

MENELIETO A. OLANDA, PETITIONER, VS. LEONARDO G. BUGAYONG, PHILIPPINE MERCHANT MARINE ACADEMY, MICHAEL DUMANGENG, PMMA BOARD OF INVESTIGATION, ALFREDO JOSON, LAURO DEL ROSARIO, ...

G.R. No. 140917. October 10, 2003

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

The present petition for review under Rule 45 of the Rules of Court assails the June 8, 1999[1] and November 12, 1999[2] orders of the Regional Trial Court (RTC) of Iba, Zambales, Branch 70, in Sp. Civil Action No. RTC-28-I, a petition[3] for quo warranto, mandamus, and prohibition with a prayer for the issuance of a writ of preliminary injunction and damages.

The antecedents of the case are as follows:

On March 17, 1998, twelve officers and employees of the Philippine Merchant Marine Academy (PMMA) including petitioner, then Dean of the College of Marine Engineering and former PMMA Complex Project Officer, filed a verified complaint with the Office of the Ombudsman against respondent Leonardo G. Bugayong (Bugayong), President of the PMMA, charging him with violation of Section 3 (g) of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, for entering into a grossly disadvantageous contract with the Philippine National Construction Corporation (PNCC) on behalf of PMMA.

On March 22, 1998, petitioner was interviewed live on DZRH by radio anchorman Fernan Enverga regarding the above-said complaint, prompting respondent Bugayong to require petitioner, by Memorandum[4] of March 25, 1998, to explain under oath within 72 hours why no disciplinary action should be taken against him for misusing classified information.

In the meantime, respondent Pedro S. Dulay, Jr. (Dulay), chief security officer of the PMMA, by a March 26, 1998 letter[5] addressed to respondent Bugayong, stated that he heard the radio interview of petitioner and that in discussing publicly without any clearance from respondent Bugayong the Memorandum of Agreement between PMMA and PNCC, petitioner violated the PMMA Faculty Handbook and other civil service rules. Respondent Dulay accordingly requested that a board of investigators be created to look into the matter.

By special order[6] of March 27, 1998, respondent Bugayong relieved petitioner as Dean of the College of Marine Engineering and designated him as acting executive assistant in the Graduate School Program at Pamantasan ng Makati. The order at the same time directed petitioner to turn over all documents, properties and records related to his duties as Dean to respondent Engr. Michael Dumangeng who was appointed by respondent Bugayong as Acting Dean. On even date, petitioner returned respondent Bugayong's March 25, 1998 Memorandum, arguing that it was not properly addressed to him, his middle initial being incorrect.[7]

Respondent Bugayong thus sent a Memorandum[8] of March 27, 1998 to petitioner similar to that of March 25,

1998, this time putting the correct middle initial of petitioner.

Responding to respondent Bugayong's March 27, 1998 Memorandum, petitioner argued that his radio interview did not warrant disciplinary action as the complaint with the Office of the Ombudsman was a public document and involved public interest and he was merely exercising his constitutionally guaranteed freedom of expression.[9]

By an April 1, 1998 Memorandum, respondent Bugayong found petitioner's explanation unsatisfactory and not under oath as required by his Memorandum of March 27, 1998.[10] He thus created a board,[11] by Special Order[12] of April 6, 1998, to investigate the allegations of respondent Dulay in his March 26, 1998 letter.

Sustaining the findings of the board, respondent Bugayong, by decision[13] of August 21, 1998, suspended petitioner for three months for violation of the PMMA Faculty Handbook and the civil service rules.

Petitioner thereupon filed before the RTC of Iba, Zambales on October 27, 1998 a petition against herein respondents for quo warranto, mandamus, and prohibition with prayer for the issuance of a writ of preliminary injunction and damages, claiming that there was no valid cause to deprive him of his position as Dean and that respondent Dumangeng was usurping his position.

Branch 70 of the RTC of Iba, Zambales, by Order of June 8, 1999, dismissed petitioner's petition, on motion of respondents, in this wise, quoted verbatim:[14]

After considering both motions, the Court finds the grounds relied upon by the respondents, especially that the plaintiff has not exhausted all administrative remedies, the complaint not having alleged the fact of such exhaustion, the same may be dismissed for lack of cause of action. (Underscoring supplied)

Petitioner's motion for reconsideration[15] of the June 8, 1999 order of the trial court having been denied, the present petition was filed, petitioner assigning to the trial court the following errors:[16]

- THE HONORABLE TRIAL COURT COMMITTED GRAVE AND MANIFEST ERROR IN DISMISSING THE PETITION ON THE GROUND OF PETITIONER'S ALLEGED FAILURE TO EXHAUST ALL HIS ADMINISTRATIVE REMEDIES.
- THE HONORABLE TRIAL COURT COMMITTED A PATENT AND GRIEVOUS ERROR WHEN IT DISMISSED THE PETITION DESPITE THE FILING BY OTHER RESPONDENTS OF THEIR RESPECTIVE ANSWERS.

As a rule, this Court reviews only the specific issues or errors raised by the parties. However, even if not raised, an error in jurisdiction may be taken up.[17]

The PMMA was created pursuant to Republic Act No. 3680, "AN ACT CONVERTING THE PRESENT PHILIPPINE NAUTICAL SCHOOL INTO THE PHILIPPINE MERCHANT MARINE ACADEMY, CONFERRING THE DEGREES OF BACHELOR OF SCIENCE IN MARINE TRANSPORTATION, MAJOR IN NAVIGATION AND SEAMANSHIP, AND BACHELOR OF SCIENCE IN MARINE TRANSPORTATION, MAJOR IN STEAM ENGINE AND ELECTRICAL

ENGINEERING, PROVIDING FOR A MERCHANT MARINE ACADEMY BOARD, DEFINING THE BOARD'S RESPONSIBILITIES AND DUTIES, AND FOR OTHER PURPOSES" as amended. It is a government institution,[18] hence, falling under the jurisdiction of the Civil Service Commission:[19]

The test to determine whether a corporation is government-owned or controlled, or private in nature is simple. Is it created by its own charter for the exercise of a public function, or by incorporation under the general corporation law? Those with special charters are government corporations subject to its provisions, and its

employees are under the jurisdiction of the Civil Service Commission, and are compulsory members of the Government Service Insurance System. (Emphasis and underscoring supplied)

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" are within the exclusive jurisdiction of Civil Service Commission[20] which is the sole arbiter of controversies relating to the civil service.

In *Corsiga v. Defensor*,[21] this Court held:

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. As such, it is the sole arbiter of controversies relating to the civil service. 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, then to the Civil Service Commission. 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 RMO No. 52 before the NIA Administrator, and then the Civil Service Commission. As held in *Mantala vs. Salvador*, cases involving personnel actions, reassignment included, affecting civil service employees, are within the exclusive jurisdiction of the Civil Service Commission.

(Emphasis supplied and citations omitted)

It was thus error for the trial court, which does not have jurisdiction, to, in the first, place take cognizance of the petition of petitioner assailing his relief as Dean and his designation to another position. This leaves it unnecessary to dwell on the issues herein raised by petitioner.

WHEREFORE, the petition is, upon the ground of lack of jurisdiction of the trial court, hereby DENIED.

SO ORDERED.

Puno, (Chairman), Panganiban, and Sandoval-Gutierrez, JJ., concur.
Corona, J., on leave.

[1] Records at 152.

[2] Id. at 179-183.

[3] Id. at 1-25.

[4] Id. at 14.

[5] Id. at 15.

[6] Id. at 16.

[7] Id. at 17.

[8] Id. at 18.

[9] Id. at 19.

[10] Id. at 20.

[11] The following were members of the board: Mr. Alfredo M. Joson (Chairman), Capt. Lauro del Rosario (Member), Cdr. Aurora Borromeo (Member), Ltsg. Emmanuel B. Santos (Member), Engr. Marlowe Reyes (Member), Mrs. Normelita G. Yaneza (Secretary) and Atty. Tomas Aquino (Legal Consultant).

[12] Id. at 21.

[13] Id. at 23-25.

[14] Id. at 152.

[15] Id. at 153-161.

[16] Rollo at 21.

[17] *Monsanto v. Zerna*, 371 SCRA 664, 677 (2001); *Limpangog v. Court of Appeals*, 319 SCRA 341, 345 (2001); *Zarate v. Commission on Elections*, 318 SCRA 608, 612 (1999); *Namuhe v. Ombudsman*, 298 SCRA 298, 303 (1998).

[18] *Philippine Merchant Marine Academy v. Court of Appeals*, 69 SCRA 493, 495 (1976).

[19] *Camporedondo v. National Labor Relations Commission*, 312 SCRA 47, 50 (1999).

[20] *Mantala v. Salvador*, 206 SCRA 264, 267 (1992). Vide *Mateo v. Court of Appeals*, 247 SCRA 284 (1995).

[21] G.R. No. 139302, October 28, 2002.

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