OFELIA D. ARTUZ, PETITIONER, VS. COURT OF APPEALS, CIVIL SERVICE COMMISSION AND RENE A. BORNALES, RESPONDENTS.

G.R. No. 142444. September 13, 2001

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This resolves the 11 August 2000 Motion for Reconsideration of the 4 July 2000 Resolution of the Court finding no grave abuse of discretion on the part of public respondent Court of Appeals and dismissing the petition of Ofelia D. Artuz.

On 11 December 1991 private respondent Rene A. Bornales, Legal Aide, Regional Health Office No. VI (RHO VI), filed before the Office of Legal Affairs, Department of Health (DOH), a Letter-Complaint against petitioner Ofelia D. Artuz, then Legal Officer IV, RHO VI, DOH, for Estafa or Swindling through Falsification of Public Documents and/or Falsification of Public Documents.[1]

Before RHO VI of DOH could act on the Letter-Complaint, and in view perhaps of the delay, private respondent Bornales went to the Merit System Protection Board (MSPB) of the Civil Service Commission (CSC). On 10 November 1992 MSPB took cognizance of the Letter-Complaint and directed Regional Office No. VI. (RO VI) of CSC to conduct the necessary investigation, and to submit its report and recommendation. Thereafter, on 28 May 1993 the MSPB formally charged petitioner with Dishonesty and Falsification of Public Documents and directed her to file her answer within five (5) days from receipt thereof. Petitioner as respondent therein was advised accordingly of her right to formal investigation and to assistance of counsel.

In her answer dated 20 July 1993 petitioner Artuz vehemently denied the charges against her, contending that they were "malicious, fabricated and pure harassment." She maintained that the charges had no factual and legal basis as she had regularly reported to office and performed her duties as Legal Officer IV during the period in question, as shown by her Daily Time Records (DTRs) for July and August 1991, which were duly verified by the Personnel Section and finally approved by the Director of RHO VI. Moreover, she asserted that her Punch Cards for those months would tally with her DTRs and further confirm the regularity of her office attendance. According to her, their office was implementing the Bundy clock system, and there was no office memorandum or circular requiring the use of the Logbook.

Petitioner attributed the filing of the Letter-Complaint against her by private respondent Bornales to vengeance as she had, as Legal Officer IV of RHO VI, previously filed a case against him for Gross Dishonesty, Grave Misconduct, Insubordination and Conduct Prejudicial to the Best Interest of the Service. Furthermore, she claimed that private respondent Bornales had no personal interest in the subject matter of the grievance; that the filing of the Letter-Complaint was premature and arbitrary for lack of prior notice, opportunity to be heard, and no investigation was conducted before the MSPB of the CSC assumed jurisdiction. Finally, petitioner invoked "forum shopping" in view of the pendency of the case before the Office of Legal Affairs of DOH.[2]

On 24 August 1993 the CSC issued Resolution No. 93-3285 directing CSC RO VI or its duly authorized

representative to conduct a formal investigation and submit a report and recommendation on the matter, ratiocinating that "no fair and just decision can be made without the conduct of a formal investigation."[3] Thereafter, CSC RO VI reported -

> Summing up the evidence from both sides, the prosecution proves by substantial evidence the fact that Artuz committed dishonesty and falsification when she claimed, by falsifying the entries in her daily time records, to have incurred no absences for July and August 1991 x x x Needless to say, the logbook is the best evidence to prove the attendance of any employee x x x x[4]

Meanwhile, on 9 December 1996 petitioner Ofelia D. Artuz was appointed Assistant City Prosecutor of the City of Iloilo.

On 15 July 1998 petitioner received copy of CSC Resolution No. 981650 dated 26 June 1998 finding her guilty of dishonesty and falsification of public documents and imposed upon her the penalty of dismissal from the service including all its accessory penalties.[5] According to the CSC -

> x x x substantial evidence establishes the fact that respondent falsified entries in her DTRs for the months of July and August 1991 to enable her to claim her salaries in full. It is, therefore, clear that she benefited from said deliberate acts of falsification. "In falsification or forgery, the person or persons who are or were in possession of, or made use of, or benefited from the forged or falsified documents are legally presumed to be forgers."[6]

Petitioner's Motion for Reconsideration dated 30 July 1998 was denied for lack of merit in CSC Resolution No. 982942 dated 12 November 1998.[7]

On 29 December 1998 petitioner went to the Court of Appeals which on 29 September 1999 affirmed the Resolution of the CSC and dismissed her petition. The appellate court relied so much on the Logbook, calling it "the best evidence to prove the attendance of any employee" as against the DTRs and used the rationale of the CSC that it is in the Logbook that "the employee personally signs his/her name every time he/she reports for work or goes out after office hours. The Logbook is personally prepared by the employee himself or herself. This much credibility cannot be said of the daily time record since it is not too uncommon for us to hear employees asking their co-employees to punch for them their punch card at the Bundy clock."[8]

The appellate court also enumerated the accessory penalties to dismissal from the service which were meted petitioner Artuz: (a) cancellation of eligibility; (b) forfeiture of leave credits and retirement benefits; and, (c) disqualification from re-employment in government service.[9] Petitioner Artuz' Motion for Reconsideration dated 25 October 1999[10] and her Addendum to Motion for Reconsideration dated 15 November 1999[11]were denied in a Resolution of the Court of Appeals dated 28 February 2000.

On 19 April 2000 petitioner Artuz filed a petition for review on certiorari before this Court. On 4 July 2000 we dismissed the petition after finding no grave abuse of discretion on the part of the Court of Appeals. Hence, this Motion for Reconsideration.

We find petitioner's Motion for Reconsideration highly meritorious. Reduction of the penalty imposed on her is not enough; the petition must be granted and the case against her dismissed.

First. Artuz filed a petition for review on certiorari under Rule 45 and not a petition for certiorari under Rule 65 of the Rules of Court. Curiously, we dismissed the petition on the ground of no grave abuse of discretion on the part of the Court of Appeals. Clearly, without going into the merits of the case, the basis for the dismissal was not proper.

Second. The reliability and trustworthiness of the Logbook were the principal and only bases for finding

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petitioner guilty of falsification of public documents. Thus, it is important to determine the probative value of the Logbook vis-à-vis the DTRs and the Punch Cards.

As may be gleaned from the Resolution of the CSC and the Decision of the Court of Appeals, "the logbook is the best evidence to prove attendance of any employee." We do not agree.

One. The CSC and the CA proceeded in disposing of this case on a wrong premise. Both assumed that the Logbook alone would be the best evidence of an employee's attendance in his office. This assumption is erroneous and baseless. Ordinarily, the Logbook is used as a mere locator for those employees who now and then are required to render service or sent on official business outside the office premises, or to record events or unusual happenings in the office, unless otherwise specified or required in an office memorandum or circular. Just to illustrate the fallacy of this assumption and the unreliability of the Logbook as piece of evidence: RHO VI sits in Iloilo City. It comprises the Provinces of Aklan, Antique, Capiz, Guimaras, Negros Occidental and the Cities of Iloilo, Bacolod, Roxas, Silay, etc. If an employee of RHO VI is sent on an official business to Bacolod City and takes the regular trip by boat that leaves Iloilo City at 6:00 o'clock in the morning, arriving at the pier of Bacolod City at 8:00 o'clock, he does not have to go to the regional office before departure time to sign the Logbook. Similarly, when he leaves Bacolod City after office hours at 6:00 o'clock in the afternoon and arrives in Iloilo at 8:00 o'clock in the evening, he does not have to pass the office to sign the Logbook, as it would be impractical, unreasonable and absurd! In such case, the office can only rely on his DTR which is not only certified correct by him but also by his chief of office. The lower portion of a DTR or Civil Service Form No. 48 provides -

> I certify on my honor that the above is a true and correct report of the hours of work performed, record of which was made daily at the time of arrival at and departure from office.
>
> _____
>
> Verified as to the prescribed office hours.
>
> _____
>
> In Charge

Clearly, the employee concerned certifies or attests to the truthfulness of the entries made in the DTR. Moreover, the person in charge verifies the entries as to the prescribed hours. No such certification or attestation and verification are required in a Logbook.

In the case of petitioner Artuz, she certified and attested to the veracity of the entries she made in her DTRs for July and August 1991. The entries were verified by the Personnel Section of RHO VI and its Regional Director. In the absence of evidence to the contrary, the presumption of regularity in the performance of their official functions must be upheld.

Two. It was the uncontroverted claim of petitioner that in 1991 the common practice in Region VI, DOH, was that the employees would punch in their cards in the Bundy clock as they entered or left the office. These Punch Cards were compared with their DTRs, not with the Logbook, in determining entitlement to salaries as the signing of the Logbook, according to the Court of Appeals, was devised only as "a last precautionary measure."[12] Evidently, petitioner Artuz received her salaries for July and August 1991 as no irregularity was found in her attendance in office.

Interestingly, it was only in a Memorandum dated 26 October 1994 that Dr. Merceditas V. Cavaneyro, OIC-Director IV, DOH, Region VI, required the employees of the Regional Field Health Office of Region VI "to keep a daily record of office attendance registered in the Bundy Clock and in the logbook or attendance

sheet."[13] It further provided -

The logbook or attendance sheet containing signatures of employees shall certify correctness of bundy clock entries in the punch card. Both documents shall contain the same entries.

The Personnel Section is hereby authorized to check entries in the punch cards vis-à-vis the attendance sheet. Falsification or irregularities in the keeping of time records shall be dealt with accordingly.[14]

The Letter-Complaint against petitioner Artuz was filed on 11 December 1991 and the aforementioned Memorandum was issued only on 26 October 1994. Obviously, the policy of strict compliance with the signing of the Logbook or attendance sheet was only made almost three (3) years after the filing of the instant Letter-Complaint against petitioner Artuz. This Memorandum of 26 October 1994, therefore, cannot be made to apply to her.

Third. The CSC and the Court of Appeals faulted petitioner Artuz for her non-production of her Punch Cards. In its Resolution No. 981650, the CSC stated that petitioner Artuz never presented her Punch Cards and that she did not even explain where they were.[15] On its part, the appellate court noted that the Punch Cards were "not at all offered in evidence."[16] This assumes that the Punch Cards would prove that the entries therein did not tally with the DTRs of petitioner. This is pure speculation leading to a vicious conclusion.

Petitioner Artuz did not present her Punch Cards in evidence as she was not required to do so; but even assuming that she was, the Punch Cards were not in her custody. They were where they should be - in the possession of the Personnel Section, RHO VI, which should have presented those Punch Cards against her if they did not tally with her DTRs. Certainly, it was not the duty of petitioner to disprove what private respondent Bornales failed to prove. As complainant against petitioner, the burden was on private respondent Bornales to prove that the Punch Cards of petitioner did not tally with her DTRs. Conversely, it could be presumed that the Punch Cards if presented by private respondent Bornales would have confirmed the authenticity of the entries in the DTRs of petitioner Artuz, otherwise, why did he not present them in evidence when it was well within his means to do?

Fourth. Private respondent Bornales had an evil motive to file the instant Letter-Complaint against petitioner Artuz. Indeed, if private respondent Bornales was only acting in good faith - and not moved to retaliate against petitioner - he should have reported the matter much earlier rather than wait, as he did, for the time when he was administratively charged by petitioner with Gross Dishonesty, Grave Misconduct, Insubordination and Conduct Prejudicial to the Best Interest of the Service, before filing his Letter-Complaint against petitioner.

Finally. Findings of fact of an administrative agency must be respected and this Court should not be tasked to weigh once more the evidence submitted before the administrative body. However, it is axiomatic that such findings of fact should be supported by substantial evidence. We are not convinced that the non-signing in the Logbook by petitioner Artuz alone is substantial evidence considering that we have clearly shown in the above discussion that it is not "the best evidence to prove attendance of an employee," unlike the questioned DTRs that were duly certified by the employee concerned, verified by his immediate supervisor, and authenticated by the head of the regional office.

In administrative proceedings, the complainant has the burden of proving, by substantial evidence, the allegations in the complaint.[17] The DTR reflects the official attendance of the employee in the absence of proof that the employee concerned has falsified his DTR. In the instant case, private respondent Bornales failed to substantiate his claim of falsification by petitioner of her DTRs on the basis of the Logbook alone. As the burden was not carried out by private respondent, petitioner must be cleared of all charges and accountabilities under the law. After all, petitioner was wrongly charged of an offense that could have caused her her career, and even tranquility

of the mind. She is a career public servant, then as Legal Officer IV of DOH, RHO VI, and now Assistant Prosecutor of the City of Iloilo. As such, we must correct the injustice done to her by rehabilitating her name through a finding of innocence.

IN VIEW WHEREOF, the Motion for Reconsideration is GRANTED. The Decision of the Court of Appeals affirming the Resolution of the Civil Service Commission dismissing petitioner Ofelia D. Artuz from the service with all its accessory penalties is REVERSED and SET ASIDE and the instant case against her is DISMISSED.

SO ORDERED.

Davide, Jr., C.J., Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.
Melo, J., in the result.
Puno, J., on official leave.

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[1] Rollo, pp. 74-75.

[2] Id., pp. 81-83.
[3] Penned by Chairman Patricia A. Sto. Tomas, concurred in by Commissioners Ramon P. Ereneta, Jr. and Thelma P. Gaminde.

[4] This report of RO No. VI was merely quoted from Resolution No. 981650, but there is no copy of the report in the Rollo.

[5] Penned by Commissioner Thelma P. Gaminde, concurred in by Chairman Corazon Alma G. De Leon and Commissioner Jose F. Erestain, Jr.

[6] Ibid., citing Galan v. Napase, A.M. No. P-90-417, 10 April 1992, 208 SCRA 1.

[7] See Note 5.

[8] Penned by Associate Justice Conrado M. Vasquez, Jr., concurred in by Associate Justices Rodrigo V. Cosico and Teodoro P. Regino.

[9] Id., citing Sec. 9, Rule XIV, Omnibus Rules Implementing Book V, Administrative Code of 1987.

[10] Rollo, pp. 154-175.

[11] Id., pp. 183-184.

[12] See Note 8, p. 4.

[13] Rollo, p. 126.

[14] Ibid.

[15] See Note 5, p. 5.

[16] See Note 13.

[17] Lorena v. Encomienda, A.M. No. MTJ-99-1177, 8 February 1999, 302 SCRA 632.

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