P/CHIEF SUPERINTENDENT ROBERTO L. CALINISAN, REGIONAL DIRECTOR, POLICE REGIONAL OFFICE III, CAMP OLIVAS, SAN FERNANDO, PAMPANGA, AND P/CHIEF SUPERINTENDENT REYNALDO M. ACOP, DIR...

G.R. No. 159588. September 15, 2010

Ponente: ABAD, J.

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ABAD, J.:

This case is about the right of a discharged police officer to reinstatement, back salaries, allowances, and other benefits after being absolved of a serious crime filed against him before a regular court.

The Facts and the Case

Respondent Reynaldo Roaquin served 16 years with the Philippine Constabulary at Camp Olivas, San Fernando, Pampanga before the Philippine National Police (PNP) absorbed him on January 2, 1991 in line with Republic Act (R.A.) 6975[1] and gave him the rank of a Senior Police Officer II (SPO2).[2]

On April 11, 1991 the government charged Roaquin with murder before the Regional Trial Court (RTC) of Olongapo City, Branch 72, in Criminal Case 216-91 for killing Alfredo Taluyo in a nightclub squabble. Consequently, the PNP detained him at his assigned station in Camp Lt. General Manuel Cabal in Olongapo City and later at the Olongapo City jail.

On June 20, 1991, while Roaquin was under detention, the PNP Headquarters of Regional Command 3 issued Special Order 74,[3] discharging him from the service based on Circular 17 of the Armed Forces of the Philippines dated October 2, 1987.[4] They discharged him notwithstanding that he had not been administratively charged in connection with the offense of which he was charged in court.

On June 8, 1994 the RTC of Olongapo City approved Roaquin's motion for admission to bail and granted him provisional liberty. Seven years later or on August 11, 1998 the RTC acquitted him of the crime of which he was charged upon a finding that he acted in complete self-defense.[5] Following this development, Roaquin asked the PNP to reinstate him into the police service.

Acting on the request, on November 23, 1998 P/Chief Superintendent Roberto Calinisan, Director of the PNP Regional Office III, reinstated Roaquin into service, citing Section 48 of R.A. 6975.[6] From then on, Roaquin served at the Olongapo City Police Force. On January 18, 2000, however, P/Chief Superintendent Reynaldo Acop, Head of the PNP Directorate for Personnel and Records Management, issued a memorandum,[7] directing Calinisan to nullify Roaquin's reinstatement. Acop said that what applied to Roaquin was Section 45 of R.A. 6975[8] as implemented by National Police Commission Memorandum Circular 96-010.[9] Roaquin could not be entitled to reinstatement since he failed to file a motion for reconsideration within 10 days of being notified of his discharge.

Acting on his superior's order, Calinisan issued Special Orders 102,[10] nullifying Roaquin's reinstatement. Roaquin sought reconsideration, but this was denied with an advice that he seek redress in court.[11]

On March 31, 2000 Roaquin filed a petition for certiorari and mandamus against his superior officers before the RTC of Olongapo City. The parties agreed to submit the case for decision on the basis of their respective memoranda. On November 20, 2000, the RTC rendered a decision,[12] ordering Roaquin's reinstatement. On appeal by Roaquin's superior officers, the Court of Appeals (CA) rendered judgment on August 14, 2003,[13] dismissing their appeal for lack of jurisdiction as the issues involved were purely legal, hence, this petition.

The Issues Presented

The issues presented in this case are:

1. Whether or not the CA correctly dismissed the appeal on the ground of lack of jurisdiction; and

2. Whether or not respondent Roaquin is entitled to reinstatement in the police service with back salaries, allowances, and other benefits.

The Court's Rulings

One. An issue of fact exists when what is in question is the truth or falsity of the alleged facts, whereas an issue of law exists when what is in question is what the law is on a certain state of facts.[14] The test, therefore, for determining whether an issue is one of law or of fact, is whether the CA could adjudicate it without reviewing or evaluating the evidence, in which case, it is an issue of law; otherwise, it is an issue of fact.[15]

Here the CA needed only to review the records, more particularly, the pleadings of the parties and their annexes to determine what law applied to Roaquin, Section 45 or Section 48 of R.A. 6975. Such question does not call for an examination of the probative value of the evidence of the parties since the essential facts of the case are not in dispute. As Roaquin's superior officers' appeal involves only questions of law, they erred in taking recourse to the CA by notice of appeal. Hence, the CA correctly dismissed their appeal.[16]

Two. Besides, the petition has no merit. R.A. 6975,[17] which took effect on January 1, 1991, provides the procedural framework for administrative actions against erring police officers. Sections 41 and 42 grant concurrent jurisdiction to the People's Law Enforcement Board, on the one hand, and the PNP Chief and regional directors, on the other, over administrative charges against police officers that are subject to dismissal.[18]

But Section 45 that Roaquin's superior officers invoked cannot apply to him since no one filed an administrative action against him in connection with the crime of which he was charged in court. His superiors did not adduce evidence during the trial before the RTC that such action had been filed. They subsequently alleged in their pleadings the filing of some administrative case against him but they provided neither the specifics of that case nor a document evidencing its existence.

At any rate, assuming that someone filed an administrative charge against Roaquin, still the law required the PNP to give him notice of such charge and the right to answer the same. This does not appear in the record. Additionally, Special Order 74 provided that Roaquin's mode of discharge was to be determined by higher headquarters.[19] Again, nothing in the record of this case indicates that the PNP investigated Roaquin or conducted a summary proceeding to determine his liability in connection with the murder of which he was charged in court. The PNP gave him no chance to show why he should not be discharged.

What the Court found in the record is police officer Calinisan's Resolution,[20] stating that Roaquin's dismissal

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from the service was done without administrative due process, thus his recommendation that Roaquin be reinstated. Indeed, the RTC observed that:

> The PNP however did not file any administrative charge against the accused preparatory to his dismissal and therefore the dismissal effected without any administrative complaint violated the right of the accused to substantive and procedural due process. x x x
>
> x x x x
>
> The Rules and Regulations in the Disposition of Administrative cases involving PNP members before the PNP Disciplinary Authorities pursuant to Sections 41 and 42 of Republic Act 6975 cannot be applied to case of the petitioner simply because he was not charged of any administrative case in accordance with Section 42 of Republic Act 6975 x x x which provides the requirements of notice and hearing as part of the right of the petitioner to due process is not complied with.[21]

The National Police Commission Memorandum Circular 96-010 cannot also be applied to Roaquin since it refers to rules and regulations governing the disposition of administrative cases involving PNP members. There had been no administrative case against him.

What apply to Roaquin are Sections 46, 47, and 48 of R.A. 6975 which direct his reinstatement after he was absolved of the crime of which he was charged in court. These sections provide:

> Section 46. Jurisdiction in Criminal Cases. - Any provision of law to the contrary notwithstanding, criminal cases involving PNP members shall within the exclusive jurisdiction of the regular courts x x x.
>
> Section 47. Preventive Suspension Pending Criminal Case. - Upon the filing of a complaint or information sufficient in form and substance against a member of the PNP for grave felonies where the penalty imposed by law is six (6) years and one (1) day or more, the court shall immediately suspend the accused from office until the case is terminated. Such case shall be subject to continuous trial and shall be terminated within ninety (90) days from arraignment of the accused.
>
> Section 48. Entitlement to Reinstatement and Salary. - A member of the PNP who may have been suspended from office in accordance with the provisions of this Act or who shall have been terminated or separated from office shall, upon acquittal from the charges against him, be entitled to reinstatement and to prompt payment of salary, allowances and other benefits withheld from him by reason of such suspension or termination.

While the PNP may have validly suspended Roaquin from the service pending the adjudication of the criminal case against him, he was entitled after his acquittal not only to reinstatement but also to payment of the salaries, allowances, and other benefits withheld from him by reason of his discharge from the service.

WHEREFORE, the Court DENIES the petition and AFFIRMS the decisions of the CA in CA-G.R. SP 63355 and the RTC in Special Civil Action 133-0-2000, reinstating SPO2 Reynaldo Roaquin into the service and ordering the Philippine National Police to pay him his back salaries, allowances, and other benefits during the time he was out of service. If reinstatement is no longer possible because police officer Roaquin has been assumed to have retired in due course, he is to be paid the back salaries, allowances, and other benefits, including retirement, to which he is entitled from the time of his discharge to the time of his assumed retirement.

SO ORDERED.

Carpio, (Chairperson), Velasco, Jr.,[*] Peralta, and Bersamin,[**]JJ., concur.

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[*] Designated as additional member in lieu of Associate Justice Antonio Eduardo B. Nachura, per Special Order

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883 dated September 1, 2010.

[**] Designated as additional member in lieu of Associate Justice Jose Catral Mendoza, per Special Order 886 dated September 1, 2010.

[1] The Department of the Interior and Local Government Act of 1990.

[2] Rollo, p. 38.

[3] Id. at 222.

[4] Id. at 81-89.

[5] Id. at 91-102.

[6] Section 48. Entitlement to Reinstatement and Salary. - A member of the PNP who may have been suspended from office in accordance with the provisions of this Act or who shall have been terminated or separated from office shall, upon acquittal from the charges against him, be entitled to reinstatement and to prompt payment of salary, allowances and other benefits withheld from him by reason of such suspension or termination.

[7] Rollo, pp. 50-51.

[8] Section 45. Finality of Disciplinary Action. - The disciplinary action imposed upon a member of the PNP shall be final and executory: Provided, That a disciplinary action imposed by the regional director or by the PLEB involving demotion or dismissal from the service may be appealed to the regional appellate board within ten (10) days from receipt of the copy of the notice of decision: Provided, further, That the disciplinary action imposed by the Chief of the PNP involving demotion or dismissal may be appealed to the National Appellate Board within ten (10) days from receipt thereof: Provided, furthermore, That the regional or National Appellate Board, as the case may be, shall decide the appeal within sixty (60) days from receipt of the notice of appeal: Provided, finally, That failure of the regional appellate board to act on the appeal within said period shall render the decision final and executory without prejudice, however, to the filing of an appeal by either party with the Secretary.

[9] Rollo, pp. 108-117.

[10] Id. at 248.

[11] Id. at 54.

[12] Id. at 121-127.

[13] Id. at 31-36.

[14] Binay v. Odeña, G.R. No. 163683, June 8, 2007, 524 SCRA 248, 255.

[15] China Road and Bridge Corporation v. Court of Appeals, 401 Phil. 590, 602 (2000).

[16] RULES OF COURT, Rule 50, Section 2.

[17] "An Act Establishing the Philippine National Police under a Reorganized Department of Interior and Local Government, and for Other Purposes," approved on December 13, 1990.

[18] Quiambao v. Court of Appeals, 494 Phil. 16, 31-33 (2005).

[19] Rollo, p. 222.

[20] Id. at 246.

[21] Id. at 125-126.

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