RUDIGARIO C. GATMAITAN, PETITIONER, VS. DR. RICARDO B. GONZALES, OFFICE OF THE OMBUDSMAN AND COURT OF APPEALS, RESPONDENTS.

G.R. NO. 149226. June 26, 2006

Ponente: AUSTRIA-MARTINEZ, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-149226/

AUSTRIA-MARTINEZ, J.:

Before this Court is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, challenging the May 9, 2001 Decision[1] and July 24, 2001 Resolution[2] of the Court of Appeals[3] (CA) in CA-G.R. SP No. 61506 which affirmed the Decision[4] of the Office of the Ombudsman in OMB-ADM-0-00-0135 dismissing the administrative complaint of petitioner Rudigario C. Gatmaitan against private respondent Dr. Ricardo B. Gonzales, for lack of substantial evidence.

The herein petition arose from a complaint[5] filed by petitioner charging private respondent for grave misconduct, grave abuse of authority, harassment and oppression allegedly committed as follows:

> - Issuing or orders pressuring him (petitioner) to give up and/or resign from his position as Hospital Housekeeper to give way to his protégé, a certain Mr. Ely Villegas;
>
> - Issuing Hospital Order No. 184, s. 1999, reassigning him to the Operating Room-Delivery Room (OR-DR) Complex to perform janitorial tasks which are inconsistent with the position description of his present position;
>
> - Instructing the Administrative Officer V of the Dr. Jose Fabella Memorial Hospital to hold submission to his office of petitioner's Performance Evaluation Report (PER) for 1998 thereby depriving the latter of his Productivity Incentive Bonus for that year;
>
> - Changing the hospital personnel's Performance Evaluation Report;
>
> - Ordering the payment of Productivity Incentive Bonus for 1998 at the rate of P2,000.00 each employee regardless of the outcome of the Performance Evaluation Report; and
>
> - The undue initial disapproval of his sick leave application from February 12 to 17 of 1998 while his (private respondent's) favorite, a certain Dr. Caluag, was allowed to go to the United States on official time to attend some courses without even presenting any certificate.[6]

Petitioner alleged that private respondent started harassing him only shortly after he was elected president of the Alliance of Hospital Workers-Dr. Jose Fabella Memorial Hospital (AHW-DJFMH).[7]

In his defense, private respondent, through his counter-affidavit, averred the following:

> . . . .
>
> 2. In fact to my recollection, there was a time when we were scouting for a dormitory manager for the male quarters. This position has a salary grade of 9 and Mr. R. Gatmaitan (the petitioner) as a Hospital Housekeeper who has a salary grade of 8 is a possible candidate. The plan was not pursued because Mr. R. Gatmaitan does

> not meet the qualification standard in the career service of professional or second level eligibility. As a chain reaction, any Utility Foreman with a salary grade of 6 can qualify for the Hospital Housekeeper. Mr. Ely Villegas is just one of the possible candidates from several Utility Foreman.
>
> Moreover, in several occasions upon request of Mr. Gatmaitan, I approved his requests to attend on official time with payment of the corresponding registration fees all meetings/conferences needing his presence as representative of ... [AHW-DJMH]. I never questioned his re presentation in the absence of any hospital records whatsoever showing his presidency of the AHW-DJFMH. . . .
>
> 4. In relation to the 1998 Productivity Incentive Bonus the respondent gave an instruction to the Administrative Officer V setting the deadline of submission of their consolidated Performance evaluation Report. To my recollection it was set sometime in August 1999. The Housekeeping, Security and Information Units failed to submit on time. Respondent gave them an extension within which to submit but failed. On their letter dated September 24, 1999 which the respondent received on the dated September 24, 1999 which the respondent received on the 28th, respondent had its inscription 'AOV review their PER according to Quality, Quantity and Time if truly VS'. Then respondent simultaneously wrote his correction to their letter the proper procedure in sending a letter to my office considering that all the above-mentioned units are under the office of the Administrative Officer V stating 'regrets, this should be coursed thru AOV'. Being the approving authority, it is inherent upon the respondent to check whether they really deserved to have a grade of VS upon the recommendation of the AOV. Those who were able to submit on time were approved on August 1999. They were also able to receive their PIB for 1998 on August 30, 1999.
>
> 5. With respect to the Hospital Order 184 s. 1999, it was a legitimate act of the respondent when he reassigned Mr. Gatmaitan to OR-DR Complex based on Section 10, Rule VII of the Rules Implementing Book V of Executive Order 292 which reads:A reassignment is the movement of an employee from one organizational unit to another in the same department or agency which does not involve a reduction in rank, status or salary and does not require the issuance of appointment.

In fact, under CSC Resolution No. 96-3986 clearly states that 'reassignment is generally presumed to have been made in the interest of the service . . .,' therefore, as shown under the penultimate paragraph of the said order such act was made with the same purpose.

. . . .

8. As regards to the complainant's sick leave application incurred on February 12 to 17, 1998, prior to its approval, the Administrative Officer V informed the respondent that the reason why he wanted to be on sick leave on the said date was he had no maid. So when his application for sick leave reached my office, respondent inscribed his doubt, 'you informed me that he does not have a maid, which is which'. The true reason upon seeing his application that he had an acute bronchitis supported by a medical certificate, said application was approved by the respondent. As alleged by the complainant that such act was made oppressively amounting to grave abuse of authority, respondent exercised only the right thing to do in complainant's application. It is not ministerial on the part of the respondent to approve sick leave application in case of doubt and without verifying or clarifying the reason/s stated thereon and the corresponding medical certificate. 'Application for sick leave in excess of five (5) successive days shall be accompanied by a proper medical certificate'. (Section 53, Rule XVI of the Omnibus Rules Implementing Book V of Executive Order 292)

. . . .[8]

Petitioner filed a reply to private respondent's counter-affidavit[9] insisting that he was constructively dismissed when the latter issued Hospital Order No. 184, s. 1999; and claiming that said order directed him to perform menial duties such as the daily disposal of garbage and unnecessary junks, continuous mopping of the OR

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

corridor and the like.

For expediency and to remove all other issues not germane to the complaint, the Office of the Ombudsman simplified the issues as follows:

> - Is the reassignment from the lobby to the OR-DR ordered by respondent constitutive of the charge of harassment?
>
> - Was there abuse of authority when the complainant was reassigned to the OR-DR of the same department; and
>
> - Was there grave misconduct or conduct unbecoming of a public officer when he was reassigned?[10]

In a Decision dated July 24, 2000, the Office of the Ombudsman exonerated private respondent finding him not guilty as charged and dismissed the complaint for lack of substantial evidence.[11] Petitioner's Motion for Reconsideration was likewise denied for lack of merit.[12]

Not satisfied with the outcome, the matter was elevated to the CA.

RULING OF THE COURT OF APPEALS

Adopting the simplification of issues made by the Office of the Ombudsman, the Court of Appeals affirmed the latter's decision stating that the reassignment was made – "in the interest of the service" – that the order was issued for this purpose is even presumed under Civil Service Rules absent any proof of harassment, coercion, intimidation, or other personal reasons therefor. Moreover, the CA held that private respondent had in his favor the presumption of regularity in the performance of official duties which the petitioner failed to rebut since he failed to present any evidence to prove malice and bad faith in the issuance of the questioned order.

As to petitioner's charge of diminution in rank, the CA noted that petitioner's appointment as Hospital Housekeeper is without any specific station or unit assignment hence he can always be reassigned to clean or maintain the upkeep of one station to another, whenever and wherever his services are much needed since he cannot claim a vested right to the station to which he was originally assigned nor to security of tenure thereat.[13]

ISSUES

In his petition, petitioner submitted the following grounds:

> - THE PUBLIC RESPONDENT COURT OF APPEALS SERIOUSLY ERRED AND GRAVELY ABUSED ITS DISCRETION IN AFFIRMING AN OBVIOUSLY ERRONEOUS RULING OF THE OFFICE OF THE OMBUDSMAN.
>
> - THE PUBLIC RESPONDENT COURT OF APPEALS GRAVELY ERRED IN NOT FINDING AND CONCLUDING THAT PETITIONER IS ENTITLED TO BE REASSIGNED TO HIS FORMER POSITION AS HEAD OF THE HOUSEKEEPING UNIT OF THE HOSPITAL AND TO RECOVER FROM THE PRIVATE RESPONDENT MORAL, NOMINAL/ CONSEQUENTIAL DAMAGES.[14]

In his Memorandum, petitioner raised the following issues for the consideration of this Court.

> - ARE THE ACTIONS OF RESPONDENT GONZALES CONSTITUTIVE OF GRAVE MISCONDUCT OR CONDUCT UNBECOMING OF A PUBLIC OFFICER?
>
> - ARE THE SAID ACTS COVERED BY THE PRESUMPTION OF REGULARITY OF OFFICIAL DUTIES AND WITHIN THE DEFINITION OF ACTS RENDERED IN THE INTEREST OF THE PUBLIC SERVICE?

- IS PETITIONER ENTITLED TO REINSTATEMENT TO HIS PREVIOUS POSITION AND TO THE PAYMENT OF MORAL AND EXEMPLARY DAMAGES BY RESPONDENT GONZALES?[15]

It must be borne in mind that a petition for review under Rule 45 must only raise questions of law which must be distinctly set forth. Petitioner in his petition set forth grounds that properly pertain to the extraordinary remedy of certiorari under Rule 65 of the Rules of Court. In the interest of substantial justice, however, this Court deems it best to resolve the issues presented.

In his Memorandum, petitioner posits the premise that the CA committed a serious error of law in holding that the actions committed by respondent Gonzales fall within the definition of official acts committed in the line of duty and did not constitute grave misconduct or conduct unbecoming of a public officer and such ruling violated existing laws and jurisprudence. Petitioner further argues that the CA erred when it upheld the validity of Hospital Order No. 184 which re-assigned him as hospital housekeeper from the Administrative Service to the OR-DR Complex of the hospital thereby amounting to his demotion from a supervisory position to a mere janitor.

As presented by petitioner, his original duties prior to his reassignment were as follows:

- Directs and administers housekeeping program and maintains hospital cleanliness and orderly condition;

- Formulates plans for improvement of housekeeping program and establishes standards, work methods and schedules;

- Inspects rooms and wards to determine that cleanliness standards are maintained;

- Maintains good working relationships with professional, administrative and maintenance personnel of other department;

- Initiates and directs training program and demonstrated new equipment and methods;

- Submits necessary reports and evaluate performance of the Institution Workers and Janitors; and

- Performs other related work.[16]

When petitioner was reassigned to the OR-DR, however, his duties were changed to:

- Daily disposal of garbage;

- Disposal of unnecessary junks;

- Continuous mopping and disinfection of OR corridor and area under the mezzanine;

- Maintenance/Cleaning of all windows, doctor's quarters; and

- Daily disposal of solid linen.[17]

Petitioner submits the argument that while there might had been no demotion in his salaries, it could not be denied that there was a demotion in his status pointing to a clear case of illegal reassignment which constitute grave misconduct or conduct unbecoming of an officer.

Citing several cases, petitioner insists that his demotion is tantamount to a constructive dismissal and it is only just and proper that he be given reparation by reinstating him to his previous position as Head of the Hospital Housekeeping Unit.

Finally, petitioner contends that the acts of private respondent violated his constitutional rights to property protection, security of job tenure and due process of law and is thus entitled to recover moral and exemplary damages.

RULING

This Court resolves to deny the petition.

The crux of the controversy lies with the issuance of Hospital Order 184, s. 1999 which reassigned petitioner form his previous work station to the OR-DR Complex. It is from this singular act of the respondent that petitioner anchors his argument regarding his alleged demotion – the determination of its validity or nullity – would have the effect of resolving all the other attendant issues.To begin with, it should be noted that the terms "reassignment" and "demotion" have an established meaning in our statute books that have been reiterated in our jurisprudence.

The Court finds their respective definitions under Rule VUU of the Omnibus Rules Implementing Book V of E.O. No. 292, Section 10 of the Rule clearly defines "reassignment" as the movement of an employee from one organizational unit to another in the same department or agency which does not involve a reduction in rank, status, or salary and does not require the issuance of an appointment while the succeeding Section 11 of the same Rule defined "demotion" as a movement from one position to another involving the issuance of an appointment with diminution in duties, responsibilities, status or rank which may or may not involve a reduction in salary. Further, note that Section 26(7), Book V, Title I, Subtitle A of the 1987 Revised Administrative Code recognizes reassignment as a management prerogative vested in any department or agency of government embraced in the civil service:

> (7) Reassignment. An employee may be re-assigned from one organizational unit to another in the same agency; Provided, That such re-assignment shall not involve a reduction in rank, status and salary.

As can be gleamed from the above, there was no demotion involved in the transfer of petitioners work station since what transpired was merely a reassignment brought about by the exigencies of the service. The law is clear on this point a demotion would entail the issuance of another appointment that would have given petitioner diminution in duties, responsibilities, status or rank – yet no appointment to this effect was ever issued. As aptly observed by the Solicitor General in his Comment,[18] there is no showing that petitioner, upon the effectivity of Hospital Order No. 184, was stripped of his plantilla position as hospital housekeeper which lends credence to the claim that Hospital Order No. 184 merely amounted to petitioner's reassignment rather than to his demotion. Moreover, the rationale behind the Hospital Order was aptly explained by private respondent as follows:

> The justification for the transfer is very obvious. The manpower needs of the Nursing Service alone is very great. The transfer was instituted in the exigencies and necessities of the service. The priority of the OR-DR Complex is higher since the area caters to 120 deliveries a day as against the hospital lobby, which is a non-patient area.[19]

As correctly pointed out by the CA, an examination of petitioner's appointment as Hospital Housekeeper at Dr. Jose Fabella Memorial Hospital is without any specific station or unit assignment. In fact, a closer look at said appointment disclosed that his work station is that of the entire hospital premises itself. Thus, petitioner cannot claim a vested right in his previous station or work assignment. As ruled by this Court in Fernandez v. Sto. Tomas:[20]

> The rule pursued by plaintiff only goes so far as the appointment indicates a specification. Otherwise, the constitutionally ordained security of tenure cannot shield her. In appointments of this nature, this Court has consistently rejected the officer's demand to remain – even as public service dictates that a transfer be made – in a particular station. Judicial attitude toward transfers of this nature is expressed in the following statement in Ibañez, et al. vs. Commission on Elections, et al. (G.R. No. L-26558, April 27, 1967; 19 SCRA 1002 [1967]);:That security of tenure is an essential and constitutionally guaranteed feature of our Civil Service

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

> System, is not open to debate. The mantle of its protection extends not only against removals without cause but also against unconsented transfer which, as repeatedly enunciated, are tantamount to removals which are within the ambit of the fundamental guarantee. However, the availability of that security of tenure necessarily depends, in the first instance, upon the nature of the appointment (Hojilla vs. Marino, 121 Phil. 280 [1965].) Such that the rule which proscribes transfers without consent as anathema to the security of tenure is predicated upon the theory that the officer involved is appointed – not merely assigned – to a particular station (Miclat v. Ganaden, et al., 108 Phil. 439 [1960]; Jaro v. Hon. Valencia, et al., 118 Phil. 278 [1963]). [Brillantes v. Guevarra, 27 sCRA 138 (1969)].[21]

Adding a fatal blow to the petitioner's untenable position is the fact that he failed to overcome the presumption of regularity in the performance of private respondent's official duties when he issued the questioned Hospital Order. Well entrenched in jurisprudence is the time honored principle that the law bestows upon a public official the presumption of regularity in the discharge of one's official duties and functions. In the case of Fernando v. Sto. Tomas,[22] this Court categorically held that:

> ...public respondents have in their favor the presumption of regularity in the performance of official duties which petitioners failed to rebut when they did not present evidence to prove partiality, malice and bad faith. Bad faith can never be presumed; it must be proved by clear and convincing evidence. No such evidence exists in the case at bar.[23]

As to the claim for an award of moral and exemplary damages, the rule consistently held and frequently applied by this Court is that moral damages are recoverable only where the acts complained of are attended by bad faith or fraud, or constituted an act oppressive to labor, or was done in a manner contrary to morals, good customs or public policy. This Court has consistently upheld the view that bad faith does not simply mean negligence or bad judgment. In involves a state of mind dominated by ill-will or motive. It implies a conscious and intentional design to do a wrongful act for a dishonest purpose or some moral obliquity. The person claiming moral damages must prove the existence of bad faith by clear and convincing evidence for the law always presumes good faith.[24] As correctly observed by the Solicitor General in his Comment, petitioner failed to overcome the legal presumption of good faith. Thus, no award for moral damages is forthcoming.

As to the claim for exemplary damages, Article 2229 of the Civil Code provides that exemplary or corrective damages are imposed in addition to the moral, temperate, liquidated or compensatory damages. Exemplary damages are not recoverable as a matter of right.[25] The requirements of an award of exemplary damages are: (1) they may be imposed by way of example in addition to compensatory damages, and only after the claimant's right to them has been established; (2) that they can not be recovered as a matter of right, their determination depending upon the amount of compensatory damages that may be awarded to the claimant; (3) the act must be accompanied by bad faith or done in a wanton, fraudulent, oppressive or malevolent manner.[26] In this case, there is no award of moral, temperate, liquidated or compensatory damages. Hence, no grant of exemplary damages may be ordered.

As to the issues raised by the petitioner in his petition alleging grave abuse of discretion on the part of the CA, this Court finds that there was none. An exhaustive examination of the records of the case would reveal that petitioner merely reiterated the arguments he made when he first filed his complaint with the Office of the Ombudsman and subsequently with the CA. Now before this Court, petitioner has utterly failed to point out special and important reasons to justify a favorable consideration regarding herein petition. The issues are factual in nature and they have been resolved conclusively by the Office of the Ombudsman and the CA. This Court will no longer disturb the findings of the CA and of the Office of the Ombudsman on the factual issues of the case. The CA decided the case in accordance with pertinent law and applicable jurisprudence.

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

Finally, let it be borne in mind that public servants are the trustees of the public's welfare. The aphorism that public service is a public trust finds more meaning within a hospital setting where people seek to alleviate their physical pain within its walls. If the services of public servant is needed in another section of that hospital then a reassignment in accordance with civil service rules and regulations is proper. A public servant must not place his own personal convenience above that of the needs of the public he serves.

WHEREFORE, the petition is DENIED and the assailed Decision dated May 9, 2001 and the Resolution dated July 24, 2001 of the CA are AFFIRMED.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Callejo, Sr., and Chico-Nazario, JJ., concur.

---

[1] Rollo, pp. 39-45.

[2] Rollo, pp. 47-48.

[3] Penned by Associate Justice Martin S. Villarama, Jr. and concurred in by Associate Justices Conrado M. Vasquez, Jr. and Eliezer R. De Los Santos, Thriteenth Division.

[4] Rollo, pp. 134-146.

[5] Dated 23 December 1999.

[6] Complaint, records, pp. 6-8.

[7] Id.

[8] Conter-Affidavit, rollo, pp. 71-77.

[9] Rollo, pp. 78-85.

[10] OMB Decision, rollo, p. 143.

[11] OMB Decision, rollo, pp. 134-146.

[12] OMB Order dated September 18, 2000, rollo, pp. 153-157.

[13] CA Decision, pp. 5-6; rollo, pp. 43-33.

[14] Petition, rollo, p. 22.

[15] Memorandum for Petitioner, rollo, pp. 293-305.

[16] Position Description Form, OMB Records, p. 16.

[17] Hospital Order No. 184 s. 1999, OMB Records, p. 10.

[18] Rollo, pp. 244-259.

[19] Rollo, pp. 89-90.

[20] 312 Phil. 235 (1995).

[21] Id. at 205-206.

[22] G.R. No. 112309, July 28, 1994, 234 SCRA 546.

[23] Id. at 552.

[24] Philippine Airlines v. National Labor Relations Commission, 362 Phil. 197, 203-204 (1999) citing Ford Phils. v. Court of Appeals, 335 Phil. 1 (1997).

[25] Philippine Telegraph & Telephone Corporation v. Court of Appeals, 437 Phil. 76, 85 (2002).

[26] Francisco v. Ferrer, G.R. No. 142029, February 28, 2001, 353 SCRA 261, 267.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.