decisions in administrative cases involving officials and employees of the civil service appealable to the Commission pursuant to Sec. 47 of Book V of the Code including personnel actions such as contested appointments shall now be appealed directly to the Commission and not to the MSPB.

[15] Supra note 9.

[16] Rule 16, Section 1, Rules of Court: Motion to Dismiss, Grounds. — Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds: x x x g) That the pleading asserting the claim states no cause of action.

[17] Section 13, Rule VII of the Omnibus Rules Implementing Book V of Executive Order No. 292, as amended by CSC Resolution No. 93-2387 dated June 29, 1993.

[18] Section 26 (7), Chapter 5, Book V of Executive Order No. 292: Reassignment — An employee may be reassigned from one organizational unit to another in the same agency: Provided, That such reassignment shall not involve a reduction in rank, status or salary.

[19] Rollo, p. 115.

[20] Rule 131 Section 3, Rules of Court: Disputable presumptions.—The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence: x x x (m) That official duty has been regularly performed.

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