

VILMA E. ROMAGOS, PETITIONER, VS. METRO CEBU WATER DISTRICT, EDITHA D. LUZANO AND DULCE M. ABANILLA, RESPONDENTS.

G.R. No. 156100. September 12, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, assailing the July 5, 2002 Decision[1] of the Court of Appeals (CA) which dismissed the appeal[2] from Resolutions No. 010713[3] and No. 011222[4] of the Civil Service Commission (CSC); and the October 29, 2002 CA Resolution[5] which denied the motion for reconsideration.

The antecedent facts are summarized as follows:

Metro Cebu Water District (MCWD) employed Vilma E. Romagos (Romagos) as Clerk-Processor B. On August 9, 1999, MCWD barred Romagos from entering the work premises unless she undergoes psychiatric treatment and is certified by her doctor to be mentally fit to work.[6] Thereafter, in a letter dated December 1, 1999,[7] MCWD informed Romagos that, effective January 1, 2000, she was being dropped from the rolls for mental incapacity as shown by the following evidence:

First, the incident reports submitted by MCWD employees Samuela M. Suan,[8] Editha Luzano[9] and Jocelyn Lebumfacil[10] stating that, during office hours on January 25, 1999, Romagos suddenly and without provocation began rambling loudly and incoherently, causing alarm and anxiety among office visitors and employees;

Second, the incident report issued by Jocelyn Lebumfacil[11] stating that, during the August 4, 1999 HRD staff meeting, Romagos suddenly and without provocation began rambling loudly and incoherently, thereby disrupting the meeting and causing unease among the staff; and

Third, the November 18, 1989 Certification issued by Dr. Augustus B. Costas that Romagos is suffering from Major Depression;[12] and the January 11, 1991 Certification of Dr. Renato D. Obra that Romagos is under treatment for Major Depression.[13]

MCWD also cited Romagos' irregular attendance.[14]

Romagos filed with the CSC Regional Office (CSCRO) a Complaint-Appeal,[15] questioning the procedure and factual basis of her dismissal. The CSCRO dismissed the appeal in its Decision dated June 23, 2000,[16] holding that the evidence cited by MCWD in its December 1, 1999 letter, as well as new evidence presented by MCWD General Manager Dulce M. Abanilla (Abanilla), established that Romagos was mentally incapacitated, thus:

Furthermore, there are other additional evidence submitted by General Manager Abanilla showing that there were incidents which happened after August 20, 1999 involving Ms. Romagos where the latter was observed to again utter incoherent words and become hysterical. A narration of the incidents which happened on

September 6 and 7, 1999 are contained in the affidavits executed by Ms. Diosdada Faelnar and Atty. Vesmino M. Santiago, the Chief of the Medical and Dental Services and the Asst. General Manager for Administration, respectively. Even as of December 1999, Ms. Romagos' mental problems were still observed by the OIC of the HRD, per the Inter-Office Memorandum dated December 21, 1999, with the latter even going to the extent of asking for the assistance of the security guards out of fear on what the appellant might do.

Moreover, we note the different letters and reports/studies/ researches penned by the appellant clearly manifesting her mental disorder. Her report to General Manager Abanilla dated December 27 and 29, 1999 are incomprehensible, incoherent, muddled and so disorganized that we can't help but conclude that indeed appellant is not in her right frame of mind. This observa[tion] also holds true when we examine and read the papers and letters written and prepared by the appellant dated August 6, 10, 30, 1999 and January 28, 1994.

x x x x

All of these foregoing discussion would clearly prove that appellant is really suffering from some form of mental disorder and, as a natural consequence, she is incapable of discharging her functions x x x.[17]

In her motion for reconsideration, Romagos questioned the CSCRO for giving weight to new evidence regarding her alleged abnormal behavior in September and December 1999, even when MCWD neither cited said evidence in its December 1, 1999 letter nor disclosed them to her at any time thereafter.[18]

The CSCRO denied the motion for reconsideration in a Decision dated July 26, 2000.[19]

Romagos appealed[20] to the CSC which issued Resolution No. 01-0713 dated March 29, 2001, affirming the CSCRO decisions, to wit:

As culled from the records, several incidents (as evidenced by the reports submitted by several officials and employees) occurred showing the abnormal behavior of the appellant, two (2) of which are, as follows:

1. Incident Report dated January 25, 1999 of Mrs. Samuela M. Susan, Senior Industrial Relations Development Officer A, the pertinent portion of which states, "I was stunned when the next thing I knew, she was already behind me at a very close range and bombarded me with insensible statements. I remained silent and intentionally observed what would be her next move while she was at the height of her outburst of deep seated anger and suspicion. She addressed to me all her sentiments telling me about corruption, illegal practices, unfair practices in a loud, emotionally charged voice."

2. Inter-Office Memorandum dated January 25, 1999 of Editha D. Luzano, Officer-in-Charge of the Human Resources Department of the said agency, to wit, "On January 25, 1999, Ms. Vilma Romagos' behavior became unstable again. She began talking to herself and then started scolding other people in the HRD office. Her actions caused anxieties to the other employees, thus disturbing their work. Since December 1998, she has been behaving like this."

Hence, the continuous abnormal behavior of Romagos cannot be denied. The Commission is convinced that the dropping of the appellant from the rolls is justified.

On the issue of due process, the Commission is not convinced that the right of Romagos to due process was violated. As specifically provided in Section 2, Rule XII of the Rules abovementioned, "notice shall be given to the employee containing a brief statement of the nature of his incapacity to work, and moreover, the said notice of separation shall be signed by the appointing authority or head of office." A perusal of the Notice dated December 1, 1999, sent to Romagos reveals that these requirements were strictly followed.[21]

Her motion for reconsideration was denied by the CSC in Resolution No. 011222[22] dated July 18, 2001.

In a petition for review[23] with the CA, Romagos questioned the CSC Resolutions for insufficiency of evidence

and lack of due process. The CA issued the July 5, 2002 Decision assailed herein, the dispositive portion of which reads:

WHEREFORE, finding the instant petition not impressed with merit, the same is hereby DENIED DUE COURSE. Costs against petitioner.

SO ORDERED.[24]

Romagos filed a motion for reconsideration but the CA denied the same in the questioned October 29, 2002 Resolution.

Hence, the present Petition, raising the following issues:

- Whether or not the Honorable Court of Appeals gravely abused its discretion in failing to squarely rule upon an issue raised in the petition for review;
- Whether or not the Honorable Court of Appeals gravely abused its discretion in lightly adopting the findings of fact of the Honorable Civil Service Commission Regional Office without the documents and evidence, which were the very basis of the latter's findings, brought before it for studied appreciation;
- Whether or not the Honorable Court of Appeals gravely abused its discretion in adopting the findings of the Honorable Civil Service Commission Regional Office which findings were based on evidence not disclosed to the petitioner, in violation of her right to administrative due process;
- Whether or not the Honorable Court of Appeals gravely abused its discretion in sustaining the petitioner's dropping from the rolls when there is no shred of proof of the alleged abnormal behavior manifested in continuing incapacity to work;
- Whether or not the Honorable Court of Appeals gravely abused its discretion in affirming the petitioner's dropping from the rolls when the requirement of the rules are not complied with;
- Whether or not the Honorable Court of Appeals and the Honorable Commission gravely abused their discretion in holding that no prior notice or opportunity to contest the alleged unauthorized absences, so included as ground in Ms. Romagos' separation letter, is required by law;
- Whether or not the Honorable Court of Appeals gravely abused its discretion in not finding any bad faith on the part of Editha D. Luzon and Dulce M. Abanilla when adequate evidence points to the contrary.[25]

The foregoing issues actually boil down to the question: whether the CA correctly held that there was proper procedure and substantial basis for MCWD (respondent) to declare petitioner mentally unfit to work and drop her from the rolls.

Normally, we do not entertain such purely factual issues - we avoid weighing conflicting evidence, and substituting our evaluation for that of the lower courts and administrative or quasi-judicial tribunals. We accord great respect, even finality, to the latter's factual findings, especially when these are adopted and confirmed by the CA; instead, we confine ourselves to merely reviewing and revising their errors of law.[26] But when their findings are not supported by evidence,[27] we step in to review their factual evaluation and correct their gross error.[28]

In the present case, existing evidence controvert the CA finding that respondent correctly declared petitioner mentally unfit. A review of its finding is called for.

Under Section 46, Book V of Executive Order (E.O.) No. 292,[29] one of the causes for separation from government service of an officer or employee is mental incapacity,[30] viz.:

Sec. 46. x x x (b) The following shall be grounds for disciplinary actions: x x x (19) Physical or mental incapacity or disability due to immoral or vicious habits. (Emphasis added)

Separation from the service for such cause is done by way of a disciplinary proceeding governed by Rule II of CSC Memorandum Circular No. 19, series of 1999 (MC 19-99).[31] The minimum procedural requirements thereof are: a) that notice of the charge be served on the officer or employee; and, b) that the latter be given opportunity to be heard.

While Section 46 of E.O. No. 292 is silent on this matter, mental incapacity not arising from immoral or vicious habits is also a cause for separation under Section 26[32] of E.O. No. 292 and Section 2(2), Article IX(B) of the 1987 Constitution,[33] which demand of government officers and employees continuing merit and fitness. Separation from the service for such cause is carried out through a non-disciplinary process governed by CSC Memorandum Circular No. 40,[34] series of 1998 (MC 40-98).

The only difference between the two modes of separation is that the first carries administrative disabilities, such as forfeiture of retirement benefits and perpetual disqualification from employment in the government service,[35] while the second does not.[36] But both result in loss of employment - a property right protected under the due process clause.[37] Hence, even if considered a non-disciplinary mode of separation, dropping from the rolls due to mental incapacity not arising from immoral or vicious habits is subject to the requirements of due process,[38] as prescribed in the following provisions of MC 40-98:

Rule XII

Section 2. Dropping from the Rolls. Officers and employees who are either habitually absent or have unsatisfactory or poor performance or have shown to be physically and mentally unfit to perform their duties may be dropped from the rolls subject to the following procedures:

x x x x

2.3 Physically and Mentally Unfit

a. An officer or employee who is continuously absent for more than one (1) year by reason of illness may be declared physically unfit to perform his duties and the head of office in the exercise of his sound judgment may consequently drop him from the rolls.

b. An officer or employee who is intermittently absent by reason of illness for at least 260 working days during a 24-month period may also be declared physically unfit by the head of office.

c. An officer or employee who is behaving abnormally for an extended period which manifests continuing mental disorder and incapacity to work as reported by his co-workers or immediate supervisor and confirmed by the head of office, may likewise be dropped from the rolls.

For the purpose of the three (3) preceding paragraphs, notice shall be given to the employee containing a brief statement of the nature of his incapacity to work.

x x x x

2.6 This mode of separation from the service for unauthorized absences or unsatisfactory or poor performance or physical and mental incapacity is non-disciplinary in nature and shall not result in the forfeiture of any benefits on the part of the official or employee nor in disqualifying him from employment in the government;

2.7 The written notice mentioned in the preceding paragraphs may be signed by the person exercising immediate supervision over the official or employee. However, the notice of separation shall be signed by the appointing authority or head of office. (Emphasis ours)

Clearly, before an officer or employee may be dropped from the rolls for mental incapacity, the following elements and process must obtain: first, that it has been observed that the subject officer or employee has been behaving abnormally for an extended period; second, that it has been established through substantial evidence that such abnormal behavior manifests a continuing mental disorder and incapacity to work; third, that a written notice is issued by the subject's immediate supervisor, describing the former's continuing mental disorder and incapacity to work and citing the reports of his co-workers or immediate supervisor, as confirmed by the head of office; and finally, that another notice is issued by the appointing authority or head of office, informing the subject of his separation from the service due to mental incapacity.

Thus, a declaration of mental disorder does not automatically translate to a judgment of mental incapacity to perform work. A window remains open for the affected officer or employee to counter opinion on his mental condition and to show that his ability to work remains unimpaired. Only then may the appointing authority or head of office decide on whether said officer or employee is no longer mentally capable of performing his work and should be discharged. These requirements are designed to obviate misuse of non-disciplinary modes of separation for petty vengeance or vicious harassment.

The procedure adopted by respondent in dropping petitioner from the rolls substantially complied with the two-notice requirement of MC 40-98. Respondent issued to petitioner the August 5, 1999 letter, requiring her to undergo psychiatric evaluation. Although the letter was addressed to petitioner's spouse (Mr. Romagos), petitioner was sufficiently notified for she even replied to said letter.[39][]

However, the factual bases relied upon by respondent in declaring petitioner mentally unfit to work appear inadequate as they failed to comply with the elements and process provided for in the MC 40-98, as earlier pointed out.

Petitioner protests the finding that she suffers from mental incapacity. She disputes the relevance of the medical reports cited by respondent which refer to her mental condition in 1989 and 1991 but not to her mental state or capacity to work at the time she was dropped from the rolls in 1999. She claims that said medical reports have even been superseded by the August 20, 1999 Certification issued by Dr. Renato D. Obra,[40]which reads:

This is to certify that Mrs. Vilma Romagos, 41 years old, married, an employee of MCWD, sought consultation last Aug. 19, 1999 and today.

Psychotherapy done, she is advised to come back for check-up after one month. Rec: Physically and mentally fit to go back to work.[41] (Emphasis added)

She also questions the finding that her purported abnormality has lasted for an extended period, pointing out that respondent's December 1, 1999 letter cited only two incidents in January and August 1999. She impugns the validity of the admission of additional evidence referring to other incidents in September and December 1999, of which she was never apprised.[42][]

We only partly agree.

Respondent sufficiently established that petitioner suffers from a mental disorder. There is overwhelming evidence of this condition. The 1989 and 1991 medical certifications issued by Dr. Costas and Dr. Obra establish that petitioner was diagnosed to be suffering from Major Depression. The 1999 medical certification of Dr. Obra proves that, at the time of her separation from the service, petitioner was undergoing psychiatric treatment. The incident reports submitted by respondent's employees uniformly indicate that petitioner is mentally disturbed. The latter's own letters and reports also reveal an abnormal mental condition.[43] Moreover, petitioner's abnormal mental condition appears to be in a continuing state, considering that she was first diagnosed to be suffering from

Major Depression in 1989, yet, in 1999, she was still undergoing psychiatric evaluation.

The question, however, is whether respondent sufficiently proved that petitioner's mental condition has rendered her incapacitated to work as to justify her being dropped from the rolls.

It did not.

All that the 1989 and 1991 medical certifications established is that, during said periods, petitioner was diagnosed to be suffering from Major Depression. These certifications hardly prove that petitioner's behavior manifests a continuing mental disorder and incapacity to work. In fact, the 1991 medical certification of Dr. Obra points to the contrary for it states that petitioner "may go back to work provided that she will come back for check up as scheduled." [44] This view is bolstered by other documents of record, which respondent did not dispute, such as petitioner's school transcripts, indicating that from 1980 to 1995 the latter took a graduate course in business administration at the Southwestern University. [45] Such endeavor negates the notion that from the time of her first diagnosis in 1989 to the time of her separation in 1999, petitioner was suffering from a mental impediment to work.

Another evidence of petitioner's continuing capacity to work despite her mental condition is her performance ratings for 1996 and 1998, copies of which are of record. [46] In both evaluations, petitioner's work performance was rated "very satisfactory". Petitioner's ratee, Editha Luzano, even remarked about an improvement in petitioner's performance. [47]

More telling is the August 20, 1999 medical certification issued by Dr. Obra which categorically declared petitioner "physically and mentally fit to go back to work." [48] It is bewildering that the CSCRO belittled the significance of this certification, when it held:

As to the bearing to the case of the Certification of Dr. Obra dated August 20, 1999, we are of the view that it is not of sufficient weight to negate or outweigh the actual observations of appellant's co-workers on her abnormal behavior. It cannot be denied that the time a patient stays with the doctor during consultation and check-up is so much less than the time co-workers spend with one another during working hours. It cannot be denied also that stress-wise employees during working time are subject to various work-related pressures. As the person who are with the appellant in the workplace for a considerable length of time, co-workers are the ones who can observe the actuations and behavior of the appellant especially when she is beset with problems and pressures. [49]

Such reasoning is flawed. To begin with, it was respondent which elicited the opinion of Dr. Obra when, in a letter dated August 5, 1999, it required petitioner to undergo evaluation and conditioned her return to work only upon being certified as mentally fit, thus:

This has reference to Mrs. Vilma Romagos' observed abnormal behavior, We know you are fully aware of this considering that every time she creates trouble, Mrs. Faenar always sought assistance from you. This year alone, she has been behaving abnormally on three occasions specifically on January 25-30, July 12-16 and the most recent incident was that of yesterday, August 4, 1999 during HRD's departmental meeting, per attached HRD report.

Thus, for our mutual benefit, you are advised to bring her to her psychiatrist, Dr. Pureza Trinidad Onate or Dr. Renato D. Obra, for check-up/treatment immediately. Starting on Monday, August 9, 1999, we regret that we cannot allow entry for her. She may go back to work only when certified by her doctor that she is already mentally fit. [50]

Hence, respondent cannot impugn the August 20, 1999 medical certification of Dr. Obra merely because said document is not favorable to it.

Moreover, respondent itself relied on the 1989 and 1991 medical certifications in declaring petitioner mentally unfit to work. The CSCRO, CSC and CA also cited said medical certifications. There is no reason for them not to assign equal probative value to the August 20, 1999 medical certification of Dr. Obra.

In sum, the CA gravely erred in affirming the dismissal of petitioner. While there is no question that at the time she was dropped from the rolls, petitioner was suffering from a protracted mental disorder, the same did not render her incapable of performing her work. There was therefore an incomplete cause or justification to drop her from the rolls.

Her separation from the service being invalid, petitioner is entitled to reinstatement to her former position with payment of backwages computed in accordance with our ruling in *Batangas State University v. Bonifacio*,^[51] viz.:

The Court of Appeals correctly ordered respondent's reinstatement. However, the award of backwages and other monetary benefits should not be limited to 5 years and must therefore be modified in line with the recent case of *Civil Service Commission v. Gentallan*. We held in said case that 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.

WHEREFORE, the petition is GRANTED. The July 5, 2002 Decision and the October 29, 2002 Resolution of the Court of Appeals are REVERSED and SET ASIDE. The dropping from the rolls of petitioner Vilma A. Romagos is DECLARED ILLEGAL and respondent Metro Cebu Water District is DIRECTED to reinstate petitioner to her previous position and pay her backwages.

No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Nachura, and Reyes, JJ., concur.

[1] Penned by Associate Justice Mariano C. del Castillo and concurred in by Associate Justices Martin S. Villarama, Jr. and Rebecca de Guia-Salvador; rollo, p. 41.

[2] Docketed as CA-G.R. SP No. 66579.

[3] Rollo, p. 119.

[4] Id. at 135.

[5] Id. at 63.

[6] Id. at 133.

[7] Id. at 74.

[8] Id. at 76.

[9] Id. at 77.

[10] Id. at 78.

[11] Id. at 79-80.

[12] Id. at 95.

[13] Id. at 96.

[14] Id. at 88-94.

[15] Id. at 64.

[16] Id. at 105.

[17] June 20, 2000 CSCRO Decision, rollo, pp. 101-103.

[18] Petition, rollo, pp. 28-29.

[19] Rollo, p. 106.

[20] Id. at 108.

[21] Id. at 123-124.

[22] Id. at 135.

[23] CA rollo, p. 20.

[24] Rollo, p. 51.

[25] Petition, rollo, pp. 26-27.

[26] Binay v. Odena, G.R. No. 163683, June 08, 2007.

[27] Civil Service Commission v. Ledesma, G.R. No. 154521, September 30, 2005, 471 SCRA 589, 606.

[28] The other exceptions are: (1) when the inference made is manifestly mistaken, absurd, or impossible; (2) when there is grave abuse of discretion; (3) when the judgment is based on a misapprehension of facts; (4) when the findings of facts are conflicting; (5) when in making its findings, the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (6) when the findings are contrary to the trial court; (7) when the findings are conclusions without citation of specific evidence on which they are based; (8) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; and (9) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record. *Asiatic Development Corporation v. Brogada*, G.R. No. 169136, July 14, 2006, 495 SCRA 166, 168.

[29] 1987 Administrative Code, made effective November 23, 1989 by Proclamation No. 495.

[30] Judge Caña v. Gebusion, 385 Phil. 773, 784 (2000); Office of the Court Administrator v. Alagaban, 331 Phil. 981, 996 (1996).

[31] REVISED UNIFORM RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE.

[32] Section 26. Personnel Actions. - All appointments in the career service shall be made only according to merit and fitness, to be determined as far as practicable by competitive examinations. A non-eligible shall not be appointed to any position in the civil service whenever there is a civil service eligible actually available for and ready to accept appointment xxx.

[33] Section 2. x x x (2) Appointments in the civil service shall be made only according to merit and fitness to be determined, as far as practicable, and, except to positions which are policy-determining, primarily confidential, or

highly technical, by competitive examination.

[34] REVISED OMNIBUS RULES ON APPOINTMENT AND OTHER PERSONNEL ACTION, amending MC 12, s. 1994 and MC 38, s. 1993.

[35] Sections 57 and 58, MC 19-99.

[36] Rule II of MC 40-98, states: Section 2.6. This mode of separation from the service for unauthorized absences or unsatisfactory or poor performance or physical and mental incapacity is non-disciplinary in nature and shall not result in the forfeiture of any benefits on the part of the official or employee nor in disqualifying him from reemployment in the government x x x. (cf. *Palecpec v. Davis*, G.R. No. 171048, July 31, 2007)

[37] *National Power Corporation v. Zozobrado*, G.R. No. 153022, April 10, 2006, 487 SCRA 16, 24.

[38] *Pablo Borbon Memorial Institute of Technology v. Albistor Vda. De Bool*, G.R. No. 156057, August 25, 2005, 468 SCRA 128, 140.

[39] *Rollo*, pp. 82-83.

[40] *Petition*, *rollo*, pp. 34-35.

[41] *Rollo*, p. 97.

[42] *Petition*, *rollo*, p. 27-30.

[43] *CA rollo*, pp. 148-151; 199-209; 263-293.

[44] *Supra* note 12.

[45] *CA rollo*, pp. 189-191.

[46] *Id.* at 153-156.

[47] *Id.* at 156.

[48] *Binay v. Odena*, *supra* note 26.

[49] *CSCRO decision*, *rollo*, p. 102.

[50] *Supra* note 5.

[51] G.R. No. 167762, December 15, 2005, 478 SCRA 142, 152.

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