

**THE BOARD OF TRUSTEES OF THE GOVERNMENT SERVICE
INSURANCE SYSTEM AND WINSTON F. GARCIA, IN HIS CAPACITY AS
GSIS PRESIDENT AND GENERAL MANAGER, PETITIONERS, VS.
ALBERT M. VELASCO...**

G.R. No. 170463. February 02, 2011

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for review[1] of the 24 September 2004 Decision[2] and the 7 October 2005 Order[3] of the Regional Trial Court of Manila, Branch 19 (trial court), in Civil Case No. 03-108389. In its 24 September 2004 Decision, the trial court granted respondents Albert M. Velasco[4] and Mario I. Molina's[5] (respondents) petition for prohibition. In its 7 October 2005 Order, the trial court denied petitioners Board of Trustees of the Government Service Insurance System (GSIS) and Winston F. Garcia's (petitioners) motion for reconsideration.

The Facts

On 23 May 2002, petitioners charged respondents administratively with grave misconduct and placed them under preventive suspension for 90 days.[6] Respondents were charged for their alleged participation in the demonstration held by some GSIS employees denouncing the alleged corruption in the GSIS and calling for the ouster of its president and general manager, petitioner Winston F. Garcia.[7]

In a letter dated 4 April 2003, respondent Mario I. Molina (respondent Molina) requested GSIS Senior Vice President Concepcion L. Madarang (SVP Madarang) for the implementation of his step increment.[8] On 22 April 2003, SVP Madarang denied the request citing GSIS Board Resolution No. 372 (Resolution No. 372)[9] issued by petitioner Board of Trustees of the GSIS (petitioner GSIS Board) which approved the new GSIS salary structure, its implementing rules and regulations, and the adoption of the supplemental guidelines on step increment and promotion.[10] The pertinent provision of Resolution No. 372 provides:

A. Step Increment

x x x x

III. Specific Rules:

x x x x

3. The step increment adjustment of an employee who is on preventive suspension shall be withheld until such time that a decision on the case has been rendered. x x x x

Respondents also asked that they be allowed to avail of the employee privileges under GSIS Board Resolution No. 306 (Resolution No. 306) approving Christmas raffle benefits for all GSIS officials and employees effective year 2002.[11] Respondents' request was again denied because of their pending administrative case.

On 27 August 2003, petitioner GSIS Board issued Board Resolution No. 197 (Resolution No. 197) approving the

following policy recommendations:

B. On the disqualification from promotion of an employee with a pending administrative case

To adopt the policy that an employee with pending administrative case shall be disqualified from the following during the pendency of the case:

- a) Promotion;
- b) Step Increment;
- c) Performance-Based Bonus; and
- d) Other benefits and privileges.

On 14 November 2003, respondents filed before the trial court a petition for prohibition with prayer for a writ of preliminary injunction.[12] Respondents claimed that they were denied the benefits which GSIS employees were entitled under Resolution No. 306. Respondents also sought to restrain and prohibit petitioners from implementing Resolution Nos. 197 and 372. Respondents claimed that the denial of the employee benefits due them on the ground of their pending administrative cases violates their right to be presumed innocent and that they are being punished without hearing. Respondent Molina also added that he had already earned his right to the step increment before Resolution No. 372 was enacted. Respondents also argued that the three resolutions were ineffective because they were not registered with the University of the Philippines (UP) Law Center pursuant to the Revised Administrative Code of 1987.[13]

On 24 November 2003, petitioners filed their comment with motion to dismiss and opposition.[14] On 2 December 2003, respondents filed their opposition to the motion to dismiss.[15] On 5 December 2003, petitioners filed their reply.[16]

On 16 January 2004, the trial court denied petitioners' motion to dismiss and granted respondents' prayer for a writ of preliminary injunction.[17]

Petitioners filed a motion for reconsideration.[18] In its 26 February 2004 Order, the trial court denied petitioners' motion.[19]

In its 24 September 2004 Decision, the trial court granted respondents' petition for prohibition. The dispositive portion of the 24 September 2004 Decision provides:

WHEREFORE, the petition is GRANTED and respondents' Board Resolution No. 197 of August 27, 2003 and No. 372 of November 21, 2000 are hereby declared null and void. The writ of preliminary injunction issued by this Court is hereby made permanent.

SO ORDERED.[20]

Petitioners filed a motion for reconsideration. In its 7 October 2005 Order, the trial court denied petitioners' motion.

Hence, this petition.

The Ruling of the Trial Court

On the issue of jurisdiction, the trial court said it can take cognizance of the petition because the "territorial area" referred to in Section 4, Rule 65 of the Rules of Court "does not necessarily delimit to a particular locality but rather to the judicial region where the office or agency is situated so that the prohibitive writ can be enforced."

On the merits of the case, the trial court ruled that respondents were entitled to all employee benefits as provided under the law by reason of their employment. According to the trial court, to deny respondents these employee

benefits for the reason alone that they have pending administrative cases is unjustified since it would deprive them of what is legally due them without due process of law, inflict punishment on them without hearing, and violate their right to be presumed innocent.

The trial court also found that the assailed resolutions were not registered with the UP Law Center, per certification of the Office of the National Administrative Register (ONAR).[21] Since they were not registered, the trial court declared that the assailed resolutions have not become effective citing Sections 3 and 4, Chapter 2, Book 7 of the Revised Administrative Code of 1987.[22]

The Issues

Petitioners raise the following issues:

I

Whether the jurisdiction over the subject matter of Civil Case No. 03-108389 (Velasco, et al. vs. The Board of Trustees of GSIS, et al., RTC-Manila, Branch 19) lies with the Civil Service Commission (CSC) and not with the Regional Trial Court of Manila, Branch 19.

II

Whether a Special Civil Action for Prohibition against the GSIS Board or its President and General Manager exercising quasi-legislative and administrative functions in Pasay City is outside the territorial jurisdiction of RTC-Manila, Branch 19.

III

Whether internal rules and regulations need not require publication with the Office of the National [Administrative] Register for their effectivity, contrary to the conclusion of the RTC-Manila, Branch 19.

IV

Whether a regulation, which disqualifies government employees who have pending administrative cases from the grant of step increment and Christmas raffle benefits is unconstitutional.

V

Whether the nullification of GSIS Board Resolutions is beyond an action for prohibition, and a writ of preliminary injunction cannot be made permanent without a decision ordering the issuance of a writ of prohibition.[23]

The Ruling of the Court

The petition is partly meritorious.

Petitioners argue that the Civil Service Commission (CSC), not the trial court, has jurisdiction over Civil Case No. 03-108389 because it involves claims of employee benefits. Petitioners point out that the trial court should have dismissed the case for lack of jurisdiction.

Sections 2 and 4, Rule 65 of the Rules of Court provide:

Sec. 2. Petition for Prohibition. - When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, are without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered

commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require.

Sec. 4. Where petition filed. - The petition may be filed not later than sixty (60) days from notice of the judgment, order or resolution sought to be assailed in the Supreme Court or, if it related to acts or omissions of a lower court or of a corporation, board, officer or person in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, and unless otherwise provided by law or these Rules, the petition shall be filed in and cognizable only by the Court of Appeals. (Emphasis supplied)

Civil Case No. 03-108389 is a petition for prohibition with prayer for the issuance of a writ of preliminary injunction. Respondents prayed that the trial court declare all acts emanating from Resolution Nos. 372, 197, and 306 void and to prohibit petitioners from further enforcing the said resolutions.[24] Therefore, the trial court, not the CSC, has jurisdiction over respondents' petition for prohibition.

Petitioners also claim that the petition for prohibition was filed in the wrong territorial jurisdiction because the acts sought to be prohibited are the acts of petitioners who hold their principal office in Pasay City, while the petition for prohibition was filed in Manila.

Section 18 of Batas Pambansa Blg. 129 (BP 129)[25] provides:

SEC. 18. Authority to define territory appurtenant to each branch. - The Supreme Court shall define the territory over which a branch of the Regional Trial Court shall exercise its authority. The territory thus defined shall be deemed to be the territorial area of the branch concerned for purposes of determining the venue of all suits, proceedings or actions, whether civil or criminal, as well as determining the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts over which the said branch may exercise appellate jurisdiction. The power herein granted shall be exercised with a view to making the courts readily accessible to the people of the different parts of the region and making attendance of litigants and witnesses as inexpensive as possible. (Emphasis supplied)

In line with this, the Supreme Court issued Administrative Order No. 3[26] defining the territorial jurisdiction of the regional trial courts in the National Capital Judicial Region, as follows:

- a. Branches I to LXXXII, inclusive, with seats at Manila - over the City of Manila only.
- b. Branches LXXXIII to CVII, inclusive, with seats at Quezon City - over Quezon City only.
- c. Branches CVIII to CXIX, inclusive, with seats at Pasay City - over Pasay City only.

x x x x

The petition for prohibition filed by respondents is a special civil action which may be filed in the Supreme Court, the Court of Appeals, the Sandiganbayan or the regional trial court, as the case may be.[27] It is also a personal action because it does not affect the title to, or possession of real property, or interest therein. Thus, it may be commenced and tried where the plaintiff or any of the principal plaintiffs resides, or where the defendant or any of the principal defendants resides, at the election of the plaintiff.[28] Since respondent Velasco, plaintiff before the trial court, is a resident of the City of Manila,[29] the petition could properly be filed in the City of Manila.[30] The choice of venue is sanctioned by Section 2, Rule 4 of the Rules of Court.

Moreover, Section 21(1) of BP 129 provides:

Sec. 21. Original jurisdiction in other cases. - Regional Trial Courts shall exercise original jurisdiction:

(1) In the issuance of writs of certiorari, prohibition, mandamus, quo warranto, habeas corpus and injunction, which may be enforced in any part of their respective regions; x x x (Emphasis supplied)

Since the National Capital Judicial Region is comprised of the cities of Manila, Quezon, Pasay, Caloocan, Malabon, Mandaluyong, Makati, Pasig, Marikina, Parañaque, Las Piñas, Muntinlupa, and Valenzuela and the municipalities of Navotas, San Juan, Pateros, and Taguig, a writ of prohibition issued by the regional trial court sitting in the City of Manila, is enforceable in Pasay City. Clearly, the RTC did not err when it took cognizance of respondents' petition for prohibition because it had jurisdiction over the action and the venue was properly laid before it.

Petitioners also argue that Resolution Nos. 372, 197, and 306 need not be filed with the UP Law Center ONAR since they are, at most, regulations which are merely internal in nature - regulating only the personnel of the GSIS and not the public.

Not all rules and regulations adopted by every government agency are to be filed with the UP Law Center. Only those of general or of permanent character are to be filed. According to the UP Law Center's guidelines for receiving and publication of rules and regulations, "interpretative regulations and those merely internal in nature, that is, regulating only the personnel of the Administrative agency and not the public," need not be filed with the UP Law Center.

Resolution No. 372 was about the new GSIS salary structure, Resolution No. 306 was about the authority to pay the 2002 Christmas Package, and Resolution No. 197 was about the GSIS merit selection and promotion plan. Clearly, the assailed resolutions pertained only to internal rules meant to regulate the personnel of the GSIS. There was no need for the publication or filing of these resolutions with the UP Law Center.

Petitioners insist that petitioner GSIS Board has the power to issue the assailed resolutions. According to petitioners, it was within the power of petitioner GSIS Board to disqualify respondents for step increment and from receiving GSIS benefits from the time formal administrative charges were filed against them until the cases are resolved.

The Court notes that the trial court only declared Resolution Nos. 197 and 372 void. The trial court made no ruling on Resolution No. 306 and respondents did not appeal this matter. Therefore, we will limit our discussion to Resolution Nos. 197 and 372, particularly to the effects of preventive suspension on the grant of step increment because this was what respondents raised before the trial court.

First, entitlement to step increment depends on the rules relative to the grant of such benefit. In point are Section 1(b), Rule II and Section 2, Rule III of Joint Circular No. 1, series of 1990, which provide:

Rule II. Selection Criteria

Section 1. Step increments shall be granted to all deserving officials and employees x x x

(b) Length of Service - For those who have rendered continuous satisfactory service in a particular position for at least three (3) years.

Rule III. Step Increments

x x x x

Section 2. Length of Service - A one (1) step increment shall be granted officials and employees for every three (3) years of continuous satisfactory service in the position. Years of service in the position shall include the following:

(a) Those rendered before the position was reclassified to a position title with a lower or the same salary grade allocation; and

(b) Those rendered before the incumbent was transferred to another position within the same agency or to another agency without a change in position title and salary grade allocation.

In the initial implementation of step increments in 1990, an incumbent shall be granted step increments equivalent to one (1) step for every three (3) years of continuous satisfactory service in a given position occupied as of January 1, 1990.

A grant of step increment on the basis of length of service requires that an employee must have rendered at least three years of continuous and satisfactory service in the same position to which he is an incumbent.[31] To determine whether service is continuous, it is necessary to define what actual service is.[32] "Actual service" refers to the period of continuous service since the appointment of the official or employee concerned, including the period or periods covered by any previously approved leave with pay.[33]

Second, while there are no specific rules on the effects of preventive suspension on step increment, we can refer to the CSC rules and rulings on the effects of the penalty of suspension and approved vacation leaves without pay on the grant of step increment for guidance.

Section 56(d), Rule IV of the Uniform Rules on Administrative Cases in the Civil Service provides:

Section 56. Duration and effect of administrative penalties. - The following rules shall govern in the imposition of administrative penalties: x x x

(d) The penalty of suspension shall result in the temporary cessation of work for a period not exceeding one (1) year.

Suspension of one day or more shall be considered a gap in the continuity of service. During the period of suspension, respondent shall not be entitled to all money benefits including leave credits.

If an employee is suspended as a penalty, it effectively interrupts the continuity of his government service at the commencement of the service of the said suspension. This is because a person under penalty of suspension is not rendering actual service. The suspension will undoubtedly be considered a gap in the continuity of the service for purposes of the computation of the three year period in the grant of step increment.[34] However, this does not mean that the employee will only be entitled to the step increment after completing another three years of continuous satisfactory service reckoned from the time the employee has fully served the penalty of suspension.[35] The CSC has taken this to mean that the computation of the three year period requirement will only be extended by the number of days that the employee was under suspension.[36] In other words, the grant of step increment will only be delayed by the same number of days that the employee was under suspension.

This is akin to the status of an employee who incurred vacation leave without pay for purposes of the grant of step increment.[37] Employees who were on approved vacation leave without pay enjoy the liberal application of the rule on the grant of step increment under Section 60 of CSC Memorandum Circular No. 41, series of 1998, which provides:

Section 60. Effect of vacation leave without pay on the grant of length of service step increment. - For purposes of computing the length of service for the grant of step increment, approved vacation leave without pay for an aggregate of fifteen (15) days shall not interrupt the continuity of the three-year service requirement for the grant of step increment. However, if the total number of authorized vacation leave without pay included within the three-year period exceeds fifteen (15) days, the grant of one-step increment will only be delayed for the same number of days that an official or employee was absent without pay. (Emphasis supplied)

Third, on preventive suspension, Sections 51 and 52, Chapter 7, Subtitle A, Title I, Book V of the Revised Administrative Code of 1987 provide:

SEC. 51. Preventive Suspension. - The proper disciplining authority may preventively suspend any subordinate officer or employee under his authority pending an investigation, if the charge against such officer or employee involves dishonesty, oppression or grave misconduct, or neglect in the performance of duty, or if there are reasons to believe that the respondent is guilty of charges which would warrant his removal from the service.

SEC. 52. Lifting of Preventive Suspension. Pending Administrative Investigation. - When the administrative case against the officer or employee under preventive suspension is not finally decided by the disciplining authority within the period of ninety (90) days after the date of suspension of the respondent who is not a presidential appointee, the respondent shall be automatically reinstated in the service: Provided, That when the delay in the disposition of the case is due to the fault, negligence or petition of the respondent, the period of delay shall not be counted in computing the period of suspension herein provided. (Emphasis supplied)

Preventive suspension pending investigation is not a penalty.[38] It is a measure intended to enable the disciplining authority to investigate charges against respondent by preventing the latter from intimidating or in any way influencing witnesses against him.[39] If the investigation is not finished and a decision is not rendered within that period, the suspension will be lifted and the respondent will automatically be reinstated.

Therefore, on the matter of step increment, if an employee who was suspended as a penalty will be treated like an employee on approved vacation leave without pay,[40] then it is only fair and reasonable to apply the same rules to an employee who was preventively suspended, more so considering that preventive suspension is not a penalty. If an employee is preventively suspended, the employee is not rendering actual service and this will also effectively interrupt the continuity of his government service. Consequently, an employee who was preventively suspended will still be entitled to step increment after serving the time of his preventive suspension even if the pending administrative case against him has not yet been resolved or dismissed. The grant of step increment will only be delayed for the same number of days, which must not exceed 90 days, that an official or employee was serving the preventive suspension.

Fourth, the trial court was correct in declaring that respondents had the right to be presumed innocent until proven guilty. This means that an employee who has a pending administrative case filed against him is given the benefit of the doubt and is considered innocent until the contrary is proven.[41]

In this case, respondents were placed under preventive suspension for 90 days beginning on 23 May 2002. Their preventive suspension ended on 21 August 2002. Therefore, after serving the period of their preventive suspension and without the administrative case being finally resolved, respondents should have been reinstated and, after serving the same number of days of their suspension, entitled to the grant of step increment.

On a final note, social legislation like the circular on the grant of step increment, being remedial in character, should be liberally construed and administered in favor of the persons to be benefited. The liberal approach aims to achieve humanitarian purposes of the law in order that the efficiency, security and well-being of government employees may be enhanced.[42]

WHEREFORE, we DENY the petition. We AFFIRM with MODIFICATION the 24 September 2004 Decision and the 7 October 2005 Order of the Regional Trial Court of Manila, Branch 19 in Civil Case No. 03-108389. We DECLARE the assailed provisions on step increment in GSIS Board Resolution Nos. 197 and 372 VOID. We MODIFY the 24 September 2004 Decision of the Regional Trial Court of Manila, Branch 19 and rule that GSIS Board Resolution Nos. 197, 306 and 372 need not be filed with the University of the Philippines Law Center.

SO ORDERED.

Nachura, Peralta, Abad, and Mendoza, JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo, pp. 34-37. Penned by Judge Zenaida R. Daguna.

[3] Id. at 38.

[4] Respondent Albert M. Velasco holds the position of Attorney V in the Department of Investigation.

[5] Respondent Mario I. Molina holds the position of Attorney V in the Legal Department. Sometimes appears in the records as "Mario T. Molina."

[6] Records, pp. 24-28.

[7] Respondent Albert M. Velasco was also charged with violation of rules on office decorum and gross insubordination.

[8] Records, pp. 35-36.

[9] Id. at 19-23. Issued on 21 November 2000.

[10] Id. at 37.

[11] Id. at 33-34. Issued on 23 October 2002.

[12] Id. at 5-18.

[13] Id. at 38.

[14] Id. at 42-46.

[15] Id. at 49-52.

[16] Id. at 53-58.

[17] Id. at 68-70.

[18] Id. at 83-88.

[19] Id. at 140.

[20] Rollo, p. 37.

[21] Records, p. 38.

[22] SEC. 3. Filing. - (1) Every agency shall file with the University of the Philippines Law Center three (3) certified copies of every rule adopted by it. Rules in force on the date of effectivity of this Code which are not filed within three (3) months from that date shall not thereafter be the basis of any sanction against any party of persons.

(2) The records officer of the agency, or his equivalent functionary, shall carry out the requirements of this section under pain of disciplinary action.

(3) A permanent register of all rules shall be kept by the issuing agency and shall be open to the public inspection.

SEC. 4. Effectivity. - In addition to other rule-making requirements provided by law not inconsistent with this Book, each rule shall become effective fifteen (15) days from the date of filing as above provided unless a different date is fixed by law, or specified in the rule in cases of imminent danger to public health, safety and welfare, the existence of which must be expressed in a statement accompanying the rule. The agency shall take appropriate measures to make emergency rules known to persons who may be affected by them.

[23] Rollo, p. 157.

[24] Records, p. 16.

[25] The Judiciary Reorganization Act of 1980.

[26] Dated 19 January 1983.

[27] Rules of Court, Sec. 4, Rule 65.

[28] Rules of Court, Sec. 2, Rule 4.

[29] Records, p. 7. In the petition for prohibition, respondent Velasco stated that his residence is "at 639-A Cristobal Street, Sampaloc, Manila."

[30] See *Notre Dame de Lourdes Hospital v. Mallare-Phillips*, 274 Phil. 467 (1991).

[31] CSC Resolution No. 02-1479, Sison, Maricon - Re: Query; Step Increment, 8 November 2002.

[32] *Id.*

[33] Section 28, CSC Memorandum Circular No. 41, series of 1988. Also known as the Revised Omnibus Rules on Leave.

[34] CSC Resolution No. 021564, Traspadillo, John Marlon M. - Re: Step Increment; Suspension as a Gap in the Service, 17 December 2002.

[35] *Id.*

[36] *Id.*

[37] *Id.*

[38] Section 24 of Rule XIV of the Omnibus Rules Implementing Book V of the Administrative Code of 1987 and other Pertinent Civil Service Laws. Section 24 provides:

SEC. 24. Preventive suspension is not a punishment or penalty for misconduct in office but is considered to be a preventive measure.

[39] *Juan v. People of the Philippines*, 379 Phil. 125 (2000); *Gloria v. Court of Appeals*, 365 Phil. 744 (1999).

[40] CSC Resolution No. 021564, Traspadillo, John Marlon M. - Re: Step Increment; Suspension as a Gap in the Service, 17 December 2002.

[41] CSC Resolution No. 992456, Asperilla, Dominador O. - Re: Special Leave Benefits; Query, 5 November 1999.

[42] *Tria v. Employees' Compensation Commission*, G.R. No. 96787, 8 May 1992, 208 SCRA 834; *Ortiz v. COMELEC*, 245 Phil. 780 (1988).

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