

NATIONAL POWER CORPORATION, PETITIONER, VS. CIVIL SERVICE COMMISSION AND RODRIGO A. TANFELIX, RESPONDENT.

G.R. No. 152093. January 24, 2012

Ponente: ABAD, J.

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ABAD, J.:

It is difficult to accept that an odious act like rigging a public bidding can get the public officer responsible for it wholly absolved of liability just because he was not a member of the bids committee that chose the winning bid.

The Facts and the Case

On April 7, 1997 the President of petitioner National Power Corporation (NPC) filed an administrative action against respondent Rodrigo A. Tanfelix, a Supervising Mechanical Engineer, for rigging the bidding for the construction of the wind break fence of its thermal power plant's coal storage in Calaca, Batangas.

After hearing, the NPC's Board of Inquiry and Discipline (BID) found Tanfelix guilty of grave misconduct for rigging the bidding to favor ALC Industries, Inc. (ALC), one of the five pre-qualified contractors. Two witnesses, the board chairman of one of the losing bidders, Ley Construction and Development Corp. (LCDC), and the head of the latter's engineering department, testified that Tanfelix invited the pre-qualified bidders to a restaurant meeting and offered P1 million each to four of them in exchange for letting ALC win the bidding. He also built into the successful bid a P2 million fee for arranging the rig and for padding NPC's price estimate so the winning bid could make it big. Days later, the heads of ALC and LCDC met and signed in Tanfelix's presence a memorandum of agreement that embodied the bid-rigging deal between the two companies. ALC won the bidding. With this finding, the NPC discipline board ordered Tanfelix dismissed from the service.

On November 9, 1999, acting on Tanfelix's appeal, the Civil Service Commission (CSC) rendered a decision, affirming the NPC-BID ruling. But, on motion for reconsideration, the CSC reversed itself and exonerated Tanfelix in a resolution dated December 21, 2000. The CSC ruled in the main that the misconduct which warrants removal must have direct relation to and be connected with the performance of official duties. As it happened, Tanfelix was neither a member of the NPC bids committee nor was there any proof that he influenced the members of that committee.

The NPC appealed to the Court of Appeals (CA) but on October 18, 2001 the latter affirmed the ultimate ruling of the CSC. The NPC questions the CA decision before this Court.

The Issue Presented

The issue in this case is whether or not the CA, like the CSC, correctly absolved Tanfelix of any administrative liability for rigging the bids on an NPC construction contract since he was not a member of the bids committee that awarded it to a pre-selected bidder.

Argument

It is unmistakable from the evidence that Tanfelix wrongfully and unlawfully used his station or reputation as NPC Supervising Mechanical Engineer to rig the bids for an NPC construction project. Although he was not a member of NPC's bids committee, he was NPC's supervising mechanical engineer. Undoubtedly, Tanfelix misused his position to gain access to information on construction projects that were up for bidding and to the NPC staffs involved in them. And he misused his reputation and credibility as ranking NPC officer to bring the pre-qualified bidders together in a restaurant to hammer out with them a scheme for cheating NPC of a large sum of money, the result of rigged bids.

It is of course true, as the CSC suggested, that the evidence fails to show that Tanfelix tried to influence the members of the bids committee. But there was really no need to influence them since Tanfelix already succeeded in rigging the bids among the pre-qualified bidders, leaving the bids committee no choice but to award the contract to ALC.

Grave misconduct, of which Tanfelix has been charged, consists in a government official's deliberate violation of a rule of law or standard of behavior. It is regarded as grave when the elements of corruption, clear intent to violate the law, or flagrant disregard of established rules are present.[1] In particular, corruption as an element of grave misconduct consists in the official's unlawful and wrongful use of his station or character [reputation][2] to procure some benefit for himself or for another person, contrary to duty and the rights of others.[3] Rigging by a public official at a bidding in the organization where he belongs is a specie of corruption.

As a public officer, Tanfelix had the duty to protect the process of public bidding in the NPC, his organization. The requirement of public bidding is not an idle ceremony. It is the accepted method for arriving at a fair and reasonable price. It ensures that overpricing, favoritism, and other anomalous practices are eliminated or minimized.[4] A ruling that would absolve Tanfelix of any liability for rigging the bids in the government office where he works on the pretext that he was not a member of the bids and awards committee would encourage public officers who are not members of bids committees to make an industry of rigging bids, using their offices and official reputations.

ACCORDINGLY, the Court SETS ASIDE the decision of the Court of Appeals in CA-G.R. SP 62642 dated October 18, 2001 as well as Civil Service Commission Resolution 002816 dated December 21, 2000, ADJUDGES respondent Rodrigo A. Tanfelix guilty of grave misconduct, and IMPOSES on him the penalty of dismissal with the accessory penalties of forfeiture of retirement benefits, cancellation of eligibility, and perpetual disqualification from re-employment in the government service, including government-owned or controlled corporation.

SO ORDERED.

Corona, C.J., Carpio, Velasco, Jr., Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Villarama, Jr., Perez, Mendoza, Sereno, Reyes, and Perlas-Bernabe, JJ., concur.
Brion, J., on official leave.

[1] Imperial v. Government Service Insurance System, G.R. No. 191224, October 4, 2011.

[2] Blacks Law Dictionary, 5[th] Edition, p. 211.

[3] Civil Service Commission v. Belagan, 483 Phil. 601, 623 (2004).

[4] Tatad v. Garcia, Jr., 313 Phil. 296, 351 (1995), Davide, Jr., J., Dissenting Opinion.

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