

BENJAMIN B. GERONGA, Petitioner, vs. HON. EDUARDO VARELA, as City Mayor of Cadiz City, Respondent.

G.R. No. 160846. February 22, 2008

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

The Petition for Review on Certiorari under Rule 45 of the Rules of Court filed by Benjamin B. Geronga (petitioner) assails that portion of the October 15, 2002 Joint Decision[1] of the Court Appeals (CA) affirming his dismissal from the service under Resolution No. 992107[2] dated September 17, 1999 and Resolution No. 000715[3] dated March 21, 2000 of the Civil Service Commission (CSC); as well as the October 1, 2003 CA Resolution[4] denying his Motion for Reconsideration.

The facts are of record.

Petitioner works as Engineer IV at the General Services Department of the local government of Cadiz City. In 1996, he was involved in two administrative cases: 1) Administrative Case No. 96-04[5] for Unjust Vexation, Contempt, Insubordination, Conduct Unbecoming a Public Officer, and Alarm and Scandal; and 2) Administrative Case No. 96-05[6] for Grave Misconduct and Engaging in Partisan Political Activity. Impleaded with petitioner in Administrative Case No. 96-05 were Edwin Nuyad (Nuyad) and Nick Ambos (Ambos), also employees of the local government of Cadiz City.

The two administrative cases were referred by Cadiz City Mayor Eduardo Varela (respondent) to City Legal Officer Marcelo R. del Pilar (Del Pilar) for investigation. After investigation, Del Pilar issued in Administrative Case No. 96-04 a Resolution/Recommendation dated December 1, 1997 for the dismissal of petitioner for grave misconduct.[7] In Administrative Case No. 96-05, Del Pilar issued a separate Resolution/Recommendation dated December 4, 1997, recommending the dismissal of petitioner, Nuyad and Ambos for grave misconduct and partisan politics.[8] Respondent approved both recommendations.[9]

Consequently, on January 8, 1998, respondent issued to petitioner Memorandum Order No. 98-V-05, addressed to petitioner, to wit:

Attached is a copy of the Resolution/Recommendation of the City Legal Officer which this office has approved in toto and considered an integral part hereof.

We find the recommendation as contained therein to be just and proper under the premises.

In view hereof, you are hereby meted a penalty of dismissal from the service as recommended effective January 09, 1998.

For strict compliance.[10] (Emphasis supplied.)

Petitioner received copy of Memorandum Order No. 98-V-05 on January 9, 1998.[11] Without assistance of counsel, petitioner filed with the CSC a Notice of Appeal, stating:

Appellant respectfully serves notice that he is appealing his DISMISSAL FROM SERVICE by the City Mayor of Cadiz City, Negros Occidental, Eduardo G. Varela, contained in the latter's Memorandum Order No. 98-V-05 dated January 08, 1998.[12] (Emphasis supplied.)

Still without assistance of counsel, petitioner, together with Nuyad and Ambos, filed a Joint Memorandum in which he discussed Administrative Case No. 96-05 only, and completely omitted reference to Administrative Case No. 96-04.[13]

Acting on the appeal, the CSC issued Resolution No. 990717 dated March 25, 1999, thus:

WHEREFORE, the appeal of Edwin Nuyad, Nick Ambos and [petitioner] is hereby granted. Accordingly, Mayor Eduardo G. Varela is directed to reinstate Nuyad, Ambos and [petitioner] to their former positions or, if no longer available, to comparable positions.[14]

Respondent filed a Motion for Reconsideration,[15] questioning the order to reinstate Nuyad, Ambos and petitioner. Respondent pointed out that petitioner cannot be reinstated anymore because the latter failed to appeal from his dismissal in Administrative Case No. 96-04, which consequently became final and executory.

The CSC partly granted the Motion for Reconsideration of respondent in Resolution No. 992107, to wit:

WHEREFORE, the Motion for Reconsideration of Mayor Eduardo G. Varela is partly granted.

His prayer for the reversal of CSC Resolution No. 990717 dated March 25, 1999 is hereby denied. However, his request for the non-reinstatement of [petitioner] in view of the finality of the decision in Administrative Case No. 96-04, finding [petitioner] guilty of Grave Misconduct for which he was meted out the penalty of dismissal from the service is granted.

Accordingly, CSC Resolution No. 990717 dated March 25, 1999 is hereby modified insofar as the non-reinstatement of [petitioner] is concerned. In all other matters, the said resolution stands.[16] (Emphasis supplied.)

Both petitioner and respondent filed Motions for Reconsideration[17] but the CSC denied the same in Resolution No. 000715.[18] They filed with the CA separate Petitions for Review,[19] which were later consolidated.[20]

In the October 15, 2002 Joint Decision[21] assailed herein, the CA dismissed both petitions and affirmed CSC Resolutions No. 992107 and No. 000715.

Only petitioner filed a Motion for Reconsideration[22] which the CA denied in its October 1, 2003 Resolution.[23]

Petitioner is now before this Court, seeking resolution of the following issues:

- Whether or not the dismissal of the petitioner under Memorandum Order No. 98-V-05 constitutes a denial of his constitutional right to due process;
- Whether or not the petitioner was denied due process under the Resolution/Recommendation of the City Legal Officer in Adm. Case No. 96-04 as adopted in toto by the City Mayor;
- Whether or not the dismissal of the petitioner became final for failure to appeal;
- Whether or not the Civil Service Commission acted properly and within the bounds of its own rules and regulations in entertaining the motion for reconsideration of Mayor Varela from its Resolution No. 990714 dated March 25, 1999; and
- Whether or not the Court of Appeals erred in upholding the dismissal of the petitioner.[24]

We shall first resolve the fourth issue – whether the CSC may entertain respondent's motion for reconsideration of its decision exonerating petitioner.

Petitioner points out that after ordering his exoneration under Resolution No. 990717, the CSC could no longer entertain a motion for reconsideration filed by respondent who is not even a proper party. He argues that in acting upon the motion for reconsideration of respondent and worse, in modifying Resolution No. 990717, the CSC violated Section 38, Rule III, in relation to Section 2(l), Rule I of Memorandum Circular No. 19, series of 1999 or the Uniform Rules on Administrative Cases in the Civil Service (URACCS); and the CA erred in affirming it.[25]

Petitioner is mistaken.

Sections 37 (a) and 39 of Presidential Decree (P.D.) No. 807,[26] otherwise known as The Philippine Civil Service Law, provide:

Section 37. – (a) The Commission shall decide upon appeal all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty days, or fine in an amount exceeding thirty days salary, demotion in rank or salary or transfer, removal or dismissal from office x x x.

Section 39. – (a) Appeals, where allowable, shall be made by the party adversely affected by the decision within fifteen days from receipt of the decision unless a petition for reconsideration is seasonably filed, which petition shall be decided within fifteen days x x x. (Emphasis supplied.)

In addition, Section 47 of Executive Order (E.O.) No. 292 (The Administrative Code of 1987)[27] reiterates that the CSC may entertain appeals only from (a) a penalty of suspension of more than thirty days; or (b) a fine in an amount exceeding thirty days' salary; or (c) demotion in rank or salary or transfer; or (d) removal or dismissal from office.

Interpreting the foregoing provisions, the Court has earlier held that, in an administrative case, only a decision involving the imposition of a penalty of suspension of more than 30 days, fine exceeding 30-day salary, demotion, transfer, removal or dismissal is appealable to the CSC; hence, a decision exonerating an employee cannot be appealed.[28] Moreover, given the nature of the appealable decision, only said employee would qualify as the "party adversely affected" who is allowed to appeal; other persons, such as the appointing or disciplining authorities, cannot appeal.[29]

Consonant with the foregoing interpretation, the CSC adopted Section 2(l), Rule I and Section 38, Rule III of the URACCS[30] in implementation of the pertinent

provisions of P.D. No. 807 and E.O. No. 292,[31] to wit:

Section 2. Coverage and Definition of Terms. x x x (l) PARTY ADVERSELY AFFECTED refers to the respondent against whom a decision in a disciplinary case has been rendered.

x x x x

Section 38. Filing of Motion for Reconsideration. - The party adversely affected by the decision may file a motion for reconsideration with the disciplining authority who rendered the same within fifteen (15) days from receipt thereof

The present view is different. In a long line of cases,[32] beginning with *Civil Service Commission v. Dacoycoy*,[33] this Court has maintained that a judgment of exoneration in an administrative case is appealable, and that the CSC,[34] as the agency mandated by the Constitution to preserve and safeguard the integrity of our civil service system, and/or the appointing authority, such as a mayor[35] who exercises the power to discipline or remove an erring employee, qualifies as parties adversely affected by the judgment who can file an appeal. The

rationale for this is explained in the concurring opinion of Associate Justice now Chief Justice Reynato S. Puno in *Civil Service Commission v. Dacoycoy*:

In truth, the doctrine barring appeal is not categorically sanctioned by the Civil Service Law. For what the law declares as “final” are decisions of heads of agencies involving suspension for not more than thirty (30) days or fine in an amount not exceeding thirty (30) days salary x x x. It is thus non sequitur to contend that since some decisions exonerating public officials from minor offenses can not be appealed, ergo, even a decision acquitting a government official from a major offense like nepotism cannot also be appealed.[36]

Thus, through Resolution No. 021600,[37] the CSC amended the URACCS, by allowing the disciplining authority to appeal from a decision exonerating an erring employee, thus:

Section 2. Coverage and Definition of Terms. – x x x (I) PARTY ADVERSELY AFFECTED refers to the respondent against whom a decision in a disciplinary case has been rendered or to the disciplining authority in an appeal from a decision exonerating the said employee.

In fine, the exoneration of petitioner under CSC Resolution No. 990717 may be subject to a motion for reconsideration by respondent who, as the appointing and disciplining authority, is a real party in interest. The CSC acted within the rubric of *Civil Service Commission v. Dacoycoy* in allowing said motion for reconsideration.

The next question then is whether the CSC was correct in granting the motion for reconsideration of respondent, and the CA, in agreeing with it.

The CA and CSC declared as final and executory the decision of respondent in Administrative Case No. 96-04, finding petitioner guilty of grave misconduct and sentencing him with a penalty of dismissal from government service, on the sole ground that the latter failed to appeal from said decision. The CSC found:

x x x It is worthy to note that a copy of the Decision dated December 1, 1997 in Administrative Case No. 96-04 issued by [respondent] was received by [petitioner] himself on January 9, 1998. This is very apparent on the face of the Decision. Hence, upon receipt of the same, [petitioner] had the option whether or not to bring the said decision on appeal to the Commission. Considering that he failed to appeal the said Decision within the prescribed period of fifteen (15) days from receipt hereof, the same became final and executory.[38] (Emphasis supplied.)

The CA added that the appeal which petitioner interposed from the decision in Administrative Case No. 96-05 cannot be treated also as an appeal from the decision in Administrative Case No. 96-04 because the “Joint Memorandum before the CSC mentions only Administrative Case No. 96-05, not Administrative Case No. 96-04.”[39]

The Court does not completely agree.

The CSC is under the impression that in Administrative Case No. 96-04, respondent issued a “Decision dated December 1, 1997,” and that it is said decision which petitioner should have appealed. The CA shared the notion. Both are wrong. What is dated December 1, 1997 is merely the Resolution/Recommendation issued by Del Pilar in Administrative Case No. 96-04. The formal decision of respondent is Memorandum Order No. 98-V-05 dated January 8, 1998.

There is a material difference between a mere recommendation to dismiss an employee and an administrative decision/resolution sentencing him with dismissal.

Under Section 35,[40] Rule III of the URACCS, a recommendation to dismiss is that contained in a formal investigation report issued by a hearing or investigating officer and submitted to the disciplining authority for

approval. Falling under this category are the December 1, 1997 Recommendation/Resolution in Administrative Case No. 96-04 and the December 4, 1997 Recommendation/Resolution in Administrative Case No. 96-05 issued by Del Pilar as investigating officer. While they contain the approval of respondent as disciplining authority, both Recommendations/Resolutions merely state findings of probable cause that petitioner is guilty of the administrative charges filed against him, and recommend that he be dismissed. As we held in *Rubio v. Munar*,^[41] such recommendations are not the proper subject matter of an appeal to the CSC.

In contrast, a decision/resolution of dismissal is that rendered by the disciplining authority after receipt of the recommendation of the investigating/ hearing officer,^[42] and on the basis of his independent assessment of the case.^[43] Memorandum Order No. 98-V-05 is one. It was issued by respondent after receipt of the recommendations of Del Pilar. While it incorporates by reference said recommendations, Memorandum Order No. 98-V-05 goes further by categorically declaring petitioner guilty of the administrative charges and imposing upon him the penalty of dismissal. It is therefore the decision rendered by respondent as disciplining authority which may be appealed or be subject of execution, if already final.^[44]

Furthermore, it bears emphasis that Memorandum Order No. 98-V-05 is the decision of respondent not just in Administrative Case No. 96-05 but also in Administrative Case No. 96-04. While the language employed in Memorandum Order No. 98-V-05 refers to a singular "Resolution/Recommendation" of Del Pilar, what were actually attached to the Memorandum were the December 1, 1997 Resolution/Recommendation in Administrative Case No. 96-04 and the December 4, 1997 Resolution in Administrative Case No. 96-05. These attachments were served on petitioner and personally received by him on January 9, 1998 at 5 o'clock in the afternoon, at exactly the same date and time he received Memorandum Order No. 98-V-05.^[45]

Thus, Memorandum Order No. 98-V-05 being the decision of respondent in both Administrative Case No. 96-04 and Administrative Case No. 96-05, it is crucial to emphasize that in the Notice of Appeal which petitioner filed, he distinctly stated that what he is appealing to the CSC is his dismissal as "contained in [respondent's] Memorandum Order No. 98-V-05 dated January 08, 1998."^[46] By so doing, petitioner effectively included in his appeal not just Administrative Case No. 96-05 but also Administrative Case No. 96-04. Therefore, respondent erred in concluding that Administrative Case No. 96-04 had become final and executory for failure of petitioner to appeal the same to the CSC.

Unfortunately for petitioner, the CA and CSC did not anymore look into the merits of the decision in Administrative Case No. 96-04 simply because he raised no issue or argument against it.^[47] Understandably, the CA and CSC could not be faulted for doing so; they were merely adhering to a basic rule that in any proceeding, a party who fails to cite specific grounds or raise particular arguments is deemed to have waived them.^[48]

Such rule, however, is not sacrosanct. It yields to the imperatives of equity, which often arise in administrative cases where at stake is the security of tenure of labor, the protection of which no less than the Constitution guarantees.^[49] Deprivation of security of tenure may be justified only for the causes specified and in the manner prescribed by law. Should there be doubt in the legality of either cause or mode of dismissal, public interest demands the resolution of the doubt wholly on its substance, rather than solely on technical minutiae.^[50]

In *Philippine Amusement and Gaming Corporation v. Angara*,^[51] the respondents-employees failed to appeal from a decision in which the CSC ordered their reinstatement but omitted to award them backwages. The Court condoned their technical lapse and granted their belated claim so as to fulfill the guarantee of monetary compensation which the law itself extends to those arbitrarily dismissed.

Also, in *Constantino-David v. Pangandaman-Gania*,^[52] the respondent-employee failed to question a CSC resolution which omitted to award her backwages. Despite said resolution having attained finality, the Court

allowed its modification so as to entitle the respondent-employee to backwages:

To prevent respondent from claiming back wages would leave incomplete the redress of the illegal dismissal that had been done to her and amount to endorsing the wrongful refusal of her employer or whoever was accountable to reinstate her. A too-rigid application of the pertinent provisions of the Revised Uniform Rules on Administrative Cases in the Civil Service as well as the Rules of Court will not be given premium where it would obstruct rather than serve the broader interests of justice in the light of the prevailing circumstances in the case under consideration.[53]

So too must the Court allow petitioner redress from the decision of respondent in Administrative Case No. 96-04. While petitioner, unaided by legal counsel, may have omitted to raise specific grounds against the decision insofar as Administrative Case No. 96-04 is concerned, it cannot be denied that he intended to appeal from it. The least he deserves then is a scrutiny of the legal and factual bases of his dismissal.

As it turns out, upon review, said decision, insofar as it relates to Administrative Case No. 96-04, is patently void.

Two fundamental requirements[54] of due process in administrative cases are that a person must be duly informed of the charges against him; and that he cannot be convicted of an offense or crime with which he was not charged.[55] A deviation from these requirements renders the proceeding invalid and the judgment issued therein a lawless thing that can be struck down anytime.[56]

In the present case, the records of Administrative Case No. 96-04 reveal that petitioner was dismissed for an act which was not alleged in the administrative charge filed against him.

Administrative Case No. 96-04 sprung from a Sworn Complaint[57] dated March 15, 1996 filed by Rodrigo Mateo (Mateo) against petitioner for unjust vexation, gross misconduct, insubordination, conduct unbecoming a public officer and alarm and scandal,[58] allegedly committed through the following acts: a) his refusal to comply with several orders issued by respondent and Mateo for the filing of daily time records;[59] and b) his having challenged Mateo to a fistfight.[60] The Subpoena[61] which Del Pilar issued to petitioner required the latter to answer the incidents cited by Mateo in his Sworn Complaint. Even the evidence which Del Pilar summarized in his December 1, 1997 Resolution/Recommendation pertains solely to said incidents.[62]

Surprisingly, the conclusion which Del Pilar arrived at in his December 1, 1997 Resolution/Recommendation, and which became the basis of the dismissal of petitioner, has no bearing whatsoever on the offenses with which the latter was charged under the Sworn Complaint nor to the incidents/acts described therein. Rather, the conclusion pertains solely to the alleged defamatory statements which petitioner made in his April 1, 1996 Letter-Answer to the Sworn Complaint, thus:

That respondent having failed and refused to file his answer in the above-entitled case, this office has to resolve the case on the basis of the evidence on records [sic].

There is no doubt that the findings of the City Prosecutor's Office, Cadiz City, of probable cause for libel on the basis of the communication of April 1, 1996 by [petitioner] cannot be disturbed x x x. It appears that the defamation against complainant Mateo contained in said letter dated April 1, 1996 by [petitioner] is not considered privilege communication as found by the Cadiz City Prosecutor's Office. Such an act of [petitioner] in defaming complainant Mateo in a letter dated April 1, 1996 sent to this office furnishing copies of said letter to the City Mayor Eduardo G. Varela, Atty. Abelardo Gayatin, Jr., and Atty. Jessie Caberoy of the Civil Service Commission instead of filing an answer to complaint filed against him no doubt constitute[s] Grave Misconduct which would warrant dismissal from the government service.[63] (Emphasis supplied.)

Nowhere in the records of Administrative Case No. 96-04 does it appear that petitioner was charged with grave misconduct, or that he was held to answer for his alleged defamatory statements in his April 1, 1996 letter. Thus,

the December 1, 1997 Resolution/Recommendation of Del Pilar dismissing petitioner on that ground, and Memorandum Order No. 98-V-05 of respondent approving said resolution/ recommendation were issued in utter contempt of the right of petitioner to due process. Both are void ab initio and should be treated as inexistent^[64] -- it is as if no December 1, 1997 Resolution/Recommendation was issued in Administrative Case No. 96-04, and therefore, Memorandum Order No. 98-V-05 could not have approved and adopted a void resolution/recommendation. In effect, there was nothing for petitioner to appeal from in Administrative Case No. 96-04.

Therefore, Memorandum Order No. 98-V-05 and the December 1, 1997 Resolution/Recommendation constituted an unlawful deprivation of petitioner's security of tenure, insofar as Administrative Case No. 96-04 is concerned. The CA and CSC gravely erred in upholding them.

That said, however, the nullity of Memorandum Order No. 98-V-05 and the December 1, 1997 Resolution/Recommendation leaves Administrative Case No. 96-04 unresolved. Although the Court may already decide said case based on the records before us, the better policy is for us to defer to the prerogative granted under Section 17,^[65] Rule 3 of the Rules of Court, to the primary disciplining authority, the incumbent mayor of Cadiz City,^[66] whether or not to pursue said administrative case.

WHEREFORE, the petition is GRANTED. The Court of Appeals Joint Decision dated October 15, 2002 and Resolution dated October 1, 2003 are REVERSED and SET ASIDE only insofar as Benjamin B. Geronga is concerned; Civil Service Commission Resolution No. 992107 dated September 17, 1999 and Resolution No. 000715 dated March 21, 2000 are ANNULLED. The December 1, 1997 Resolution/Recommendation of Cadiz City Legal Officer Marcelo R. del Pilar and Memorandum Order No. 98-V-05 of Cadiz City Mayor Eduardo Varela in Administrative Case No. 96-04 are also ANNULLED. Administrative Case No. 96-04 is REMANDED to the incumbent city mayor of Cadiz City for proper disposition.

No costs.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Corona, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, and Leonardo-De Castro, JJ., concur.

[1] Penned by Associate Justice (now Presiding Justice) Conrado M. Vasquez, Jr., and concurred in by Associate Justices Remedios A. Salazar-Fernando and Regalado E. Maambong; rollo, p. 30.

[2] Rollo, p. 103.

[3] Id. at 116.

[4] Id. at 44.

[5] Id.

[6] Id. at 53.

[7] Id. at 70.

[8] Id. at 60.

[9] Id. at 61 and 70.

[10] Rollo, p. 52.

[11] Id.

[12] Id.

[13] Id. at 72.

[14] Id. at 83.

[15] Rollo, pp. 88-89.

[16] Id. at 106.

[17] Id. at 108.

[18] Id. at 116.

[19] Id. at 118.

[20] Id. at 30.

[21] Supra note 1.

[22] Rollo, p. 143.

[23] Supra note 4.

[24] Rollo, pp. 19-20.

[25] Petition, id. at 24-25.

[26] Promulgated on October 6, 1975.

[27] Effective November 24, 1989.

[28] Paredes v. Civil Service Commission, G.R. No. 88177, December 4, 1990, 192 SCRA 84; Mendez v. Civil Service Commission, G.R. No. 95575, December 23, 1991, 204 SCRA 965; Magpale v. Civil Service Commission, G.R. No. 97381, November 5, 1992, 215 SCRA 398.

[29] Civil Service Commission v. Dacoycoy, 366 Phil. 86 (1999).

[30] Effective September 27, 1999.

[31] In Abella, Jr. v. Civil Service Commission (G.R. No. 152574, November 17, 2004, 442 SCRA 507, 522), the Court held that the CSC derives its authority to promulgate rules from both P.D. No. 807 and E.O. No. 292.

[32] National Appellate Board of the National Police Commission v. P/Insp. John A. Mamauag, G.R. No. 149999, August 12, 2005, 466 SCRA 624; Dagadag v. Tongnawa, G.R. No. 161166-67, February 3, 2005, 450 SCRA 437; Civil Service Commission v. Gentallan, G.R. No. 152833, May 9, 2005, 458 SCRA 278; supra note 31; Philippine National Bank v. Garcia, Jr., 437 Phil. 289 (2002).

[33] Supra note 29.

[34] Philippine National Bank v. Garcia, Jr., supra note 32; Abella, Jr. v. Civil Service Commission, supra note 31.

[35] Dagadag v. Tongnawa, supra note 32.

[36] Civil Service Commission v. Dacoycoy, supra note 29.

[37] Published on December 29, 2002, Today.

[38] Rollo, p. 117.

[39] Id. at 40-41.

[40] Section 35. Formal Investigation Report. - Within fifteen (15) days after the conclusion of the formal investigation, a report containing a narration of the material facts established during the investigation, the findings and the evidence supporting said findings, as well as the recommendations, shall be submitted by the Hearing Officer with the disciplining authority. The complete records of the case shall be attached to the Report of Investigation.

[41] GR. No. 155952, October 4, 2007.

[42] Section 36. When Case Is Decided. - The disciplining authority shall render his decision on the case within thirty (30) days from receipt of the Report of Investigation.

Section 37. Finality of Decisions. - A decision rendered by heads of agencies whereby a penalty of suspension for not more than thirty (30) days or a fine in an amount not exceeding thirty (30) days' salary is imposed, shall be final and executory. However, if the penalty imposed is suspension exceeding thirty (30) days, or fine in an amount exceeding thirty (30) days salary the same shall be final and executory after the lapse of the reglementary period for filing a motion for reconsideration or an appeal and no such pleading has been filed. (Emphasis supplied.)

[43] Department of Health v. Composano, G.R. No. 157684, April 27, 2005, 457 SCRA 438.

[44] Pefianco v. Moral, 379 Phil. 468 (2000).

[45] Rollo, pp. 52 and 91; CSC Resolution No. 000715, rollo, p. 117.

[46] Supra note 13.

[47] CSC Resolution No. 00715, supra; CA Decision, rollo, p. 41.

[48] De Rama v. Court of Appeals, 405 Phil. 531 (2001).

[49] Municipality of Butig, Lanao del Sur v. Court of Appeals, G.R. No. 13848, December 9, 2005, 477 SCRA 115.

[50] Umbra Tomawis v. Tabao-Caudang, G.R. No. 166547, September 12, 2007; Rosales, Jr. v. Mijares, G.R. No. 154095, November 17, 2004, 442 SCRA 532.

[51] G.R. No. 142937, July 25, 2006, 496 SCRA 453.

[52] 456 Phil. 273 (2003).

[53] Constantino-David v. Pangandaman-Gania, supra note 52, at 88-89.

[54] The requirements include: 1. The right to a hearing, which includes the right to present one's case and submit evidence in support thereof; 2. The tribunal must consider the evidence presented; 3. The decision must have something to support itself; 4. The evidence must be substantial; 5. The decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected; 6. The tribunal or body or any of its judges must act on its or his own independent consideration of the law and facts of the controversy and not simply accept the view of a subordinate in arriving at a decision; and 7. The board or body should in all controversial questions, render its decision in such a manner that the parties to the proceeding can

know the various issues involved and the reason for the decision rendered. (*Ang Tibay v. CIR*, 69 Phil. 635, 642-644 [1940]).

[55] *Civil Service Commission v. Lucas*; 361 Phil. 486 (1999). See also *Civil Service Commission v. Ledesma*, G.R. No. 154521, September 30, 2005, 471 SCRA 589.

[56] *Civil Service Commission v. Lucas*, *supra*. See also *Bernardo v. Court of Appeals*, G.R. No. 124261, May 27, 2004, 429 SCRA 285 and *Rubio, Jr. v. Paras*, G.R. No. 156047, April 12, 2005, 455 SCRA 697.

[57] *Rollo*, p. 101.

[58] Paragraph 15, *Sworn Complaint*, *id.* at 102.

[59] Paragraphs 4 through 11, *Sworn Complaint*, *id.* at 101-102.

[60] Paragraphs 12 and 13, *Sworn Complaint*, *id.* at 102.

[61] *Records*, p. 35.

[62] *Id.* at 64-66.

[63] *Rollo*, pp. 69-70.

[64] *Samartino v. Raon*, 433 Phil. 173 (2002).

[65] Section 17. Death or separation of a party who is a public officer. – When a public officer is a party in an action in his official capacity and during its pendency dies, resigns or otherwise ceases to hold office, the action may be continued and maintained by or against his successor if, within thirty (30) days after the successor takes office or such time as may be granted by the court, it is satisfactorily shown to the court by any party that there is a substantial need for continuing or maintaining it and that the successor adopts or continues or threatens to adopt or continue the action of his predecessor. Before a substitution is made, the party or officer to be affected, unless expressly assenting thereto, shall be given reasonable notice of the application therefor and accorded an opportunity to be heard.

[66] *Dagadag v. Tongnawa*, *supra* note 32, citing *Miranda v. Carreon*, 449 Phil. 285 (2003) and *Heirs of Nemencio Galvez v. Court of Appeals*, 325 Phil. 1028 (1996).

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