

DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, PETITIONER, VS. ROLANDO S. CRUZ, RESPONDENT.

G.R. No. 178256. July 23, 2008

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court assailing the Decision[1] dated June 23, 2005 of the Court of Appeals (CA) in CA-G.R. SP No. 80353 and the CA Resolution[2] dated June 4, 2007 which denied petitioner's Motion for Reconsideration.

The material antecedents that spawned the present controversy are the same with *Mamaril v. Civil Service Commission*.^[3] Thus, the Court adopts and quotes the facts therein stated:

On December 19, 2000, then [Department of Transportation and Communications (DOTC)] Secretary Vicente C. Rivera, Jr. requested the Civil Service Commission (CSC) to attest that at least two of the four [Department Legislative Liaison Specialist (DLLS)] positions in the DOTC be made permanent. The request was granted by the CSC by Resolution No. 01-0233 dated January 23, 2001.

Upon verbal query by DOTC Director Carina S. Valera (Director Valera), then CSC Chairman Corazon Alma de Leon advised the DOTC that the incumbents of the formerly coterminous DLLS positions had no vested right to occupy the already permanent DLLS positions, and that they were not automatically appointed thereto; and the positions which were made permanent could only be filled up by following existing CSC rules and regulations as well as DOTC policies and guidelines on the appointment of personnel.

By letter of January 29, 2001, DOTC Assistant Secretary for Administrative and Legal Affairs Wilfredo Trinidad (Trinidad) sought from the CSC a written confirmation of its Chairman's above-said advice. Pending receipt of a reply from the CSC, Trinidad sent separate letters dated February 22, 2001 to [Ereliza Z. Mamaril] and Rolando Cruz, the other incumbent of the two DLLS positions, advising each of them as follows:

The change of the nature of the DLLS position which you held, from coterminous to permanent pursuant to CSC Resolution No. 010233 dated 23 January 2001 did not automatically make you the holder of the now permanent DLLS position. This interpretation was confirmed by Director Carina S. Valera with the then CSC Chairman de Leon.

As your appointment was of coterminous nature, your services automatically terminated with the non-existence of the coterminous position and the advent of the new appointing authority.

When the new DLLS permanent positions are authorized to be filled up, you can apply therefor. In the meantime, you may seek appointment to any other vacant position that suits your qualifications. Needless to say, selection in any case will follow the usual process in accordance with the DOTC guidelines and the CSC rules and regulations.

Acting on the above-said query of Trinidad, the CSC, by Resolution No. 01-0502 dated February 22, 2001 which was received at his office on March 9, 2001 and by the DOTC Personnel Division on March 12, 2001, ruled that

"the two occupants of the two DLLS positions are ipso facto appointed to such positions under permanent status if they meet the minimum requirements of the said positions.

In light of the contrary advice previously given by the former CSC Chairman de Leon, the DOTC, by letter of April 27, 2001, sought clarification on CSC Resolution No. 01-0502.

By Resolution No. 01-1409 issued on August 20, 2001, the CSC modified Resolution No. 01-0502 by declaring that "the previous incumbents of the two Department Legislative Liaison Specialist (DLLS) positions were no longer existing employees as of the date said positions were declared by the Commission as career in CSC Resolution No. 01-0233 dated January 23, 2001," and that "DOTC Secretary Pantaleon D. Alvarez may now appoint who will occupy these newly created DLLS positions x x x."

x x x x

[Mamaril] and Cruz filed a Motion for Reconsideration of CSC Resolution No. 01-1409. By Resolution of November 26, 2002, the CSC issued Resolution No. 02-1504 reconsidering and setting aside CSC Resolution No. 01-1409. [Mamaril and Cruz were] thus reinstated to [their] former position[s] on November 26, 2002.

The DOTC filed a Motion for Reconsideration of CSC Resolution No. 02-1504 which was denied, by Resolution No. 03-1019 dated September 26, 2003. In the same Resolution, the CSC declared that [Mamaril] and Cruz are not entitled to back salaries from the time they were separated from the service up to their date of reinstatement.

[Mamaril] thus filed a Motion for Reconsideration of said Resolution No. 03-1019 only insofar as the CSC held that she was not entitled to backwages. By Resolution No. 04-0279 issued on March 18, 2004, the CSC denied [Mamaril's] Motion for Reconsideration.[4] (Emphasis supplied)

Cruz and Mamaril filed separate petitions for review with the CA assailing Resolution No. 03-1019 only insofar as the CSC held that they were not entitled to backwages, docketed as CA-G.R. SP No. 80353 and CA-G.R. SP No. 83314, respectively.

In a Resolution[5] dated May 14, 2004, the CA dismissed CA-G.R. SP No. 83314 for lack of verification and certification against forum shopping. When Mamaril's Motion for Reconsideration was denied in the CA Resolution dated August 6, 2004, she filed a Petition for Review on Certiorari with this Court, docketed as G.R. No. 164929.

On April 10, 2006, the Court en banc rendered a Decision[6] denying Mamaril's petition, finding it to be procedurally and substantially without merit. The Decision became final and executory, and entry of judgment was made of record on May 25, 2006.

Meanwhile, on June 23, 2003, the CA rendered a Decision[7] in CA-G.R. SP No. 80353, setting aside CSC Resolution No. 03-1019 dated September 26, 2003, and ordering the DOTC to pay Cruz his back salaries from the date of his dismissal up to his actual reinstatement. While the CA viewed the dismissal as having been attended with good faith, it nonetheless held that Cruz was entitled to backwages since prevailing jurisprudence supports the award of backwages to illegally dismissed civil servants, finding inapplicable the DOTC cited case of *Octot v. Ybañez*. [8]

The DOTC filed a Motion for Reconsideration but it was denied by the CA in its Resolution[9] dated June 4, 2007.

Hence, the present petition on the following grounds:

I

THE COURT OF APPEALS COMMITTED A GRAVE ERROR IN HOLDING THAT PETITIONER'S GOOD FAITH IN TERMINATING RESPONDENT DID NOT PRECLUDE THE LATTER FROM RECEIVING BACK SALARIES IN HIS FAVOR.

II

THE COURT OF APPEALS COMMITTED A GRAVE ERROR WHEN IT FAILED TO APPLY IN THE INSTANT CASE THE RULING IN OCTOT VS. YBAÑEZ, 111 SCRA 79 (1982) THAT "IN THE ABSENCE OF PROOF THAT [A GOVERNMENT AGENCY] ACTED IN BAD FAITH AND WITH GRAVE ABUSE OF DISCRETION, [A DISMISSED GOVERNMENT EMPLOYEE] IS NOT ENTITLED TO BACKWAGES AND CONSEQUENTLY CANNOT CLAIM FOR DAMAGES.

III

THE COURT OF APPEALS ERRED IN NOT APPLYING THE RULE THAT A PUBLIC OFFICIAL IS NOT ENTITLED TO ANY COMPENSATION IF HE HAS NOT RENDERED ANY SERVICES.[10]

The DOTC contends that a government employee who was dismissed from service in good faith is not entitled to back salaries upon his reinstatement, relying on the Court's application of Octot in Mamaril ; the assailed Decision should be set aside under the doctrine of stare decisis, since the facts in Mamaril and the present case are exactly the same.

On the other hand, Cruz contends that his dismissal was effected in bad faith since he was terminated without awaiting the reply of the CSC to the query of DOTC regarding his employment status; Octot is inapplicable because prevailing jurisprudence supports the award of backwages for a maximum period of five years to an illegally dismissed employee.

The Court finds for the petitioner DOTC.

As stated at the outset, the pivotal question of whether a government employee who was dismissed from service in good faith is entitled to back salaries upon his reinstatement has already been resolved in the negative in Mamaril, thus:

The general proposition is that a public official is not entitled to any compensation if he has not rendered any service. As he works, so shall he earn. Compensation is paid only for service actually or constructively rendered.

[Mamaril's] services were actually terminated on September 1, 2001, after the CSC issued Resolution No. 01-1409 dated August 20, 2001 declaring that "the previous incumbents of the two Department Legislative Liaison Specialist (DLS) positions were no longer existing employees as of the date said positions were declared by the Commission as career." She was, however, reinstated on November 26, 2002 after the CSC issued on even date Resolution No. 02-1504 setting aside Resolution No. 01-1409.

Octot v. Ybañez instructs that the good faith or bad faith and grave abuse of discretion in the dismissal or termination of the services of a government employee come into play in the determination of the award of back salaries upon his reinstatement. In said case, the therein petitioner, a security guard in the Regional Health Office No. VII, Cebu City who had been convicted of libel by a trial court, was summarily dismissed pursuant to Presidential Decree No. 6 and LOI Nos. 14 and 14-A issued by then President Marcos directing heads of departments and agencies of the government to weed out undesirable government officials and employees, specifically those who were facing charges or were notoriously undesirable on the ground of dishonesty, incompetence or other kinds of misconduct defined in the Civil Service Law. The therein petitioner was eventually acquitted of the criminal charge. Hence, his request for reinstatement was granted but not his claim for back salaries from the date of his dismissal. This Court, through then Chief Justice Teehankee, held:

In the absence of proof that respondent Regional Director acted in bad faith and with grave abuse of discretion,

petitioner is not entitled to backwages and consequently cannot claim for damages. In the case at bar, the record manifests that respondents officials were not motivated by ill will or personal malice in dismissing petitioner but only by their desire to comply with the mandates of Presidential Decree No. 6. (Emphasis and underscoring supplied)

The denial of the award of back salaries, absent a showing of bad faith and/or grave abuse of discretion in the termination of the services of a government employee who was reinstated, was reiterated in *Clemente v. Commission on Audit, Acting Director of Prisons v. Villaluz*, and *Echeche v. Court of Appeals*.

[Mamaril], however, invokes the rulings in *Tañala v. Legaspi*, *De Guzman v. Civil Service Commission*, *Gabriel v. Domingo*, *Del Castillo v. Civil Service Commission* to the effect that when an official or employee was illegally dismissed and his reinstatement is ordered, for all legal purposes he is considered as not having left his office and, therefore, is entitled to all rights and privileges that accrue to him by virtue of the office.

To begin with, [Mamaril] cannot be considered to have been illegally dismissed. Her services were terminated effective September 1, 2001 by the DOTC in light of the CSC August 20, 2001 Resolution.

At any rate, no parity of circumstances in the above-cited cases invoked by [Mamaril] obtains in the case at bar.

In *Tañala*, payment of back salaries upon reinstatement was ordered upon acquittal in a criminal case of the regular employee of the government who had been suspended as a result of the filing of said case. *De Guzman* involved a proscribed abolition of office, hence, payment of back salaries was ordered upon reinstatement of the separated employee. In *Del Castillo*, the therein petitioner was preventively suspended and later dismissed for grave misconduct. He was eventually exonerated. He was thus ordered reinstated. He thereafter filed a "Motion for Clarificatory Relief" praying for an award of backwages. Noting that the CSC did not object to the payment of backwages and the Solicitor General in fact recommended the payment thereof, this Court granted the motion.

In *Gabriel*, the therein petitioner was holding a permanent position of Motor Vehicle Registrar I at the Motor Vehicles Office, later renamed the Land Transportation Commission. In 1979, the Land Transportation Commission was reorganized, renaming plantillapositions. The therein petitioner's position was changed to Transportation District Supervisor, but since another had been appointed thereto, he filed a protest. During the pendency of his protest, he was extended a casual appointment but his services were "in effect terminated" three days later, drawing him to file a complaint for illegal termination of services which reached the CSC. The CSC eventually found that the issuance to the therein petitioner of a casual appointment which resulted in the termination of his services was illegal and that he was more qualified than the one appointed to his renamed position of Transportation District Supervisor. The CSC accordingly directed his appointment to his former position. He was appointed alright but to a lower position. He later filed a claim for backwages which was denied by the Commission on Audit but which this Court ordered granted.

In all these cases, the suspensions and/or dismissals were held unjustified, the therein petitioners having been either exonerated from the charges-bases of suspension or dismissal or were victims of proscribed abolition of office or issuance of appointment to a different position which soon after resulted in dismissal therefrom.

That the DOTC's termination of [Mamaril's] services in accordance with the August 20, 2001 Resolution of the CSC was not attended with bad faith and/or grave abuse of discretion, it cannot, under the facts and circumstances of the case, be gainsaid.[11]

Mamaril is binding and applicable to the present case following the salutary doctrine of *stare decisis et non quieta movere* which means "to adhere to precedents, and not to unsettle things which are established." [12] Under the doctrine, when the Supreme Court has once laid down a principle of law as applicable to a certain state of facts, it

will adhere to that principle, and apply it to all future cases, where facts are substantially the same; regardless of whether the parties and property are the same.[13] The doctrine of stare decisis is based upon the legal principle or rule involved and not upon the judgment which results therefrom. In this particular sense stare decisis differs from res judicata which is based upon the judgment.[14]

The doctrine of stare decisis is one of policy grounded on the necessity for securing certainty and stability of judicial decisions, thus:

Time and again, the Court has held that it is a very desirable and necessary judicial practice that when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases in which the facts are substantially the same. Stare decisis et non quieta movere. Stand by the decisions and disturb not what is settled. Stare decisis simply means that for the sake of certainty, a conclusion reached in one case should be applied to those that follow if the facts are substantially the same, even though the parties may be different. It proceeds from the first principle of justice that, absent any powerful countervailing considerations, like cases ought to be decided alike. Thus, where the same questions relating to the same event have been put forward by the parties similarly situated as in a previous case litigated and decided by a competent court, the rule of stare decisis is a bar to any attempt to relitigate the same issue.[15]

It bears stressing that the facts of the present case and those of Mamaril are the same. Clearly, in the light of Mamaril, which the Court follows as a precedent, the DOTC did not effect Cruz's termination with bad faith and, consequently, no backwages can be awarded in his favor. It is the Court's duty to apply the previous ruling in Mamaril to the instant case. Once a case has been decided one way, any other case involving exactly the same point at issue, as in the present case, should be decided in the same manner.[16]

WHEREFORE, the petition is GRANTED. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 80353 are REVERSED and SET ASIDE. Resolution No. 03-1019 dated September 26, 2003 and Resolution No. 04-0279 dated March 18, 2004 issued by the Civil Service Commission are REINSTATED.

SO ORDERED.

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

Reyes, J., no part.

[1] Penned by Associate Justice Ruben T. Reyes (now Associate Justice of this Court) and concurred in by Associate Justices Josefina Guevara-Salonga and Fernanda Lampas-Peralta, rollo, p. 47.

[2] Rollo, p. 57.

[3] G.R. No. 164929, April 10, 2006, 487 SCRA 65.

[4] Supra note 3, at 67-69.

[5] Rollo, p. 87.

[6] Supra note 3.

[7] Supra note 1.

[8] No. L-48643, January 18, 1982, 111 SCRA 79, 83.

[9] Supra note 2.

[10] Rollo, p. 70.

[11] Supra, note 3 at 73-76.

[12] Confederation of Sugar Producers Association, Inc. v. Department of Agrarian Reform (DAR), G.R. No. 169514, March 30, 2007, 519 SCRA 582, 618, citing Black's Law Dictionary, Fifth Edition.

[13] Confederation of Sugar Producers Association, Inc. v. Department of Agrarian Reform (DAR), supra note 12, citing Horne v. Moody, 146 S.W.2d 505 (1940).

[14] Id. at 618-619.

[15] Id. at 619, citing Ty v. Banco Filipino Savings & Mortgage Bank, G.R. No. 144705, November 15, 2005, 475 SCRA 65, 75-76.

[16] Manila Electric Company, Inc. v. Lualhati, G.R. No. 166769, and Energy Regulatory Commission v. Lualhati, G.R. No. 166818, December 6, 2006, 510 SCRA 455, 471; Commissioner of Internal Revenue v. Trustworthy Pawnshop, Inc., G.R. No. 149834, May 2, 2006, 488 SCRA 538, 545.

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