PHILIPPINE RETIREMENT AUTHORITY, PETITIONER, VS. THELMA RUPA, RESPONDENT.

G.R. No. 140519. August 21, 2001

Ponente: PUNO, J.

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PUNO, J.:

Petitioner PHILIPPINE RETIREMENT AUTHORITY (PRA) is a government-owned and controlled corporation under the Office of the President. It was created to oversee an unconventional program designed to meet the tight foreign exchange situation in the country. Its objective is to promote and develop the Philippines as a retirement destination for foreign nationals and former Filipino citizens. To become a PRA member, a retiree must maintain a minimum U.S. dollar time deposit account with a PRA-accredited bank. The PRA then converts this account into active investment. In return, the foreign retiree is extended benefits and incentives, such as grants of certain tax exemptions, resident status, balikbayan privileges, etc. The qualified retiree is also given a multiple entry Special Resident Retiree's Visa (SRRV). Should he decide to withdraw his dollar account, he shall surrender his passport to the PRA for cancellation of the SRRV by the Commission on Immigration and Deportation (CID). The PRA shall then issue the retiree's withdrawal clearance to the bank where he has a deposit. Only then shall the bank concerned return the dollar deposit to the retiree.

The case at bar stems from a complaint filed with the Civil Service Commission (CSC) by ATTY. VERNETTE UMALI-PACO, Chief Executive Officer and General Manager of petitioner PRA against her subordinate, respondent THELMA RUPA, PRA Human Resource Management Officer III, for four (4) offenses: Insubordination, Gross Misconduct, Conduct Prejudicial to the Service and Neglect of Duty.

Respondent's alleged misdemeanors started in January 1991. Respondent was then with the PRA Administrative Servicing Group under complainant Atty. Paco. She was tasked to convert retirees' deposits into investments. From March-May, 1991, she also processed and evaluated requests of retirees to withdraw their deposits and has issued clearances for the purpose.

On April 30, 1991, respondent allegedly refused to prepare the withdrawal clearances of two (2) Indian retirees, Mrs. Mirani and Chatlani, when requested by Mr. Edwinador Racho, Retiree Assistance Office II. Days later, when Mr. Racho made a follow-up of the clearances, the respondent allegedly replied: "Hee, marami pa akong pre-noprocess." Mr. Racho was constrained to refer the matter to CEO and General Manager Atty. Paco who issued a Memorandum directing the respondent to render overtime service to finish processing the clearances. It was only then that respondent completed the requested task.

The second incident occurred in October, 1991. Under the program, a PRA retiree is granted a Special Resident Retiree Visa (SRRV) which is attached to his passport. Before a retiree can terminate his membership and claim his deposit, he must first surrender his SRRV to the PRA which shall then forward his passport to the CID for cancellation. Only then shall the PRA issue the retiree's withdrawal clearance to the bank allowing the retiree to withdraw his deposits. In October, 1991, the respondent released the withdrawal clearance directly to retiree Jess

Roberts although his visa has not yet been cancelled.

Subsequently, the respondent's office table became the object of discord. On August 27, 1993, Atty. Paco noticed that the respondent was using three (3) tables and one (1) computer table. To save space and reduce their office space rentals, she ordered the respondent to choose only one side table. Instead of complying, the respondent allegedly defied the order and scribbled her comment on the written directive, thus: "Give me one good reason why I should do so."

The office quarrels continued to rage. On November 12, 1993, Mr. Roberto Navera, a PRA employee, requested the respondent to process the papers of retirees Mr. and Mrs. Berthram Pereira who wanted to withdraw their money and terminate their PRA membership. Respondent allegedly refused and remarked: "Hindi pwede sa akin ang rush no! At least 3 to 5 days ang processing niyan upon receipt."

The hostilities culminated on June 1, 1994 when Atty. Paco issued Office Order No. 045 reassigning the respondent to the Marketing Group allegedly due to exigency of the service.[1] The respondent defied the Order and scribbled her comment thereon: "If it is in the exigency of the service as you try to make it appear, modesty aside and you know it too well, I am better qualified to perform more responsible functions other than those you want me to do."

On September 20, 1995, after a fact-finding investigation of the complaint, the CSC found a prima facie case against the respondent. It issued CSC Resolution No. 955897[2] formally charging respondent with three (3) offenses, viz: Insubordination, Conduct Prejudicial to the Best Interest of the Service, and Neglect of Duty.

The formal charge reads:

> "On May 7, 1991, Rupa was requested under the PRA Standard Operating Procedure (SOP) by Mr. Edwinador Racho, a bonafide PRA employee, to process the withdrawal clearance of two (2) Indian nationals namely Mesdames Kamlabai Mirani and Ishwari Chatlani who were intending to withdraw their memberships from the PRA program, so that they may withdraw their dollar deposits from the bank. Rupa, in willful violation of her duty refused to process the withdrawal clearance of the two (2) Indian National despite repeated requests;
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> "Rupa, in violation of PRA policy, knowingly released the Withdrawal Clearance of Mr. Jess Carl Roberts, a PRA retiree-member when he expressed his desire to withdraw his deposit from the PRA Program, despite the non-cancellation of his Special Resident Retiree Visa (SRRV);
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> "Rupa, in utter defiance of Office Order No. 052, refused to process the papers of Mr. and Mrs. Bertram U. Pereira, when they signified their intention to withdraw their membership from the PRA program, on the pretense that she did not entertain `rush' assignments;
>
> "On August 27, 1993, Rupa defied the request/order of the PRA Chief Executive Officer and General Manager Paco to choose only one (1) side table for her own use for space-saving purposes;
>
> "Rupa defied Office Order No. 103, amending Office Order No. 101, both dated November 22, 1993, which necessitated her transfer from the 3[rd] floor to the 2[nd] floor of the PRA office building."

Of particular relevance to the case at bar is the first charge. In her answer, the respondent denied all the charges against her. On the first charge, she alleged that she refused to process the withdrawal clearance of the two (2) Indian nationals as this was not part of her job description. As early as February 25, 1991, Atty. Paco reassigned her to another department merely to answer written queries of retirees. The respondent protested as she was reduced to a mere typist preparing pro forma letters. In response to her protest, Atty. Paco issued the May 29, 1991 Memorandum where she included in respondent's duties the task of converting the retirees' deposits into investments. Respondent stressed that she processed the requested clearances pursuant to the Memorandum issued

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to her by Atty. Paco to render overtime service for said purpose. She did the job without collecting overtime payment.

The respondent claimed that the administrative complaint against her was the climax in the series of oppression and maltreatment she suffered in the hands of Atty. Paco. She added that the case was filed against her in retaliation for the Ombudsman case she brought against Atty. Paco.

The CSC found respondent guilty of the grave offense of Conduct Grossly Prejudicial to the Best Interest of the Service solely for neglecting to promptly process the requests of the two (2) Indian retirees. She was meted the penalty of one (1) year suspension without pay. The CSC absolved the respondent from the other charges.[3]

The respondent moved for reconsideration. She contended that her neglect in the performance of her duties was not grossly prejudicial to the best interest of the service. In the alternative, she argued that her suspension from service for one year without pay is excessive and harsh. Thus, she prayed that her suspension be reduced to one month.

The CSC denied her motion. It upheld the penalty meted out to her, i.e., one year suspension without pay, as it is in accordance with the Schedule of Penalties provided under Section 22 (t) of the Omnibus Rules Implementing Book V of the Administrative Code of 1987.[4]

The respondent appealed to the Court of Appeals. On July 19, 1999, the Court of Appeals modified the appealed CSC Resolution. It found the respondent guilty of the less grave offense of simple neglect of duty and imposed on her the lesser penalty of three (3) months suspension without pay.[5]

Hence this petition for review, with the petitioner PRA assigning the following errors:

> I
>
> THE HONORABLE COURT OF APPEALS ERRED IN MODIFYING THE CSC DECISION FINDING RESPONDENT GUILTY OF CONDUCT PREJUDICIAL TO THE INTEREST OF THE SERVICE.
>
> II
>
> THE HONORABLE COURT OF APPEALS ERRED IN MODIFYING THE PENALTY IMPOSED BY THE CIVIL SERVICE COMMISSION.

We find the petition devoid of merit.

On the first issue, we find that the Court of Appeals had sufficient basis to modify the offense committed by the respondent from the grave offense of Conduct Prejudicial to the Best Interest of the Service to the less grave offense of Simple Neglect of Duty. A careful examination of the records reveals that there is no cogent reason to reverse this finding.

Neglect of duty is the failure of an employee to give one's attention to a task expected of him and is censurable under the Civil Service Rules. The facts show that the respondent failed to immediately act on the papers of the Indian nationals. The processing of clearance was a clerical job as it merely involves filling up a form that does not require an in-depth analysis or evaluation to accomplish. Under the circumstances, the respondent's delay was unreasonable. The respondent cannot seek refuge in her excuse that the processing of the withdrawal clearance was not included in her job description. The record bears that she has been performing this function as early as March, 1991, two (2) months before she declined to issue the clearance of the Indian retirees. Given the circumstances in the case at bar, we find just cause for disciplinary action against the respondent for her delay in the processing of the clearance.

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We now come to the classification of the offense committed by the respondent. The CSC found that the respondent's act constitutes the grave offense of Conduct Prejudicial to the Best Interest of the Service, while the Court of Appeals held it to be only a case of Simple Neglect of Duty, a less grave offense under the Civil Service Rules.

Under the Civil Service law and rules, there is no concrete description of what specific acts constitute the grave offense of Conduct Prejudicial to the Best Interest of the Service. Jurisprudence, however, is instructive on this point. The Court has considered the following acts or omissions, inter alia, as Conduct Prejudicial to the Best Interest of the Service: misappropriation of public funds, abandonment of office, failure to report back to work without prior notice,[6] failure to safe keep public records and property,[7] making false entries in public documents and falsification of court orders.[8]

Gross Neglect of Duty, on the other hand, denotes a flagrant and culpable refusal or unwillingness of a person to perform a duty.[9] The Court has categorized the following as constitutive of the grave offense of Gross Neglect of Duty: negligence in the prosecution of cases and malicious delay in the administration of justice by a police officer,[10] act of provincial warden in retaining a prisoner in his custody without authority and just cause instead of sending him to the Muntinlupa penitentiary,[11] failure to transcribe stenographic notes of 18 cases which dated as far back as 1972,[12] failure of a judge to decide a case within a period fixed by law,[13] and exerting undue influence by a deputy clerk of court on a judge in the disposition of cases pending before the court.[14]

Simple Neglect of Duty, however, signifies a disregard of a duty resulting from carelessness or indifference.[15] The Court has decided the following, inter alia, as constituting the less grave offense of Simple Neglect of Duty: delay in the transmittal of court records,[16] delay in responding to written queries, and delay of more than one (1) year and seven (7) months in furnishing a party with a copy of the court's decision.[17] As can be gleaned from the foregoing cases, mere delay in the performance of one's function has been consistently considered as a less grave offense of simple neglect of duty, punishable by suspension without pay for one (1) month and one (1) day to six (6) months.[18]

Following the foregoing jurisprudence, we find that the respondent was properly adjudged guilty only of Simple Neglect of Duty. The respondent's offense is not of the same gravity or odiousness as in the aforecited cases as would amount to Conduct Prejudicial to the Best Interest of the Service or Gross Neglect of Duty. Respondent's delay in processing the withdrawal clearance of the Indian retirees took only thirteen (13) days. Indeed, the respondent complied with the Memorandum requiring her to render overtime work to finish the subject clearance on the very same day she received the written order and she did it without claiming overtime pay as authorized in said Memorandum. We reiterate that of the five (5) charges against the respondent, she was found guilty of only one - delay in the processing of papers. It does not appear that she had any previous conviction prior to the administrative case at bar.

In light of the over-all backdrop of the case, we hold that the Court of Appeals did not commit grave abuse of discretion in finding the respondent guilty of Simple Neglect of Duty and imposing on her the penalty of three (3) months suspension without pay.

IN VIEW WHEREOF, the assailed Decision of the Court of Appeals, dated July 19, 1999, and its Resolution, dated October 21, 1999, are AFFIRMED in toto.

SO ORDERED.

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

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[1] Rollo, p. 100. In said Office Order, the respondent was assigned the following clerical duties: collate marketing materials, monitor inventory level of collated materials, stamp additional information on PRA application forms, arrange marketing files in the stock room.

[2] Rollo, pp. 49-50.

[3] CSC Resolution No. 980445, dated March 3, 1998; Rollo, pp. 51-63.

[4] CSC Resolution No. 981943, dated July 20, 1988; Rollo, pp. 64-66.

[5] Court of Appeals, Special Ninth Division; Penned by Associate Justice Renato C. Dacudao and concurred in by Associate Justices Salvador J. Valdez, Jr. and Andres B. Reyes, Jr.; Rollo, pp. 34-45.

[6] In re Report of the Financial Audit Conducted on the Accounts of Zenaida Garcia, A.M. No. 97-1-03, 303 SCRA 142 (1999).

[7] Unknown Municipal Councilor of Sto. Domingo, Nueva Ecija vs. Alomia, Jr., A.M. No. P-91-660, 212 SCRA 330 (1992).

[8] Ponferrada vs. Relator, A.M. No. P-87-119, 181 SCRA 698 (1990).

[9] Black's Law Dictionary, 4[th] edition, pp. 832 and 1184.

[10] Martinez vs. Municipal Mayor of Labason, 103 Phil. 634 (1958).

[11] People vs. Tan, 19 SCRA 433 (1967).

[12] Ceniza-Guevarra vs. Magbanua, A.M. No. P-94-1107, 304 SCRA 113 (1999).

[13] Saylo vs. Judge Rojo, A.M. No. MTJ-99-1225 April 12, 2000.

[14] Zari vs. Flores, 94 SCRA 317 (1979).

[15] Merriam Webster's Dictionary of Law, 1996 edition, at p. 324.

[16] Garcia vs. Catbagan, A.M. No. P-1343, 101 SCRA 804 (1980).

[17] Mangulabnan vs. Tecson, A.M. No. 2112-CFI, 101 SCRA 810 (1980).

[18] Ayo vs. Violago-Isnani, 308 SCRA 543 (1999).

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