

**ATTY. ROMEO L. ERECE, PETITIONER, VS. LYN B. MACALINGAY,
JOCELYN BASTIAN, LYMAN B. SALVADOR, BIENVENIDO L. REANO,
BRIGIDA CECILIA R. ABRATIQUE, JEAN CORTEZ-MARZAN,
FRANCISCO M. ...**

G.R. No. 166809. April 22, 2008

Ponente: AZCUNA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-166809/>

AZCUNA, J.:

This is a petition for review on certiorari[1] of the Decision of the Court of Appeals (CA) promulgated on January 7, 2005 affirming the Decision of the Civil Service Commission (CSC) which found petitioner Atty. Romeo L. Erece guilty of dishonesty and conduct prejudicial to the best interest of the service.

The facts are as follows:

Petitioner is the Regional Director of the Commission on Human Rights (CHR) Region I, whose office is located in San Fernando City, La Union. Respondent employees of the CHR Region I filed an Affidavit-Complaint dated October 2, 1998 against petitioner alleging that he denied them the use of the office vehicle assigned to petitioner, that petitioner still claimed transportation allowance even if he was using the said vehicle, and that he certified that he did not use any government vehicle, when in fact he did, in order to collect transportation allowance.

The Affidavit-Complaint reads:

x x x

4. That on September 10, 1998, we, Atty. Lynn Macalingay and Mr. Lyman Salvador were denied the use of the office vehicle as evidenced by the hereto attached copy of our denied Itinerary of Travel marked as Annex `B`;

5. That on August 5, 1998, I, Brigida Abratique requested for the use of the government vehicle but the same was denied by Atty. Erece for the reason that we would be using the same to Teachers Camp as evidenced by a copy of the denied trip ticket with the marginal notes of Atty. Erece hereto attached as Annex `C`;

6. That on May 29, 1998, the request of Brigida Cecilia Abratique and Francisco Bilog to use the vehicle within the City for field work purposes was again denied by Atty. Erece as he will accordingly use the same;

7. That on April 20, 1998, a proposed trip was likewise postponed by Atty. Erece on the ground that he will be using the vehicle as evidenced by a copy of the proposed Itinerary of Travel with marginal note of Atty. Erece xxx;

8. That on April, 1997, I, Atty. Jocelyn Bastian requested for the use of the vehicle as I need[ed] to go to the Benguet Provincial Jail but I was instructed to commute because he will use the vehicle. To my dismay, I found him still in the office when I returned from the Provincial Jail;

9. That such denials of the use of the vehicle are not isolated cases but were just a few of the numerous

instances of conflicts of schedules regarding the use of the government vehicle and where we found ourselves always at the losing end because we are the subordinate employees;

x x x

13. That Atty. Erece regularly receives and liquidates his Representation and Transportation Allowances (RATA) which at present is in the amount of FOUR THOUSAND PESOS (P4,000.00), the payroll of such and its liquidation could be made available upon request by an authority to the Resident Auditor but his liquidations for the month of April 1998 and September 1998 [are] hereto attached xxx;

14. That despite regular receipt of his RATA, Atty. Erece still prioritizes himself in the use of the office vehicle to the detriment of the public service;

15. That to compound things, he certifies in his monthly liquidation of his RATA that 'HE DID NOT USE ANY GOVERNMENT VEHICLE FOR THE SAID MONTH' xxx which is a big lie because as already stated, he is the regular user of the government vehicle issued to CHR, Region I;

16. That I, Rolando C. Ebreo, the disbursing officer of the Regional Field Office hereby attest to the fact that no deductions in the RATA of Atty. Romeo L. Erece was ever done in connection with his regular use of the government vehicle x x x."[2]

The CSC-Cordillera Administrative Region issued an Order dated October 9, 1998, directing petitioner to comment on the complaint.

In compliance, petitioner countered, thus:

x x x

4. In relation to paragraphs 2-D, 2-E and 2-G above cited, it is among the duties as per management supervisory function of the Regional HR Director to approve use or non-use of the official vehicle of the Region as it was memorandum receipted to him and the non-approval of the use of the same if it is not arbitrary and for justifiable reasons; said function of approval and disapproval rests on the Regional Human Rights Director and that function is not merely ministerial;

5. That I have issued a guideline that the official vehicle will not be used for the Mountain Provinces and Halsema Highway/Mountain Trail because of the poor road condition and to prevent breakdown and early deterioration of same xxx;

6. That Atty. Lynn B. Macalingay, one of the complainants had gone to Mt. Province to attend the Provincial Peace and Order Council meetings, conduct jail visitations and follow-up cases on many occasions using the regular bus trips in the spirit of the policy as mentioned in paragraph 4 xxx;

7. That all employees had used the vehicle on official business without exception, all complainants included xxx;

8. On September 10, 1998, Atty. Lynn Macalingay and Lyman Salvador had the use of the vehicle disapproved for the reasons conforming to paragraph 4 xxx;

9. On August 5, 1998, Atty. Erece disapproved the use of vehicle for use of Brigida Abratique because:

`a) The vehicle was available since July 30, 1998 for use in Happy Hallow but not utilized earlier xxx;

b) On August 6, 1998, a DECS-CHR Seminar on Use Human Rights Exemplar was held at the Teacher's Camp Baguio City and the vehicle was used to transport HR materials, overhead projector and for the overall use of the seminar upon the request of the Public Information and Education Office, Central Office, Commission on Human Rights through Susan Nuguid of CHR, Manila;

x x x

d) That Mrs. Abratique and Co. were asked to explain the unreasonable delay to attend to the case of Cherry Esteban which was subject of the disapproved travel;'

10. On April 20, 1998, the itinerary of travel of Lyman Salvador was RESCHEDULED from April 22 & 23, 1998 to April 23 & 24, 1998 as the vehicle was used by Atty. Erece on an important travel to Manila upon order of no less than the Honorable Chairperson, Aurora Navarette-Reciña of Commission on Human Rights xxx;

x x x

12. As to the use of the vehicle by the Regional HR Director, same shall be subject to the allowance/disallowance of the COA Resident Auditor, likewise the Regional HR Director in all his travels outside Baguio City, he does not claim bus and taxi fares per certification of Danilo Balino, the Administrative Officer Designate and Mr. Rolando Ebreo, the Cash Disbursing Officer, Annex `Z`;

13. In many cases, Atty. Romeo L. Erece has to maintain the vehicle including car washing thereof, garage parking at his residence to maintain and upkeep the vehicle and same is still in premium condition to the satisfaction of the office at no extra cost to the Commission;

x x x

15. In support thereof, we move to dismiss this case as pure question on supervisory and management prerogative, which is reserved for the Office Head and a harassment move by disgruntled employees who are counter-charged hereof;

16. Annexes `E` and `F` of the complaint [are] misplaced and misleading because a clear and cognate reading of same does not reflect that I checked/checked the use of government vehicle in the certification and as such no dishonesty is involved; the documents speak for themselves. x x x Annex `E` is for the month of April, 1998 where the check marks are clear. On Annex `F` of the complaint, no reference is made as to the fact that I did not use the government vehicle, if so, no allegation as to when I did use same for my personal use."[3]

After a fact-finding investigation, the CSC Proper in CSC Resolution No. 99-1360 dated July 1, 1999 charged petitioner with Dishonesty and Grave Misconduct for using a government vehicle in spite of his receipt of the monthly transportation allowance and for certifying that he did not use any government vehicle, when in fact, he did, in order to receive the transportation allowance.

Pertinent portions of the formal charge read:

1. That despite the regular receipt of Erece of his monthly Representation and Transportation Allowance (RATA) in the amount of P4,000.00, he still prioritizes himself in the use of the office vehicle (Tamaraw FX) in spite of the directive from the Central Office that he cannot use the service vehicle for official purposes and at the same time receive his transportation allowance;
2. That Erece did not comply with the directive of the Central Office addressed to all Regional Human Rights Directors, as follows: `to regularize your receipt of the transportation allowance component of the RATA to which you are entitled monthly, you are hereby directed to immediately transfer to any of your staff, preferably one of your lawyers, the memorandum receipt of the vehicle(s) now still in your name;`
3. That he certified in his monthly liquidation of his RATA that he did not use any government vehicle for the corresponding month, which is not true because he is the regular user of the government vehicle issued to CHR-Region I.

The foregoing facts and circumstances indicate that government service has been prejudiced by the acts of

Erece.

WHEREFORE, Romeo L. Erece is hereby formally charged with Dishonesty and Grave Misconduct. Accordingly, he is given five (5) days from receipt hereof to submit his Answer under oath and affidavits of his witnesses, if any, to the Civil Service Commission-Cordillera Administrative Region (CSC-CAR). On his Answer, he should indicate whether he elects a formal investigation or waives his right thereto. Any Motion to Dismiss, request for clarification or Bills of Particulars shall not be entertained by the Commission. Any of these pleadings interposed by the respondent shall be considered as an Answer and shall be evaluated as such. Likewise, he is advised of his right to the assistance of counsel of his choice.[4]

After a formal investigation of the case, the CSC issued Resolution No. 020124, dated January 24, 2002, finding petitioner guilty of dishonesty and conduct prejudicial to the best interest of the service and penalizing him with dismissal from the service.

Petitioner filed a petition for review of the CSC Resolution with the CA.

In the Decision promulgated on January 7, 2005, the CA upheld the CSC Resolution, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the petition is DENIED and the assailed Resolutions of the Civil Service Commission are hereby AFFIRMED.[5]

Hence, this petition.

Petitioner raises these issues:

- Whether or not the Court of Appeals erred in ruling that petitioner was not denied due process despite the admitted facts that respondents failed to identify and testify on their Affidavit-Complaint and that petitioner was denied of his right to cross-examine respondents on their Affidavit-Complaint.
- Whether or not the Court of Appeals was correct in adopting in toto the conclusions of the CSC although they were based on mere assumptions.

Petitioner contends that he was denied due process as he was not afforded the right to cross-examine his accusers and their witnesses. He stated that at his instance, in order to prevent delay in the disposition of the case, he was allowed to present evidence first to support the allegations in his Counter-Affidavit. After he rested his case, respondents did not present their evidence, but moved to submit their position paper and formal offer of evidence, which motion was granted by the CSC over his (petitioner's) objection. Respondents then submitted their Position Paper and Formal Offer of Exhibits.

Petitioner submits that although he was allowed to present evidence first, it should not be construed as a waiver of his right to cross-examine the complainants. Although the order of presentation of evidence was not in conformity with the procedure, still petitioner should not be deemed to have lost his right to cross-examine his accusers and their witnesses. This may be allowed only if he expressly waived said right.

The Court agrees with the CA that petitioner was not denied due process when he failed to cross-examine the complainants and their witnesses since he was given the opportunity to be heard and present his evidence. In administrative proceedings, the essence of due process is simply the opportunity to explain one's side.[6]

Velez v. De Vera[7] held:

Due process of law in administrative cases is not identical with "judicial process" for a trial in court is not always essential to due process. While a day in court is a matter of right in judicial proceedings, it is otherwise in administrative proceedings since they rest upon different principles. The due process clause guarantees no

particular form of procedure and its requirements are not technical. Thus, in certain proceedings of administrative character, the right to a notice or hearing are not essential to due process of law. The constitutional requirement of due process is met by a fair hearing before a regularly established administrative agency or tribunal. It is not essential that hearings be had before the making of a determination if thereafter, there is available trial and tribunal before which all objections and defenses to the making of such determination may be raised and considered. One adequate hearing is all that due process requires. . . .

The right to cross-examine is not an indispensable aspect of due process. Nor is an actual hearing always essential. . . . [8]

Next, petitioner contends that the CA erred in adopting in toto the conclusions of the CSC.

Petitioner contends that the conclusion of the CSC proceeded from the premise that the petitioner was using the subject vehicle as his service vehicle, which he disputes, because he did not use the vehicle regularly. The evidence showed that the service vehicle was being used by the employees of the regional office for official purposes. He argues that although the service vehicle is still in his name, it should not be concluded that it is assigned to him as his service vehicle, thus disqualifying him from receiving transportation allowance.

The Court is not persuaded. The pertinent conclusion of the CSC referred to by petitioner reads:

At the outset, it must be stated that the entitlement to transportation allowance by certain officials and employees pursuant to RA 6688 presupposes that they are not assigned government vehicles. This was clarified by the Supreme Court in the case of *Aida Domingo vs. COA*, G.R. No. 112371, October 7, 1998, where it ruled, as follows:

“The provision of law in point is found in Section 28 of Republic Act 6688, otherwise known as the General Appropriations Act of 1989, to wit:

Sec. 28. Representation and Transportation Allowances. ... The transportation allowance herein authorized shall not be granted to officials who are assigned a government vehicle or use government motor transportation, except as may be approved by the President of the Philippines. Unless otherwise provided by law, no amount appropriated in this Act shall be used to pay for representation and/or transportation allowances, whether commutable or reimbursable, which exceed the rates authorized under this Section. Previous administrative authorization not consistent with the rates and conditions herein specified shall no longer be valid and payment shall not be allowed.

x x x

In the case of *Bustamante vs. Commission on Audit*, 216 SCRA 134, decided by this Court on November 27, 1992, COA also disallowed the claim for transportation allowance of the legal counsel of National Power Corporation because he was already issued a government vehicle. Involving the circular aforementioned and almost the same facts as in this case, it was therein held that COA Circular No. 75-6 is categorical in prohibiting the use of government vehicles by officials receiving transportation allowance and in stressing that the use of government motor vehicle and claim for transportation allowance are mutually exclusive and incompatible.

The issue need no longer be belabored for no less than this Court ruled in the aforesaid case that a government official, to whom a motor vehicle has been assigned, cannot, at the same time, claim transportation allowance. (Underscoring supplied)

It is clear from the records that Director Edmundo S. Ancog, CHR-Central office (Field Operations office), issued a Memorandum dated February 27, 1998, addressed to all CHR Regional Directors in respect to Transportation Allowance. The Memorandum states that transportation allowance shall not be granted to Regional Directors whenever a government vehicle or use of government motor transportation is already assigned to them. It further

emphasized that should they want to "avail regularization of their RATA," the Regional Directors must immediately transfer the vehicle to any of their staff/lawyer.

Records show that Erece was issued a government vehicle since August 10, 1997 and he did not transfer the vehicle to any of his staff. Notwithstanding this fact and the said memorandum, he received transportation allowance particularly for the months of April and September 1998, as reflected in the Certification/s signed by him. This clearly resulted in undue prejudice to the best interest of the service.

The foregoing facts logically lead to the conclusion that the act of Erece in certifying that he has not used any government vehicle and consequently collecting Transportation Allowance despite the fact that a government vehicle was assigned to him constitutes the offenses of Dishonesty and Conduct Prejudicial to the Best Interest of the Service.[9]

The above conclusion, as well as the Memorandum dated February 27, 1998 issued by Director Ancog to the CHR Regional Directors, are both very clear. Once a vehicle is assigned to a regional director, like petitioner, he is no longer entitled to transportation allowance unless he assigns the vehicle to another staff/lawyer. Since petitioner did not assign the subject vehicle assigned to him to someone else, he is not entitled to transportation allowance.

Contrary to the argument of petitioner, there is no qualification that the assigned vehicle should be for the exclusive use of the service vehicle of the regional director alone to disqualify him from receiving transportation allowance.

Since the records show that petitioner collected transportation allowance even if a government vehicle had been assigned to him, the CA did not err in sustaining the decision of the CSC finding petitioner guilty of dishonesty and conduct prejudicial to the best interest of the service and penalizing him with dismissal from the service.

WHEREFORE, the petition is denied. The Decision of the Court of Appeals promulgated on January 7, 2005 is AFFIRMED.

No costs.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Austria-Martinez, Corona, Carpio-Morales, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, Leonardo-De Castro, and Brion, JJ., concur.
Carpio, J., on leave.

[1] Under Rule 45 of the Rules of Court.

[2] CSC Resolution, Rollo, pp. 36-37.

[3] Id. at 38-39.

[4] Id. at 35-36.

[5] Id. at 34.

[6] Velez v. De Vera, A.C. No. 6697, July 25, 2006, 496 SCRA 345.

[7] Id. at 387-388.

[8] Emphasis supplied.

[9]Id. at 41-43.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.