

COMMISSION ON APPOINTMENTS, REPRESENTED HEREIN BY ITS SECRETARY HON. ARTURO L. TIU, PETITIONER, VS. CELSO M. PALER, RESPONDENT.

G.R. No. 172623. March 13, 2010

Ponente: CORONA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-172623/>

CORONA, J.:

This is a petition for review under Rule 45 of the Rules of Court assailing the decision[2] dated December 20, 2005 and resolution dated April 27, 2005 rendered by the Court of Appeals (CA) in CA-G.R. SP No. 90360.

The facts are undisputed.

Respondent Celso M. Paler was a Supervising Legislative Staff Officer II (SG-24)[3] with the Technical Support Service of the Commission on Appointments.[4] On April 8, 2003, he submitted a request for vacation leave for 74 working days - from August 1, 2003 to November 14, 2003.[5] In a memorandum dated April 22, 2003, Ramon C. Nghuatco, Director III of Technical Support Service, submitted to the Commission Secretary his comments/recommendation on Paler's application:

"1. The request to go on leave of Mr. Paler is contingent upon the completion of his various Committee assignments.

2. We have already acted favorably on his Leave Applications for 09 June 2003 - 30 July 2003, which may already cover his reasons enumerated under items 1-5.

3. Mr. Paler's Sick Leave Application shall require a medical certificate from the attending physician advising him of the need to undergo medical operation and the treatment and recuperation period therefor.

Mr. Paler's Application for Leave may be acted upon depending on the completion of his work load and submission of the medical certificate."[6] (Emphasis supplied)

Since he already had an approved leave from June 9 to July 30, 2003, Paler left for the United States on June 8, 2003, without verifying whether his application for leave (for August 1 - November 14, 2003) was approved or denied.

In a letter dated September 16, 2003, the Commission Chairman informed Paler that he was being dropped from the roll of employees effective said date, due to his continuous 30-day absence without leave and in accordance with Section 63, Civil Service Commission (CSC) Memorandum Circular No. 14, s. 1999.[7] Paler's son received the letter on September 23, 2003.[8]

Paler moved for reconsideration but this was denied on February 20, 2004, on the ground that it was filed beyond the 15-day reglementary period.[9] The denial was received by Paler's son on March 18, 2004.

On appeal, the CSC reversed and set aside the Commission Chairman's decision dated September 16, 2003 per resolution 04-1214 dated November 9, 2004.[10] The dispositive portion of the resolution read:

WHEREFORE, the appeal of Celso M. Paler is hereby GRANTED. Accordingly, the decision dated September 16, 2003 of Commission on Appointments Chairman Franklin M. Drilon dropping Celso M. Paler from the rolls; and the decision dated February 20, 2004 denying his motion for reconsideration are REVERSED and SET ASIDE. It is directed that Celso M. Paler be immediately reinstated as Committee Secretary of the Commission on Appointments and shall be considered to be on leave with pay until the exhaustion of his vacation leave credits.

Quezon City, Nov. 09, 2004.[11]

The Commission filed a motion for reconsideration but this was denied by the CSC per resolution No. 050833 dated June 23, 2005.

This constrained petitioner to file with the CA a petition for review under Rule 43 of the Rules of Court.

Since Paler had in the meantime already reached the compulsory age of retirement on July 28, 2005 and was no longer entitled to reinstatement, the CA affirmed with modification CSC resolution 04-1214 dated November 9, 2004 and resolution No. 050833 dated June 23, 2005. The dispositive portion of the assailed decision dated December 20, 2005 provided:

WHEREFORE, the assailed Resolutions of the Civil Service Commission are AFFIRMED with the MODIFICATION that the order of reinstatement is DELETED. In lieu thereof, Paler should be awarded backwages, retirement benefits and other privileges that accrued to him from the time of his dismissal up to the date of his retirement.

SO ORDERED.[12]

Petitioner filed a motion for reconsideration but this was denied by the CA in the assailed resolution dated April 27, 2005.

Hence, this petition based on the following grounds:

- THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN GIVING DUE COURSE TO THE APPEAL OF RESPONDENT PALER WITH THE RESPONDENT CIVIL SERVICE COMMISSION DESPITE THE FACT THAT IT WAS FILED OUT OF TIME.
- THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT THE LEAVE APPLICATIONS OF RESPONDENT PALER WAS DEEMED APPROVED ON A MISTAKEN INTERPRETATION OF SEC. 49, RULE XVI OF THE OMNIBUS RULE ON LEAVE AS AMENDED.[13]

Petitioner's contentions are basically the same as those it presented to the CSC[14] and the CA,[15] viz.: (1) the CSC should not have entertained Paler's appeal since it was filed beyond the 15-day reglementary period; there were no meritorious reasons to relax the procedural rules, specially since there was bad faith and misrepresentation on Paler's part in filing staggered applications for leave; (2) the Commission Chairman's decision to drop Paler from the roll of employees was in accord with Section 63 of CSC Memorandum Circular No. 14, series of 1999 and (3) Paler's application for leave was not "deemed approved" as petitioner acted on his application by holding it in abeyance in view of the contingencies of his work and the submission of a medical certificate.[16]

In his comment, Paler, aside from arguing that the CA did not commit any error in sustaining the CSC resolutions, also assails Atty. Arturo L. Tiu's authority to file the petition and sign the verification and certification of non-forum shopping on behalf of the Commission Chairman.[17]

The CSC, represented by the Office of the Solicitor General (OSG), maintains the correctness of the CSC and CA

judgments.

Issues

This petition involves both procedural and substantive issues.

On the procedural aspect, Paler questions the authority of the Commission Secretary to file the petition and sign the verification and certification of non-forum shopping in behalf of the Commission Chairman. On the other hand, the Commission disputes the CSC's grant of Paler's appeal despite having been filed beyond the reglementary period.

On the substantive aspect, was Paler's application for leave "deemed approved" within the purview of Section 49, Rule XVI of the Omnibus Rules on Leave?

Authority to File Petition

First, we tackle Atty. Tiu's authority to file the petition and sign the verification and certification of non-forum shopping.

The petitioner in this case is the Commission on Appointments, a government entity created by the Constitution, and headed by its Chairman.[18] There was no need for the Chairman himself to sign the verification. Its representative, lawyer or any person who personally knew the truth of the facts alleged in the petition could sign the verification.[19] With regard, however, to the certification of non-forum shopping, the established rule is that it must be executed by the plaintiff or any of the principal parties and not by counsel.[20] In this case, Atty. Tiu failed to show that he was specifically authorized by the Chairman to sign the certification of non-forum shopping, much less file the petition in his behalf. There is nothing on record to prove such authority. Atty. Tiu did not even bother to controvert Paler's allegation of his lack of authority. This renders the petition dismissible.[21]

Furthermore, the petition is bereft of merit as it merely restates the arguments presented before the CSC and CA. It does not advance any cogent reason that will convince this Court to deviate from the rulings of both tribunals.

The Issue of Late Filing

Section 72 of CSC Memorandum Circular No. 19, s. 1999,[22] provides for the period of appeal for non-disciplinary actions, to wit:

Section 72. When and Where to File. - A decision or ruling of a department or agency may be appealed within fifteen (15) days from receipt thereof by the party adversely affected to the Civil Service Regional Office and finally, to the Commission Proper within the same period.

x x x

Paler's son received the letter from the Commission Chairman denying Paler's motion for reconsideration on March 18, 2004. Thus, Paler's had until April 2, 2004 within which to file his appeal with the CSC. It was filed, however, only on April 5, 2004.[23] Nevertheless, the CSC entertained the appeal in the interest of substantial justice.[24]

We agree with the CSC. We uphold its decision to relax the procedural rules because Paler's appeal was meritorious. This is not the first time that the Court has upheld such exercise of discretion. In *Rosales, Jr. v. Mijares*[25] involving Section 49(a) of the CSC Revised Rules of Procedure, the Court ruled:

On the contention of the petitioner that the appeal of the respondent to the CSC was made beyond the period therefor under Section 49(a) of the CSC Revised Rules of Procedure, the CSC correctly ruled that:

Movant claims that Mijares' appeal was filed way beyond the reglementary period for filing appeals. He, thus, contends that the Commission should not have given due course to said appeal.

The Commission need not delve much on the dates when Mijares was separated from the service and when he assailed his separation. Suffice it to state that the Commission found his appeal meritorious. This being the case, procedural rules need not be strictly observed. This principle was explained by in the case of Mauna vs. CSC, 232 SCRA 388, where the Supreme Court ruled, to wit:

"Assuming for the sake of argument that the petitioner's appeal was filed out of time, it is within the power of this Court to temper rigid rules in favor of substantial justice. While it is desirable that the Rules of Court be faithfully and even meticulously observed, courts should not be so strict about procedural lapses that do not really impair the proper administration of justice. If the rules are intended to ensure the orderly conduct of litigation, it is because of the higher objective they seek which is the protection of substantive rights of the parties. As held by the Court in a number of cases:

x x x

It bears stressing that the case before the CSC involves the security of tenure of a public officer sacrosanctly protected by the Constitution. Public interest requires a resolution of the merits of the appeal instead of dismissing the same based on a strained and inordinate application of Section 49(a) of the CSC Revised Rules of Procedure.[26] (Emphasis supplied)

Constantino-David v. Pangandaman-Gania[27] likewise sustained the CSC when it modified an otherwise final and executory resolution and awarded backwages to the respondent, in the interest of justice and fair play. The Court stated -

No doubt, the Civil Service Commission was in the legitimate exercise of its mandate under Sec. 3, Rule I, of the Revised Uniform Rules on Administrative Cases in the Civil Service that "[a]dministrative investigations shall be conducted without necessarily adhering strictly to the technical rules of procedure and evidence applicable to judicial proceedings." This authority is consistent with its powers and functions to "[p]rescribe, amend and enforce rules and regulations for carrying into effect the provisions of the Civil Service Law and other pertinent laws" being the central personnel agency of the Government.

Furthermore, there are special circumstances in accordance with the tenets of justice and fair play that warrant such liberal attitude on the part of the CSC and a compassionate like-minded discernment by this Court. x x x[28]

When substantial justice dictates it, procedural rules may be relaxed in order to arrive at a just disposition of a case. The purpose behind limiting the period of appeal is to avoid unreasonable delay in the administration of justice and to put an end to controversies. A one-day delay, as in this case, does not justify denial of the appeal where there is absolutely no indication of intent to delay justice on the part of Paler[29] and the pleading is meritorious on its face.

Petitioner harps on Paler's alleged bad faith and misrepresentation in filing his previous applications for leave. However, as correctly found by the CSC and CA, the basis for Paler's dismissal was his continuous absence without leave, not bad faith and misrepresentation. The CSC even noted that Paler never misrepresented or misled petitioner as to where he was spending his vacation leave. He clearly stated in his application for leave dated April 17, 2003 that he was spending it not only in the Philippines but also in the U.S.[30] According to the CA, "to utilize Paler's alleged misrepresentation in his previously approved applications for leave as basis for his

separation from work, even in the absence of opportunity for him to controvert the matter, would constitute a violation of the fundamental requirements of fairness and equity and the constitutional guarantee of due process." [31] The Court finds no reason to deviate from the findings of both the CSC and CA, given that they concur with each other and should be accorded great weight and respect. [32]

The CSC and CA were also correct in ruling that Paler could not be considered absent without leave (AWOL) for the period of August 1, 2003 to November 14, 2003.

Paler was dropped from the roll of employees pursuant to Section 63, Rule XVI of the Omnibus Rules on Leave:

An official or an employee who is continuously absent without approved leave for at least thirty (30) calendar days shall be considered on absence without official leave (AWOL) and shall be separated from the service or dropped from the rolls without prior notice. He shall, however, be informed, at his address appearing on his 201 files of his separation from the service, not later than five (5) days from its effectivity. (Emphasis and underscoring supplied)

AWOL means that the employee has left or abandoned his post for a continuous period of thirty (30) calendar days or more without any justifiable reason and notice to his employer. [33]

The bone of contention in this case is whether or not Paler had an approved leave.

Section 49, Rule XVI of the Omnibus Rules on Leave requires that an application for leave should be acted upon within 5 working days from receipt, otherwise, such application is deemed approved. [34] The CSC interpreted said provision in this wise -

It is explicit from the aforequoted rule that an application for leave of absence which had not been acted upon - either by approving or disapproving - by the head of agency or his/her authorized representative within five (5) working days from the date of its filing shall be deemed approved. [35] (Italics supplied)

The CSC also ruled that "Section 49 calls for a specific action to be done by the head of the agency or his duly authorized representative on the application for leave filed which is either to approve or to deny the same." [36]

Being the central agency mandated to "prescribe, amend, and enforce rules and regulations for carrying into effect the provisions of the Civil Service Law and other pertinent laws," the CSC has the power to interpret its own rules and any phrase contained in them, with its interpretation significantly becoming part of the rules themselves. [37] The Court has consistently yielded and accorded great respect to the interpretation by administrative agencies of their own rules unless there is an error of law, abuse of power, lack of jurisdiction or grave abuse of discretion clearly conflicting with the letter and spirit of the law. [38]

The CA added its own reading of Section 49 which the Court now sustains:

x x x The action contemplated therein connotes a clear and explicit exercise of discretion. It pertains to an absolute and unequivocal "approval" or "disapproval" of the request for leave and not one which is merely "recommendatory" in nature. If the rule were otherwise, the authority to act on the application for leave would not have been vested on the head of the agency or the CA [Commission on Appointments] Chairman's authorized representative. Needless to state, the purpose of the provision is for the applicant to be immediately informed of the status of his application, whether it has been approved or denied, so that he can act accordingly. x x x [39]

Clearly, Atty. Nghuatco's memorandum did not cover the action contemplated by Section 49. For one, it did not bear the imprimatur of the Commission Chairman (or his duly authorized representative) who was the proper party to grant or deny the application, as dictated by Section 52 of the Omnibus Rules on Leave. [40] For another, it only submitted to the Commission Secretary Atty. Nghuatco's comments and/or recommendations on Paler's

application. It was merely preliminary and did not propose any definitive action (i.e., approval or disapproval) on Paler's application, and simply recommended what action to take. It was obviously not controlling and the Chairman could have agreed or disagreed with the recommended action. In fact, the memorandum clearly provided that Paler's request was still to be referred to the Legal Service for comment,[41] and that the application "(could) be acted upon depending on the completion of his work load and submission of the medical certificate." [42] These circumstances plainly meant that further action was yet to be made on the application. And since there was no final approval or disapproval of Paler's application within 5 working days from receipt as required by Section 49, the application was deemed approved. Paler, therefore, could not be considered on AWOL.

All told, the CA committed no error in affirming, with modification, CSC Resolution Nos. 04-1214 dated November 9, 2004 and 050833 dated June 23, 2005.

WHEREFORE, the petition is DENIED.

No costs.

SO ORDERED.

Puno, C.J., Carpio, Carpio Morales, Leonardo-De Castro, Brion, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, and Mendoza, JJ., concur.

Velasco, Jr., and Nachura, JJ., no part.

Peralta, J., on official leave.

[1] The Court of Appeals and the Civil Service Commission were impleaded as respondents but their exclusion is proper under Section 4, Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Rebecca de Guia-Salvador and concurred in by Presiding Justice Ruben T. Reyes (now a retired Member of this Court) and Associate Justice Aurora Santiago-Lagman (retired).

[3] The Civil Service Commission erroneously denominated Paler's position as "Committee Secretary."

[4] The Commission on Appointments shall be hereafter referred to as the "Commission."

[5] Rollo, p. 132.

[6] Id., p. 135.

[7] Id., p. 123.

[8] Ibid.

[9] Id., p. 124, Resolution/Letter dated February 20, 2004 of the Chairman of the Commission.

[10] Penned by Civil Service Commission Chairman Karina Constantino-David, and concurred in by Commissioner J. Waldemar V. Valmores. Commissioner Cesar D. Buenaflor inhibited himself from the case.

[11] Rollo, p. 113.

[12] Id., p. 43.

[13] Id., pp. 21-22.

[14] Id., pp. 50-56, 59-63.

- [15] Id., pp. 71-80.
- [16] Id., pp. 22-27.
- [17] Id., pp. 181-183.
- [18] Section 18, Article VI, 1987 Constitution.
- [19] LDP Marketing, Inc. v. Monter, G.R. No. 159653, 25 January 2006, 480 SCRA 137, 141.
- [20] Gutierrez v. Secretary of the Department of Labor and Employment, G.R. No. 142248, 16 December 2004, 447 SCRA 107, 117.
- [21] Metropolitan Cebu Water District (MCWD) v. Adala, G.R. No. 168914, 4 July 2007, 526 SCRA 465, 474.
- [22] Revised Uniform Rules on Administrative Cases in the Civil Service.
- [23] April 2, 2004 was a Friday; the appeal was filed on April 5, 2004, a Monday.
- [24] Rollo, p. 111.
- [25] G.R. No. 154095, 17 November 2004, 442 SCRA 532.
- [26] Id., pp. 547-549.
- [27] G.R. No. 156039, 14 August 2003, 409 SCRA 80.
- [28] Id, p. 88; see also Bunsay v. Civil Service Commission, G.R. NO. 153188, 14 August 2007, 530 SCRA 68.
- [29] Philippine Amusement and Gaming Corporation v. Angara, G.R. NO. 142937, 15 November 2005, 475 SCRA 41, 52.
- [30] Rollo, p. 118; CSC Resolution No. 05-8333 dated June 23, 2005, p. 4.
- [31] Id., p. 42; CA Decision dated December 20, 2005, p. 12.
- [32] Civil Service Commission v. Ledesma, G.R. No. 154521, 30 September 2005, 471 SCRA 589, 605-606.
- [33] Binay v. Odeña, G.R. No. 163683, 8 June 2007, 524 SCRA 248, 258.
- [34] Sec. 49. Period within which to act on leave application. - Whenever the application for leave of absence, including terminal leave, is not acted upon by the head of agency or his duly authorized representative within five (5) working days after receipt thereof, the application for leave of absence shall be deemed approved.
- [35] Rollo, p. 112; CSC Resolution 04-1214 dated November 9, 2004, p. 9.
- [36] Id, p. 118; CSC Resolution No. 05-8333 dated June 23, 2005, p. 4.
- [37] City Government of Makati v. Civil Service Commission, G.R. No. 131392, 6 February 2002, 376 SCRA 248, 264.
- [38] Eastern Telecommunications Philippines, Inc. v. International Communication Corporation, G.R. No. 135992, 31 January 2006, 481 SCRA 163, 167.
- [39] Rollo, p. 39; CA Decision dated December 20, 2005, p. 9.
- [40] Section 52 states, "[L]eave of absence for any reason other than illness of an official or employee or of any member of his immediate family must be contingent upon the needs of the service. Hence, the grant of vacation

leave shall be at the discretion of the head of department/agency."

[41] Rollo, p. 134.

[42] Id., p. 135.

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.