

CIVIL SERVICE COMMISSION, PETITIONER, VS. COURT OF APPEALS (FORMER SECOND DIVISION) AND NEOLITO DURLAO, RESPONDENTS.

G.R. No. 147009. March 11, 2004

Ponente: AZCUNA, J.

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AZCUNA, J.:

The Civil Service Commission (CSC), through the Office of the Solicitor General, brings before the Court the issue of regularity of the CSC's institution of disciplinary administrative proceedings against an erring civil servant on the basis of an anonymous letter-complaint.

This is a petition for review on certiorari filed under Rule 45 of the Rules of Court which seeks a reversal of the Court of Appeals Decision[1] dated October 30, 2000 and Resolution[2] dated February 6, 2001 in CA G.R. SP No. 56098.

The facts of the case are as follows:[3]

On February 4, 1997, the CSC received an anonymous letter-complaint against Neolito Dumlao (Dumlao), a Department of Education Culture and Sports Supervisor of Binalonan, Pangasinan. The letter-complaint contained allegations that Dumlao: 1) never received a college degree; 2) never received a Master of Arts degree in English; and 3) has many pending criminal cases.

On March 13, 1997, the CSC requested Director Antonio R. Madarang to look into these allegations and, if necessary, conduct an investigation. On August 4, 1997, Madarang submitted his Report of Investigation stating that Dumlao failed to finish his four-year Liberal Arts Course.

On August 7, 1997, the CSC wrote to the Commission on Higher Education (CHED) to verify the educational attainment of Dumlao. On September 15, 1997, the CHED confirmed that Dumlao did not finish his four-year Liberal Arts Course from the University of Pangasinan.

On September 18, 1997, the CSC formally charged Dumlao with Dishonesty and Falsification of Official Document.[4]

After receiving Dumlao's Answer, the CSC conducted formal hearings wherein both parties presented testimonial and documentary evidence. On May 21, 1999, the CSC issued Resolution No. 99-1056 finding Dumlao guilty under the administrative charge and ordered his dismissal from the service.[5] Dumlao filed a motion for reconsideration but it was denied on October 27, 1999.[6]

Dumlao elevated the matter to the Court of Appeals through a petition for review on certiorari. The Court of Appeals rendered a Decision that granted the petition and set aside the resolution dismissing Dumlao from the service. It ruled that the CSC was without jurisdiction to conduct an investigation and file a formal charge on the basis of a mere anonymous letter-complaint. The relevant portion of the Decision is reproduced below, as

follows:[7]

Section 46, Chapter 6, Subtitle A, Book V, Executive Order No. 292, otherwise known as the “Administrative Code of 1987”, provides: “SEC. 46. Discipline: General Provisions. – x x x

(c) Except when initiated by the disciplining authority, no complaint against a civil service official or employee shall be given due course unless the same is in writing and subscribed and sworn to by the complainant.” (Italics Ours)

Section 48 (1) and (2), of the same Subtitle further provides:

“SEC. 48. Procedure in Administrative Cases Against Non-Presidential Appointees. – (1) Administrative proceedings may be commenced against a subordinate officer or employee by the Secretary or head of office of equivalent rank, or head of local government, or chiefs of agencies, or regional directors, or upon sworn, written complaint of any other person.

(2) In the case of a complaint filed by any other person, the complainant shall submit sworn statements covering his testimony and those of his witnesses together with his documentary evidence. If on the basis of such papers a prima facie case is found not to exist, the disciplining authority shall dismiss the case. If a prima facie case exists, he shall notify the respondent in writing, of the charges against the latter, to which shall be attached copies of the complaint, sworn statements and other documents submitted, and the respondent shall be allowed not less than seventy-two hours after receipt of the complaint to answer the charges in writing under oath, together with supporting sworn statements and documents, in which he shall indicate whether or not he elects a formal investigation if his answer is not considered satisfactory. If the answer is found satisfactory, the disciplining authority shall dismiss the case.” (Underscoring Ours).

On the other hand, Section 8, Rule II of Resolution No. 99-1936, otherwise known as the “Uniform Rules on Administrative Cases in the Civil Service”, provides:

“SEC. 8. Complaint. – A complaint against a civil service official or employee shall not be given due course unless it is in writing and subscribed and sworn to by the complainant. However, in cases initiated by the proper disciplining authority, the complainant need not be under oath.

No anonymous complaint shall be entertained unless there is obvious truth or merit to the allegations therein or supported by documentary or direct evidence, in which the person complained of may be required to comment.

The complaint should be written in a clear, simple and concise language and in a systematic manner as to appraise the civil servant concerned of the nature and cause of the accusation against him and to enable him to intelligently prepare his defense or answer. The complaint shall contain the following:

- full name and address of the complainant;
- full name and address of the person complained of as well as his position and office of employment;
- a narration of the relevant and material facts which shows the acts or omissions allegedly committed by the civil servant;
- certified true copies of documentary evidence and affidavits of his witnesses, if any; and
- certification or statement of non-forum shopping.

In the absence of any one of the aforementioned requirements, the complaint shall be dismissed.”

As may be observed, while E.O. No. 292 is silent as to anonymous complaints, Resolution No. 99-1936 provides for cognizance of such complaints in two (2) instances, to wit: (a) there is obvious truth or merit to the allegations therein, and (b) they are supported by documentary or direct evidence. It may be recalled that E.O. 292 was

promulgated by former President Corazon C. Aquino on 25 July 1987, pursuant to Section 6, Article XVII of the 1987 Constitution (Transitory Provisions) which reads:

“SEC. 6. The Incumbent President shall continue to exercise legislative powers until the first Congress is convened”

On the other hand, resolution No. 99-1936 was promulgated by the Civil Service Commission pursuant to the power vested upon it under Section 12 (2), Chapter 3, title I, Subtitle (A), Book V of E.O. No. 292 which reads:

“SEC. 12. Powers and Functions. – The Commission shall have the following powers and functions: x x x

(2) Prescribe, amend and enforce rules and regulations for carrying into effect the provisions of the Civil Service Law and other pertinent laws:

x x x”

May the Civil Service Commission arrogate upon itself to provide something which the Administrative Code of 1987 did not provide for? We rule in the negative. Administrative rules and regulations are intended to carry out, not supplant or modify, the law. With this, We cannot but hold with disapprobation the pertinent provision, viz., the second paragraph of Section 8 of Resolution No. 99-1936. Where the law makes no distinction, one does not distinguish.

Does this affect jurisdiction?

x x x x x x

In Our considered opinion, what is contemplated under Sections 46 and 48 aforecited, is the initiation of a complaint against a civil service official or employee, much like the “institution” of a criminal complaint, by filing a complaint for preliminary investigation by the fiscal, which vests the fiscal with the quasi-judicial discretion to determine whether to file a criminal case in court. In the case at bar, the CSCRO was without jurisdiction to conduct a preliminary investigation on the anonymous complaint. May the CSCRO then file a formal charge against petition? We rule in the negative.

The complaint is dismissible at the outset. – Section 48 (2), Chapter 6, Subtitle A, Book V of E.O. No. 292 provides: x x x

(2) In the case of a complaint filed by any other person, the complainant shall submit sworn statements covering his testimony and those of his witnesses together with his documentary evidence. If on the basis of such papers a prima facie case is found not to exist, the disciplining authority shall dismiss the case...” (Underscoring Ours).

Section 8, Rule II of the Uniform Rules on Administrative Cases in the Civil Service, provides: x x x

“SEC. 8. Complaint. – x x x.

x x x

The complaint shall contain the following:

x x x

- certified true copies of documentary evidence and affidavits of his witnesses, if any; and
- certification or statement of non-forum shopping.

In the absence of any one of the aforementioned requirements, the complaint shall be dismissed.” (Underscoring

Ours)

The employment of the word “shall” connotes a mandatory character. A formal charge may only be filed upon establishment of a prima facie case. A prima facie case must be found to exist on the basis of sworn statements of the complainant and his witnesses, and certified true copies of documentary evidence. Absent these, the complaint shall be dismissed. Corollarily, a formal charge is not in order.

In short, the Court of Appeals deemed the anonymous letter as a complaint which failed to comply with the formal requirements of the law.

The CSC filed a motion for reconsideration but it was subsequently denied in the assailed Resolution. Hence, this petition.

The CSC assigns two errors:

- The Court of Appeals erred in ruling that the CSC Regional Office was without jurisdiction to conduct an investigation on the anonymous complaint.
- The Court of Appeals erred in ruling that the CSC Regional Office cannot file a formal complaint against Dumlao on the basis of an anonymous complaint.

The petition is meritorious.

The Court of Appeals gravely erred in considering the letter-complaint as the complaint referred to in Executive Order (E.O.) No. 292 and the Uniform Rules on Administrative Cases in the Civil Service. A plain reading therein readily shows that the “complaint” under said statute and rules both refer to the actual charge to which the person complained of is required to answer and indicate whether or not he elects a formal investigation should his answer be deemed not satisfactory.[8]

In contrast, the letter-complaint in issue simply contained the following averments:[9]

- A department of Education Culture and Sports, Supervisor based in Binalonan is an undergraduate. He never had a college degree. His name is Neolito Dumlao, presently assigned as supervisor based in Binalonan, Pangasinan. He claims to have finished his college degree in U Pang., short for University of Pangasinan in Dagupan City. xxx. A check with the registrar office will shock you.
- Dumlao also claims to have taken his M.A. in English at the Zaragoza College of Tayug, Pangasinan. Check that one too and you will be surprised.
- He also has many pending cases in court; all criminal cases that includes forgery, falsification of public documents, and estafa ...

As can be seen from the bare contents of the anonymous letter, it was not a complaint within the purview Section 8, Rule II of the Uniform Rules on Administrative Cases in the Civil Service which requires, among others, the full name and address of the complainant and of the person complained of, a narration of the relevant and material facts, and certification of non-forum shopping. Neither did it, by itself, commence administrative proceedings, requiring an answer from Dumlao described under Section 48 (2) of E.O. No. 292, but merely triggered an investigation by the CSC.

Indeed, the letter-complaint is just a plain and simple letter. It was merely a communication sent to the CSC Regional Office to call its attention to the educational background of Dumlao that is not different from an information or tip given by telephone to the Regional Office. To say that the CSC cannot act upon the information because it was from an anonymous caller, or in this case an anonymous writer, would result in an absurd and

restrictive interpretation of E.O. 292 and effectively deprive the Government of its disciplining power over people who hold a public trust.

In *David v. Villegas*,^[10] a case cited by the CSC, private respondent therein Padlan charged petitioner David before the Office of the Mayor with “brazen dishonesty.” The Mayor issued a memorandum to David ordering him to explain within seventy-two hours why no administrative action should be taken against him. Not satisfied with the explanation, the Mayor ordered the matter investigated and the case was docketed as an administrative case. Among the issues that reached the Court was David’s argument that Padlan’s complaint was not subscribed and sworn to in accordance with Republic Act No. 2260, which provides that no complaint against a civil servant shall be given due course unless the same is in writing and subscribed to by the complainant. The Court therein ruled that it was the Mayor who filed the complaint which, consequently, need not be subscribed and sworn to:

The petitioner-appellant contends that Administrative Case No. 22, Series of 1970, filed against him is not valid because the letter-complaint of Atty. Jovita Padlan is not sworn to by her. x x x It appears, however, that Mayor Antonio J. Villegas himself filed the administrative charge against the petitioner *motu proprio*. Hence, the complaint need not be subscribed and sworn to. And even assuming that Mayor Villegas based his memorandum of April 10, 1970 on the letter-complaint of Atty. Padlan, the Mayor as the head or chief of the office may, in his discretion, take action thereon if public interest or the special circumstances of the case warrant.

Following this ruling, the Court of Appeals erred in not holding that the complaint against Dumlao was initiated by the CSC itself.

Under Sections 46 and 48 (1), Chapter 6, Subtitle A, Book V of E.O. No. 292 and Section 8, Rule II of Uniform Rules on Administrative Cases in the Civil Service, a complaint may be initiated against a civil service officer or employee by the appropriate disciplining authority, even without being subscribed and sworn to. Considering that the CSC, as the disciplining authority for Dumlao, filed the complaint, jurisdiction over Dumlao was validly acquired.

As regards the actual guilt of Dumlao, the Court notes that while the petition filed before the Court of Appeals raised both questions of law and fact, the appellate court limited itself to ruling only on the question of law and refrained from making a ruling on the facts. The Court, not being a trier of facts, is not in a position to determine whether the facts presented warrant a finding of guilt against Dumlao.^[11] Consequently, this case is remanded to the Court of Appeals for further proceedings solely to determine the sufficiency of the evidence against Dumlao.

WHEREFORE, in view of the foregoing, the petition is GRANTED and the assailed Decision and Resolution of the Court of Appeals in CA-G.R. No. 56098 are REVERSED. The case is remanded to the Court of Appeals for further proceedings in consonance with this decision.

No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., Vitug, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., and Tinga, JJ., concur.

Puno, J., on leave.

Panganiban, J., on official leave.

[1] Rollo, pp. 25-32, Annex “A” to the Petition.

- [2] Id., pp. 33-34, Annex “B” to the Petition.
- [3] Id., pp. 35-40, Investigation Report, Annex “C” to the Petition.
- [4] Id., pp. 41-42, Annex “D” to the Petition.
- [5] Id., pp. 43-48, Annex “E” to the Petition.
- [6] Id., pp. 49-51, Annex “F” to the Petition.
- [7] Id., pp. 27-31, Annex “A” to the Petition.
- [8] Section 48 (2), Chapter 6, Subtitle A, Book V, E.O. No. 292.
- [9] Supra, Note 3.

[10] 81 SCRA 642 (1978).

- [11] Aleria, Jr., v. Velez, 298 SCRA 611 (1998).

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