CIVIL SERVICE COMMISSION, PETITIONER, VS. JOCELYN S. GENTALLAN, RESPONDENT.

G.R. No. 152833. May 09, 2005

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Before us are two consolidated petitions for review on certiorari, i.e., G.R. No. 152833 filed by the Civil Service Commission, and G.R. No. 154961 filed by the Municipality of Jasaan, Misamis Oriental, represented by Mayor Huberto C. Paurom. Both assail the Decision[1] dated November 26, 2001 of the Court of Appeals, which has set aside the Resolutions dated May 27, 2000 and October 11, 2000 of the Civil Service Commission (CSC). The CSC had earlier held that the respondent Jocelyn Gentallan was not entitled to back salaries, representation and travel allowance (RATA) and bonuses which she was claiming against the municipality.

The facts in the present controversy are undisputed.

On December 14, 1994, then Mayor Jose Salcedo appointed Jocelyn Gentallan as local civil registrar of the Municipality of Jasaan, Misamis Oriental. Commissioner Thelma Gaminde of the CSC, when queried about Gentallan's qualifications, confirmed that Gentallan's work experience was more than enough to meet the minimum requirement of three (3) years' experience for the position of local civil registrar. After the lapse of fifteen (15) days without any action rendered by the Sangguniang Bayan of Jasaan, the appointment was eventually deemed approved. On January 5, 1995, the Civil Service Commission Regional Office No. 10 (CSCRO-10) approved her appointment as permanent.

However, Rosalina Asis, a research aide in the Office of the Local Civil Registrar, filed a protest. It was dismissed by the CSC in CSC Resolution No. 95-5317 dated August 31, 1995, because the protestant was not a qualified next-in-rank.

In the same resolution, however, the CSC reviewed the appointment of respondent Jocelyn Gentallan. It held that Gentallan was not qualified as she failed to fulfill the required three-year experience relevant to the position of local civil registrar. Her motion for reconsideration was denied in CSC Resolution No. 96-0582, dated January 25, 1996. She then filed a petition for review docketed as CA G.R. SP No. 40482 before the Court of Appeals.

Meanwhile, Mayor Paurom, pursuant to the CSC resolutions, ordered respondent to vacate the post as Local Civil Registrar and directed her to assume her former position as Assistant Registration Officer.

In its Decision[2] dated October 22, 1997, the Court of Appeals set aside the questioned resolutions and found respondent qualified to the position. The decision became final and executory on November 15, 1997.[3]

On September 2, 1998,[4] Regional Director Jose T. Soria of CSCRO-10 informed the Mayor of the appellate court's decision and advised him to implement the same and reinstate respondent to the position of Local Civil Registrar. However, the mayor did not. Respondent, through her counsel, wrote the CSCRO-10 requesting for an order directing the municipality to reinstate her and pay her backwages.[5] Still, respondent was not reinstated.

Thus, respondent was constrained to file a case for mandamus with damages, and indirect contempt before the Regional Trial Court of Misamis Oriental. Consequently, the parties reached an agreement. On December 21, 1998, the mayor issued a memorandum,[6] directing respondent to assume office as the local civil registrar, and a notice[7] of respondent's salary adjustment was issued.

Thereafter, respondent asked the CSCRO-10 if she was entitled to back salaries, RATA and bonuses. The CSCRO-10 through Regional Director Annabelle B. Rosell, in an Order[8] dated June 14, 1999, granted the entitlements. When consulted by the mayor, the provincial attorney agreed that respondent was indeed entitled pursuant to the Court of Appeals' decision that had already become final.

However, the mayor still did not give respondent her back salaries, RATA and bonuses. The Sangguniang Bayan of Jasaan in Resolution No. 302-99 deleted the items of appropriations for her salaries and instead, appropriated the same for the operation of the Active Night Assistance Center (ANAC).[9] Respondent requested the CSC for the execution of the CSCRO-10 Order but the CSC reversed it in CSC Resolution No. 001264 dated May 24, 2000.[10] It said that respondent was not entitled to back salaries and other emoluments as she was not illegally dismissed from the service. Said the CSC:

> As culled from the records, Mayor Paurom issued the Memorandum dated March 8, 1996, reverting Gentallan to her former position, Assistant Registration Officer, to execute the CSC Resolution Nos. 95-5317 and 96-0582. Hence, Gentallan cannot be considered to have been illegally dismissed from the service since her reversion to her former position was a result of a lawful order of the Commission.[11]

The motion for reconsideration of respondent was denied in CSC Resolution No. 002305 dated October 11, 2000.[12]

Gentallan then filed before the Court of Appeals a petition for review assailing the resolutions. The appellate court set aside the CSC Resolutions Nos. 001264 and 002305, and reinstated the Order of CSCRO-10.[13] The Municipality of Jasaan sought reconsideration but it was denied. The CSC likewise filed a motion for reconsideration but the same was denied for lack of standing.

Hence, the instant petitions.

Petitioner CSC in G.R. No. 152833, assigns the following errors:

> - THE COURT OF APPEALS ERRED IN FINDING THAT THE CIVIL SERVICE COMMISSION HAS NO LEGAL STANDING TO QUESTION THE DECISION.
>
> - THE COURT OF APPEALS ERRED IN FINDING THAT REINSTATEMENT NECESSARILY IMPLIES THE GRANT OF BACK SALARIES AND DIFFERENTIAL BONUSES.[14]

In the second petition, G.R. No. 154961, the Municipality of Jasaan raises the following issues in its memorandum:

> - WHETHER OR NOT RESPONDENT GENTALLAN WAS, IN EFFECT, ILLEGALLY REMOVED FROM OFFICE, HENCE ENTITLED TO BACKWAGES?
>
> - WHETHER OR NOT THE COURT OF APPEALS GRAVELY ERRED IN REVERSING AND SETTING ASIDE RESOLUTIONS NOS. 001264 & 002305 OF THE CSC?[15]

Simply put, the basic issue in the instant petitions is whether or not respondent Jocelyn Gentallan is entitled to back salaries, RATA and bonuses.

In G.R. No. 152833, the CSC contends that the payment of the money claims of Gentallan, whose appointment

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was previously revoked, would impair the effectiveness of government. The CSC questions whether in cases of reinstatement, the grant of differential backwages, RATA and differential bonuses would necessarily follow.[16]

Respondent Gentallan, for herself, claims that CSC has no standing to bring this petition as the CSC could not be a party that would be adversely affected by the review and reversal of its decision.[17] But the CSC citing Civil Service Commission v. Dacoycoy[18] insists that it has standing to appeal the case.

Petitioner municipality, in G.R. No. 154961, contends that Gentallan was not illegally removed from her position; that the mayor was only following the lawful orders of the CSC when he directed the reversion of respondent to her former position as Assistant Registration Officer; and that the resolutions of the CSC were immediately executory even pending appeal, unless a higher court issues a temporary restraining order or preliminary injunction. Thus, according to the municipality, Gentallan was not improperly denied of her position as local civil registrar, hence there is no basis to claim the award of back salaries, RATA and bonuses.

Furthermore, the petitioner municipality maintains that Gentallan's appointment as Local Civil Registrar had become ineffective by virtue of the CSC resolutions, at least until the Court of Appeals reversed them. Therefore, her salaries and other emoluments must be reckoned only from the time she actually assumed the said office.

Petitioner municipality also insists that respondent did not render service, actual or constructive, as local civil registrar at the time, thus she was not entitled to compensation. She would, however, be compensated properly as Assistant Registration Officer when she re-assumed said position.

Respondent, on the other hand, claims that her removal from office as Local Civil Registrar was not only highly irregular but also tainted with malice and bad faith. As she was illegally dismissed, she should be entitled to backwages, RATA, and other bonuses. She said that her removal was the direct consequence of the protest filed by Rosalina Asis, not because of any administrative disciplinary action, such that the immediate execution of the orders to oust her as local civil registrar was unnecessary.

Gentallan maintains that it was already late for the petitioner municipality to question the conclusion of the appellate court in CA G.R. SP No. 40482 that she was illegally removed from her position. The municipality did not appeal the said decision, and it had already become final. The finality of said decision was also the basis of the Court of Appeals when it granted her backwages, RATA and other bonuses.

At the outset, it should be noted that the Civil Service Commission, under the Constitution, is the central personnel agency of the government charged with the duty of determining questions of qualifications of merit and fitness of those appointed to the civil service.[19] Thus, the CSC, as an institution whose primary concern is the effectiveness of the civil service system, has the standing to appeal a decision which adversely affects the civil service.[20] We hold, at this juncture, that CSC has the standing to appeal and/or to file its motion for reconsideration.

After a careful review of the circumstances in these consolidated petitions, we are in agreement with the Court of Appeals that respondent was qualified and eligible for the position of local civil registrar, and there was no factual nor legal basis for her removal from said position. The CA order to reinstate her had become final and executory. The CA decision ought to be upheld.

As a permanent appointee to the position, she enjoys security of tenure. She is likewise entitled to all benefits, rights and privileges attached to the position. She cannot be removed or dismissed from the service without just cause and without observing the requirements of due process.[21]

An illegally dismissed government employee who is later ordered reinstated is entitled to backwages and other

monetary benefits from the time of her illegal dismissal up to her reinstatement. This is only fair and just because an employee who is reinstated after having been illegally dismissed is considered as not having left her office and should be given the corresponding compensation at the time of her reinstatement.[22]

In the instant case, we note that there is no finding that malice or bad faith attended the illegal dismissal and refusal to reinstate Gentallan by her superior officers. Thus, they cannot be held personally accountable for her back salaries. The municipal government, therefore, should disburse funds to answer for her claims resulting from dismissal.[23]

WHEREFORE, the assailed Decision of the Court of Appeals dated November 26, 2001 is hereby MODIFIED. The Civil Service Commission is declared with legal standing to file its appeal and/or motion for reconsideration in this case. But we hereby sustain the decision of the Court of Appeals insofar as it declares that Jocelyn S. Gentallan should be reinstated to her position with backwages, RATA, and bonuses to be paid by the Municipality of Jasaan, Misamis Oriental.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.

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[1] Rollo (G.R. No. 154961), pp. 29-37. Penned by Associate Justice Ramon A. Barcelona, with Associate Justices Bernardo P. Abesamis, and Perlita J. Tria Tirona concurring.

[2] CA Rollo, pp. 68-76. Penned by Associate Justice Salvador J. Valdez, Jr., with Associate Justices Gloria C. Paras, and Lourdes N. Tayao-Jaguros concurring.

[3] Id. at 81.

[4] Id. at 83.

[5] Id. at 84-86.

[6] Id. at 94.

[7] Id. at 95.

[8] Id. at 65-67.

[9] Id. at 120.

[10] Id. at 38-43.

[11] Id. at 42.

[12] Rollo (G.R. No. 154961), pp. 49-50.

[13] The date of the CSCRO-10 Order should be June 14, 1999, not January 19, 1999 as indicated in the dispositive portion of the Court of Appeals' decision.

[14] Rollo (G.R. No. 152833), p. 194.

[15] Rollo (G.R. No. 154961), p. 207.

[16] Rollo (G.R. No. 152833), p. 195.

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[17] Rollo (G.R. No. 154961), p. 169.

[18] G.R. No. 135805, 29 April 1999, 306 SCRA 425.

[19] Civil Service Commission v. Tinaya, G.R. No. 154898, 16 February 2005, p. 7, citing Lazo v. Civil Service Commission, G.R. No. 108824, 14 September 1994, 236 SCRA 469, 472.

[20] See Abella, Jr. v. Civil Service Commission, G.R. No. 152574, 17 November 2004, p. 12.

[21] Adiong v. Court of Appeals, G.R. No. 136480, 4 December 2001, 371 SCRA 373, 378 citing Marohombsar v. Court of Appeals, G.R. No. 126481, 18 February 2000, 326 SCRA 62, 73.

[22] Constantino-David v. Pangandaman-Gania, G.R. No. 156039, 14 August 2003, 409 SCRA 80, 97 citing Gabriel v. Domingo, G.R. No. 87420, 17 September 1990, 189 SCRA 672, 678.

[23] Constantino-David v. Pangandaman-Gania, Id. at 97-98.

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