PANGASINAN STATE UNIVERSITY, PETITIONER, VS. COURT OF APPEALS, CIVIL SERVICE COMMISSION, AND MYRNA T. LAGOY, RESPONDENTS.

G.R. NO. 162321. June 29, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on certiorari[1] assailing the Resolutions[2] dated July 31, 2003 and February 12, 2004 of the Court of Appeals in CA-G.R. SP No. 77591, entitled "Pangasinan State University v. Civil Service Commission and Myrna T. Lagoy."

From 1994 to 1997, Dean Clarita Jimenez of the College of Education, Pangasinan State University (PSU), Lingayen, Pangasinan, had been receiving oral and written complaints from various offices of the college and groups of students against respondent Myrna Lagoy, a professor in the same university. Dean Jimenez conducted dialogues with the parties and confirmed respondent's infractions, such as falsification of time records, tardiness, dishonesty, insubordination, failure to submit the students' grades on time, and other violations of the Civil Service Law and PSU rules and regulations.

On January 14, 1998, Dean Jimenez issued Memorandum No. 5, Series of 1998, constituting the PSU College Level Fact-Finding Committee to study respondent's case. Investigation and hearings were conducted to determine whether a prima facie case exists against her.

On January 28, 1998, the Fact-Finding Committee issued Resolution No. 1 finding probable cause against respondent. Thus, it issued two Resolutions dated February 18, 1998 and February 25, 1998 recommending that respondent be dismissed from the service. Thereupon, Dean Jimenez filed with the Office of the PSU President a verified complaint dated April 13, 1998 charging respondent with insubordination, gross neglect of duty, misrepresentation, habitual tardiness, usurpation of authority, and grave abuse of authority.

On April 23, 1998, PSU President Reynaldo Segui formed the University Level Investigating Committee to determine again if a prima facie case exists against respondent. From April 28 until May 3, 1998, a preliminary investigation was conducted on the basis of Dean Jimenez's complaint and other documentary evidence. Both parties agreed to simplify and limit the issues to six administrative charges only: insubordination, gross neglect of duty, misconduct, dishonesty, habitual tardiness, and conduct prejudicial to the best interest of the service. On May 4, 1998, the Investigating Committee directed respondent to file her answer within 72 hours but not more than five days. On June 3, 1998, respondent submitted her answer. On June 15, 1998, Dean Jimenez filed her reply to respondent's answer.

During the pendency of the case, or on July 6, 1998, respondent filed with the Civil Service Commission (CSC) an administrative complaint[3] against Dean Jimenez for illegal deduction of salaries, grave abuse of discretion, technical malversation, gross incompetence in the performance of official duties, and gross oppression. On May 14, 1999, the CSC dismissed the complaint for lack of merit.

Going back to the administrative complaint filed by Dean Jimenez against respondent, several hearings were conducted by the PSU Investigating Committee from June 16 to September 1, 1998.

On October 22, 1998, the Investigating Committee submitted Administrative Resolution No. 1-04-23-98 to PSU President Segui finding respondent guilty of the six charges filed against her. In turn, President Segui forwarded this Resolution to the PSU Board of Regents which considered it in its monthly meeting on November 26, 1998. Subsequently, the Board of Regents issued Resolution No. 55, Series of 1998, finding respondent guilty as charged and imposing upon her the penalty of forced resignation without any benefit.

On January 21, 1999, President Segui sent respondent a letter informing her of the Resolutions passed by the Investigating Committee and the Board of Regents.

On February 5, 1999, respondent filed a motion for reconsideration but it was denied by President Segui in a letter dated February 11, 1999 for lack of merit.

However, instead of interposing an appeal to the CSC, respondent, on March 8, 1999, filed with the Regional Trial Court (RTC), Branch 68, Lingayen, Pangasinan, a petition for certiorari, docketed as Civil Case No. 17914, entitled "Myrna Lagoy v. Pangasinan State University."

On September 6, 1999, the RTC issued a Resolution dismissing respondent's petition for lack of merit. She then filed a motion for reconsideration, but this was denied in a Resolution dated February 3, 2000.

Respondent filed a Notice of Appeal with the RTC. However, in its Order of March 21, 2000, the Notice of Appeal was not given due course for her failure to pay the required docket fees. The court's Order dated March 21, 2000 was then entered in the Book of Entries of Judgment on April 13, 2000.

On April 11, 2000, the Board of Regents issued Resolution No. 21, Series of 2000, affirming its Resolution No. 55, Series of 1998, and authorized the new president of the university, Rodolfo Asanion, to implement the same.

In a letter dated April 13, 2000, President Asanion informed respondent that "she is considered resigned from the service effective April 11, 2000." Another letter dated April 14, 2000 was sent to her by Benigno Castro, PSU's Officer-in-Charge, informing her that her name was deleted from the April 2000 payroll.

On October 2, 2000, respondent filed with the RTC a motion to withdraw her appeal. However, it was denied in a Resolution dated October 16, 2000 on the ground that the Order dated March 21, 2000 had become final and executory.

On October 6, 2000, respondent filed with the Board of Regents a motion for reconsideration. President Asanion then requested legal advice from the Office of the Solicitor General (OSG). On January 19, 2001, the OSG rendered an Opinion that respondent cannot again litigate the same case before any quasi-judicial tribunal since the RTC Decision became final and executory upon its entry in the Book of Entries of Final Judgment.

On February 19, 2001, President Asanion sent a letter to respondent's counsel informing him that the issue is considered closed and that the former position of respondent can now be filled up. Attached to the letter was the OSG's Opinion.

On March 27, 2001, respondent filed with the CSC an appeal from the February 19, 2001 letter of President Asanion which, according to her, is the decision in the administrative case against her. The OSG entered its appearance as counsel of PSU.

On February 27, 2002, the CSC issued Resolution No. 02-0297 remanding the case to the PSU for reinvestigation on the ground that no formal charge was filed against respondent. The OSG filed a motion for reconsideration, but

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it was denied by the CSC in its Resolution No. 03-0554 dated May 7, 2003.

On July 7, 2003, the OSG filed with the Court of Appeals a petition for review. On July 31, 2003, the appellate court denied the petition on these grounds: it was filed late and the certification of non-forum shopping was not signed by the OSG's proper officer.

The OSG filed a motion for reconsideration. However, it was denied by the Court of Appeals in a Resolution dated February 12, 2004.

Hence, this petition for review on certiorari.

Petitioner PSU contends that the appellate court erred in affirming the CSC Resolutions requiring it (petitioner) to conduct a reinvestigation. It also maintains that the appeal filed by respondent should not have been acted upon by the CSC for being filed out of time.

The basic issue for our resolution is whether petitioner resorted to the proper remedy after the PSU Board of Regents issued Resolution No. 55, Series of 1998, declaring her guilty as charged and imposing upon her the penalty of forced resignation without any benefit.

The CSC has jurisdiction over all employees of government branches, subdivisions, instrumentalities, and agencies, including government-owned or controlled corporations with original charters. As such, it is the sole arbiter of controversies relating to the civil service. Petitioner PSU is a state-owned educational institution, while respondent is one of its employees working as a professor. Hence, both parties, with respect to the present case, are under the jurisdiction of the CSC.

The applicable Civil Service Rule at the time was Rule XIV, specifically Sections 35 and 36 of the Omnibus Rules on Administrative Cases embodied in CSC Resolution No. 91-1631 dated December 27, 1991, thus:

> Section 35. In the case of a complaint filed by any other person, the complainant shall submit sworn statements covering his testimony and those of his witnesses together with his documentary evidence.
>
> If on the basis of such papers no prima facie case is found to exist, the disciplining authority shall dismiss the case.
>
> If a prima facie case exists, the disciplining authority shall notify the respondent in writing of the charges against him. Copies of the complaint, sworn statements and other documents submitted shall be attached to said notification.
>
> Section 36. The respondent must be given by the disciplining authority not less than seventy-two (72) hours or three (3) days to submit his answer to the charges which answer must be in writing and under oath. Supporting sworn statements and documents may also be submitted. If the answer is found to be satisfactory, the disciplining authority shall dismiss the case.
>
> In said answer, the respondent shall indicate whether or not he elects a formal investigation of the case.

The records show that petitioner PSU faithfully complied with the above provisions. Fact-Finding and Investigating Committees were formed to determine whether a prima facie case exists against respondent. Finding a prima facie case against her, Dean Jimenez formally filed with the Office of the PSU President a complaint charging her with several violations of school rules and the Civil Service law. Next, the Investigating Committee furnished respondent a copy of the complaint and directed her to file her answer. Respondent participated in the preliminary conference, submitted her answer, actively attended the hearings, presented her evidence, and submitted her memorandum. Evidently, she was afforded due process. Eventually, the Board of Regents issued Resolution No. 55, Series of 1998, declaring her guilty as charged and imposing upon her the penalty of forced

resignation without any benefit. But instead of appealing to the CSC pursuant to the doctrine of exhaustion of administrative remedies, she filed with the RTC a petition for certiorari.

In Castro v. Gloria,[4] we held that the doctrine of exhaustion of administrative remedies calls for resort first to the appropriate administrative authorities in the resolution of a controversy falling under their jurisdiction before the same may be elevated to the courts for review. It is settled that non-observance of the doctrine of exhaustion of administrative remedies results in lack of cause of action, which is one of the grounds in the Rules of Court justifying the dismissal of the complaint. The rationale behind this principle is for reasons of practical considerations, comity and convenience.

Sections 47 and 49, Chapter 7 of Book V of Executive Order No. 292,[5] provide:

> Sec. 47. Disciplinary Jurisdiction. – (1) The Commission shall decide upon appeal all administrative disciplinary cases involving the imposition of 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. xxx

> Sec. 49. Appeals – (1) 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. Notice of appeal shall be filed with the disciplining office, which shall forward the case, together with the notice of appeal, to the appellate authority within fifteen days from filing of the notice of appeal, with its comment, if any. The notice of appeal shall specifically state the date of the decision appealed from and the date of receipt thereof. It shall also specifically set forth clearly the grounds relied upon from excepting the decision. x x x

Section 1, Rule II of CSC Resolution No. 90-832,[6] also provides:

> Sec. 1. Who May File an Appeal; Appeal Period. – The party aggrieved by a decision, ruling, order or action of the Merit Systems Protection Board, the Civil Service Regional Office and/or a department or agency of government involving any matter specified in Section 1, Rule I hereof may appeal to the Civil Service Commission within fifteen (15) days from receipt of a copy of such decision, ruling, order or notice of such action. x x x

Respondent received the letter of the PSU President denying her motion for reconsideration on February 25, 1999. She had fifteen (15) days or until March 12, 1999 within which to file her appeal with the CSC. But she did not. Instead, as mentioned earlier, she filed a petition for certiorari with the RTC on March 8, 1999.

When respondent appealed to the CSC on March 27, 2001, 348 days had elapsed from the time she received the letter from the PSU President denying her motion for reconsideration. Thus, the CSC should have dismissed her appeal outright on the ground that Resolution No. 55, Series of 1998, issued by the PSU Board of Regents being assailed, had long become final and executory.

We cannot overemphasize the importance of the strict application of the reglementary period to appeal which is compulsory and imperative. Jurisprudence teems with pronouncements that the perfection of an appeal in the manner and within the period permitted by law is not only mandatory, but also jurisdictional.[7]Clearly, the Court of Appeals seriously erred in affirming the CSC Resolutions remanding the case to petitioner PSU for another investigation.

WHEREFORE, we GRANT the petition. The challenged Resolutions of the Court of Appeals in CA-G.R. SP No. 77591 are REVERSED. The CSC Resolution No. 02-0297 dated February 27, 2002 requiring petitioner to conduct a reinvestigation is NULLIFIED. Resolution No. 55, Series of 1998 of the Board of Regents of petitioner Pangasinan State University, imposing upon respondent the penalty of forced resignation without any benefit, is

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SUSTAINED.

SO ORDERED.

Puno, C.J., (Chairperson), Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Garcia, Velasco, Jr., and Nachura, JJ., concur.
Quisumbing, J., on official leave.

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[1] Under Rule 45 of the 1997 Revised Rules of Civil Procedure, as amended.

[2] Penned by Justice Godardo A. Jacinto (retired) and concurred in by Justices Renato C. Dacudao and Danilo B. Pine (retired).

[3] Docketed as Case No. 99-171.

[4] G.R. No. 132174, August 20, 2001, 363 SCRA 417.

[5]The Administrative Code of 1987, as amended, took effect on November 23, 1989.

[6]Rules of Procedure Governing Other Personnel Actions and Other Civil Service Matters Brought on Appeal before the Civil Service Commission.

[7] Tan v. Court of Appeals, G.R. No. 157194, June 20, 2006, 491 SCRA 452, citing Cuevas v. Bais Steel Corporation, 391 SCRA 192 (2002); Dayrit v. Philippine Bank of Communications, 386 SCRA 117 (2002); Videogram Regulatory Board v. Court of Appeals, 265 SCRA 50 (1996); Bank of America, NT & SA v. Gerochi, Jr., 230 SCRA 9 (1994); Ceniza v. Court of Appeals, 218 SCRA 390 (1993); Imperial Textile Mills, Inc. v. NLRC, 217 SCRA 237 (1993).

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