

EVELYN S. CABUNGCAL, ELVIRA J. CANLAS, MARIANITA A. BULANAN, REMEDIOS S. DE JESUS, AND NUNILON J. MABINI, PETITIONERS, VS. SONIA R. LORENZO, IN HER CAPACITY AS MUNICIPAL MAYOR O...

G.R. No. 160367. December 18, 2009

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

As a rule, judicial intervention is allowed only after exhaustion of administrative remedies. This principle goes hand-in-hand with the doctrine of primary jurisdiction, which precludes courts from resolving, in the first instance, controversies falling under the jurisdiction of administrative agencies. Courts recognize that administrative agencies are better equipped to settle factual issues within their specific field of expertise because of their special skills and technical knowledge. For this reason, a premature invocation of the court's judicial power is often struck down, unless it can be shown that the case falls under any of the applicable exceptions.

Assailed in this Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court are the March 20, 2003 Decision[2] of the Court of Appeals (CA) dismissing petitioners' petition for lack of merit and its October 6, 2003 Resolution[3] denying the motion for reconsideration.

Factual Antecedents

On July 9, 2001, the Sangguniang Bayan of San Isidro, Nueva Ecija, issued Resolution No. 27 s. 2001[4] declaring the reorganization of all offices of the municipal government. On July 23, 2001, the Resolution was approved by the Sangguniang Panlalawigan via Resolution No. 154 s. 2001.[5]

Thereafter, on November 12, 2001, the Sangguniang Bayan passed Resolution No. 80 s. 2001,[6] approving and adopting the proposed new staffing pattern of the municipal government. On November 26, 2001, the Sangguniang Panlalawigan approved the same through Resolution No. 299 s. 2001.[7]

On December 21, 2001, the Municipal Mayor of San Isidro, Nueva Ecija, herein respondent Sonia R. Lorenzo, issued a memorandum[8] informing all employees of the municipal government that, pursuant to the reorganization, all positions were deemed vacant and that all employees must file their respective applications for the newly created positions listed in the approved staffing pattern on or before January 10, 2002. Otherwise, they would not be considered for any of the newly created positions.

Proceedings before the Court of Appeals

Instead of submitting their respective applications, petitioners, on January 17, 2002, filed with the CA a Petition for Prohibition and Mandamus with application for issuance of Writ of Preliminary Injunction and Restraining Order.[9] They alleged that they were permanent employees of the Rural Health Unit of the Municipality of San Isidro, Nueva Ecija, with the corresponding salary grade and date of employment:[10]

Name

Position

Salary Grade

Date of employment

Evelyn S. Cabungcal

Dentist II

16

April 4, 1983

Elvira J. Canlas

Nurse III

16

December 19, 1978

Marianita A. Bulanan

Midwife III

11

May 21, 1981

Remedios S. De Jesus

Dental Aide

4

June 6, 1989

Nunilon J. Mabini

Sanitation Inspector I

6

January 2, 1990

Respondents Sonia R. Lorenzo, Cecilio De Guzman, Cesario Lopez, Jr., Emilio Pacson, Bonifacio Caceres, Jr., Napoleon Ocampo, Mario Cruz, Priscila Reyes, Rolando Esquivel, and Crisenciano Cablao were sued in their capacity as Mayor, as Vice Mayor, and as members of the Sangguniang Bayan respectively, of San Isidro, Nueva Ecija. On the other hand, respondents Eduardo N. Josen IV, Bella Aurora A. Dulay, Benjamin V. Morales, Christopher L. Villareal, Jose T. Del Mundo, Solita C. Santos, Renato C. Tomas, Jose Bernardo V. Yango, Ireneo S. De Leon, Nathaniel B. Bote, Rudy J. De Leon, Rodolfo M. Lopez, Ma. Lourdes C. Lahom, and Jose Francis Steven M. Dizon were sued in their capacity as Vice Governor and as members of the Sangguniang Panlalawigan, respectively.

Petitioners sought to prohibit respondents from implementing the reorganization of the municipal government of

San Isidro, Nueva Ecija, under Resolution Nos. 27 and 80 s. 2001 of the Sangguniang Bayan. They likewise prayed for the nullification of said Resolutions.

While the case was pending, respondent Mayor Sonia R. Lorenzo issued a letter terminating the services of those who did not re-apply as well as those who were not selected for the new positions effective April 21, 2002.[11]

On March 20, 2003, the CA rendered a Decision dismissing the petition for lack of merit. It ruled:

Going through the arguments of the parties, we find respondents' contentions to be more in line with existing laws and jurisprudence. It cannot be denied that indeed, petitioners' severance from employment is a sad tale to tell; however, petitioners' allegation of grave abuse of discretion on the part of public respondents particularly Mayor Lorenzo, can hardly be justified. The assailed acts of respondents are clearly authorized under Section 76 of the Local Government Code of 1991 as quoted above.

x x x x

Culled from the records of the case, the reorganization of the municipal government of San Isidro yielded an organization structure suitable for a 4th class municipality, which created savings in an estimated amount of more or less Four Million pesos (P4,000,000.00), which can be used for implementation of other local projects for delivery of basic services and additional benefits for its employees. As shown by the respondents, the original plantilla x x x of one hundred and thirty one (131) [positions] has been trimmed down to eighty-eight (88) [positions] under the new staffing pattern. Thus, We find plausible the [claim] of respondents about budgetary [savings], comparing the old with new staffing pattern, in that:

Prior to the reorganization, this LGU had a budget appropriation of P18,322,933.00 for personal services [including enterprise workers] leaving a measly sum of [sic] P4,127,703.00 as revolving fund for the whole year. With the advent of the new staffing pattern, more than P7,000,000.00 can be channeled by this LGU for its plans and programs. Under Section 325 of the Local Government Code, LGU's are limited by law to appropriate only forty five percent [45%] in case of first to third class LGU's or fifty five percent [55%] in case of fourth to fifth class municipalities of their annual income for personal services. The LGU of San Isidro being a fourth class municipality has certainly exceeded the 55% appropriation limit under the Local Government Code because for the year 2000 alone, [P16,787,961.00, or roughly 78% of its annual income of P22,450,636.00, have already been allocated to personal services. That certainly is] way above the ceiling allowed by Section 325 of the Local Government Code.

x x x x

Verily, there was no bad faith on the part of respondents when they chose to follow the recommendations of the management committee, [to create] a new staffing pattern [thereby generating savings] to provide more basic services [and] livelihood projects x x x.

x x x x

Valid reasons had been shown by respondents which support the reorganization of the municipal government of San Isidro. No personal or political motives having been shown to be involved in this strongly assailed reorganization of the Municipality of San Isidro, petitioners, therefore, had miserably failed to show and prove to this Court that respondents violated R.A. No. 7305 (Magna Carta of Health Workers).

We must point out that good faith is presumed. It is incumbent upon the petitioners to prove that the reorganization being implemented in the Municipality of San Isidro is tainted with bad faith. Absent any showing that respondents acted with grave abuse of discretion amounting to lack or excess of jurisdiction in the passage and implementation of Resolution Nos. 27 and 80, this petition must fail.

Finally, respondents were correct when they stated that the extraordinary writ of mandamus is not applicable in this case because the act being sought by petitioners to be done is discretionary and not a ministerial duty. In other words, mandamus lies only to compel the performance, x x x of a ministerial duty, but not to compel the performance of a discretionary duty. Since grave abuse of discretion is not evident in this case, the exceptional remedy of mandamus is unavailable. x x x

WHEREFORE, in view of all the foregoing and finding that the assailed Resolution No. 27 dated July 9, 2001 and Resolution No. 80 dated November 12, 2001 were not issued by respondents with grave abuse of discretion amounting to lack or excess of jurisdiction, the instant appeal [sic] is DENIED DUE COURSE and, accordingly, DISMISSED for lack of merit. The validity of the assailed resolutions, being in accordance with law and jurisprudence, is UPHELD.

SO ORDERED.[12]

Petitioners moved for a reconsideration[13] which was denied by the CA in its October 6, 2003 Resolution.

Hence, petitioners availed of this recourse.

Petitioners' Arguments

Petitioners contend that the March 20, 2003 Decision and October 6, 2003 Resolution of the CA were not in accordance with Republic Act (RA) No. 6656, otherwise known as "An Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization", specifically Section 2[14] thereof and RA 7305, otherwise known as the "Magna Carta of Health Workers".

Respondents' Argument

Respondents, for their part, argue that petitioners' separation from service was a result of a valid reorganization done in accordance with law and in good faith.

Both parties filed their memoranda.[15] Thereafter, in a Resolution[16] dated August 6, 2008, we required the parties to submit supplemental memoranda discussing therein their respective positions on the issue of jurisdiction.

Issues

- 1) Whether petitioners' automatic resort to the Court of Appeals is proper.
- 2) Whether the case falls under the exceptions to the rule on exhaustion of administrative remedies.

Our Ruling

Petitioners' recourse should
have been with the Civil Service
Commission and not with the
Court of Appeals

Section 2 (1) and Section 3, Article IX-B of the Constitution provide that:

Section 2. (1) The civil service embraces all branches, subdivisions, instrumentalities and agencies of the Government, including government-owned or controlled corporations with original charters.

Section 3. The Civil Service Commission, as the central personnel agency of the Government, shall establish a career service and adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness,

and courtesy in the civil service. It shall strengthen the merit and rewards system, integrate all human resources development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability. It shall submit to the President and the Congress an annual report on its personnel programs.

Corollary thereto, Section 4 of CSC Memorandum Circular No. 19-99, states that:

Section 4. Jurisdiction of the Civil Service Commission. -- The Civil Service Commission shall hear and decide administrative cases instituted by, or brought before it, directly or on appeal, including contested appointments, and shall review decisions and actions of its offices and of the agencies attached to it.

Except as otherwise provided by the Constitution or by law, the Civil Service Commission shall have the final authority to pass upon the removal, separation and suspension of all officers and employees in the civil service and upon all matters relating to the conduct, discipline and efficiency of such officers and employees. (Emphasis supplied)

Pursuant to the foregoing provisions, the CSC, as the central personnel agency of the Government, has jurisdiction over disputes involving the removal and separation of all employees of government branches, subdivisions, instrumentalities and agencies, including government-owned or controlled corporations with original charters. Simply put, it is the sole arbiter of controversies relating to the civil service.[17]

In this case, petitioners are former local government employees whose services were terminated due to the reorganization of the municipal government under Resolution Nos. 27 and 80 of the Sangguniang Bayan of San Isidro, Nueva Ecija. Considering that they belong to the civil service, the CSC has jurisdiction over their separation from office.

Even the laws upon which petitioners anchor their claim vest jurisdiction upon the CSC. Under RA 6656 and RA 7305, which were cited by the petitioners in their petition, it is the CSC which determines whether an employee's dismissal or separation from office was carried out in violation of the law or without due process. Accordingly, it is also the CSC which has the power to reinstate or reappoint an unlawfully dismissed or terminated employee. Quoted hereunder are Section 9 of RA 6656 and Section 8 of RA 7305:

SECTION 9. All officers and employees who are found by the Civil Service Commission to have been separated in violation of the provisions of this Act, shall be ordered reinstated or reappointed as the case may be without loss of seniority and shall be entitled to full pay for the period of separation. Unless also separated for cause, all officers and employees, who have been separated pursuant to reorganization shall, if entitled thereto, be paid the appropriate separation pay and retirement and other benefits under existing laws within ninety (90) days from the date of the effectivity of their separation or from the date of the receipt of the resolution of their appeals as the case may be: Provided, That application for clearance has been filed and no action thereon has been made by the corresponding department or agency. Those who are not entitled to said benefits shall be paid a separation gratuity in the amount equivalent to one (1) month salary for every year of service. Such separation pay and retirement benefits shall have priority of payment out of the savings of the department or agency concerned. (Emphasis supplied)

x x x x

SECTION 8. Security of Tenure. -- In case of regular employment of public health workers, their services shall not be terminated except for cause provided by law and after due process: Provided, That if a public health worker is found by the Civil Service Commission to be unjustly dismissed from work, he/she shall be entitled to reinstatement without loss of seniority rights and to his/her back wages with twelve percent (12%) interest computed from the time his/her compensation was withheld from him/her up to the time of reinstatement. (Emphasis supplied)

All told, we hold that it is the CSC which has jurisdiction over appeals from personnel actions taken by

respondents against petitioners as a result of reorganization. Consequently, petitioners' resort to the CA was premature. The jurisdiction lies with the CSC and not with the appellate court.

The case does not fall under any of the exceptions to the rule on exhaustion of administrative remedies

The rule on exhaustion of administrative remedies provides that a party must exhaust all administrative remedies to give the administrative agency an opportunity to decide the matter and to prevent unnecessary and premature resort to the courts.[18] This, however, is not an ironclad rule as it admits of exceptions,[19] viz:

1. when there is a violation of due process;
2. when the issue involved is purely a legal question;
3. when the administrative action is patently illegal amounting to lack or excess of jurisdiction;
4. when there is estoppel on the part of the administrative agency concerned;
5. when there is irreparable injury;
6. when the respondent is a department secretary whose acts as an alter ego of the President bears the implied and assumed approval of the latter;
7. when to require exhaustion of administrative remedies would be unreasonable;
8. when it would amount to a nullification of a claim;
9. when the subject matter is a private land in land case proceedings;
10. when the rule does not provide a plain, speedy and adequate remedy; and
11. when there are circumstances indicating the urgency of judicial intervention.

The instant case does not fall under any of the exceptions. Petitioners' filing of a petition for mandamus and prohibition with the CA was premature. It bears stressing that the remedies of mandamus and prohibition may be availed of only when there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law.[20] Moreover, being extraordinary remedies, resort may be had only in cases of extreme necessity where the ordinary forms of procedure are powerless to afford relief.[21]

Thus, instead of immediately filing a petition with the CA, petitioners should have first brought the matter to the CSC which has primary jurisdiction over the case.[22] Thus, we find that the CA correctly dismissed the petition but not the grounds cited in support thereof. The CA should have dismissed the petition for non-exhaustion of administrative remedies.[23]

Considering our above findings, we find no cogent reason to resolve the other issues raised by the petitioners in their petition.

WHEREFORE, the instant petition is DENIED. The March 20, 2003 Decision of the Court of Appeals dismissing the petition and its October 6, 2003 Resolution denying the motion for reconsideration are AFFIRMED but on the ground that petitioners failed to exhaust the administrative remedies available to them.

SO ORDERED.

Carpio[*], (Chairperson), Leonardo-De Castro[**], Brion, and Abad, JJ., concur.

[*] Per Special Order No. 775 dated November 3, 2009.

[**] Additional member per Special Order No. 776 dated November 3, 2009.

[1] Rollo, pp. 3-20.

[2] Id. at 21-36; penned by Associate Justice Sergio L. Pestaño and concurred in by Acting Presiding Justice Cancio C. Garcia and Associate Justice Eloy R. Bello, Jr.

[3] Id. at 42-43.

[4] CA rollo, p. 44.

[5] Id. at 28-29.

[6] Rollo, pp. 45-48.

[7] CA rollo, pp. 34 - 35.

[8] Id. at 36-37.

[9] Id. at 2-26.

[10] Rollo, p. 6.

[11] Id. at 79.

[12] Id. at 29-36.

[13] Id. at 37-41.

[14] SECTION 2. No officer or employee in the career service shall be removed except for a valid cause and after due notice and hearing. A valid cause for removal exists when, pursuant to a bona fide reorganization, a position has been abolished or rendered redundant or there is a need to merge, divide, or consolidate positions in order to meet the exigencies of the service, or other lawful causes allowed by the Civil Service Law. The existence of any or some of the following circumstances may be considered as evidence of bad faith in the removals made as a result of reorganization, giving rise to a claim for reinstatement or reappointment by an aggrieved party:

- (a) Where there is a significant increase in the number of positions in the new staffing pattern of the department or agency concerned;
- (b) Where an office is abolished and another performing substantially the same functions is created;
- (c) Where incumbents are replaced by those less qualified in terms of status of appointment, performance and merit;
- (d) Where there is a reclassification of offices in the department or agency concerned and the reclassified offices perform substantially the same function as the original offices;
- (e) Where the removal violates the order of separation provided in Section 3 hereof.

[15] Rollo, pp. 92-110 and 116-139.

[16] Id. at 214-216.

[17] Pangasinan State University v. Court of Appeals, G.R. No. 162321, June 29, 2007, 526 SCRA 92, 98.

[18] Republic of the Phils. v. Express Telecommunication Co., Inc., 424 Phil. 372, 399 (2002).

[19] Buston-Arendain v. Gil, G.R. No. 172585, June 26, 2008, 555 SCRA 561, 573.

[20] Sections 2 & 3 of Rule 65 of the Rules of Court.

[21] ACWS, Ltd. v. Dumlao, 440 Phil. 787, 803 (2002).

[22] See Pan v. Peña, G.R. No. 174244, February 13, 2009, 579 SCRA 314.

[23] See Casimina v. Legaspi, G.R. No. 147530, June 29, 2005, 462 SCRA 171, 182.

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