

RASH C. ROQUE, PETITIONER, VS. COURT OF APPEALS, CIVIL SERVICE COMMISSION, THE HON. SECRETARY JOSE D. LINA, DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT (DILG), RESPONDENTS.

G.R. No. 179245. July 23, 2008

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-179245/>

PER CURIAM:

This is a petition for review on certiorari[1] of the Decision of the Court of Appeals in CA-G.R. SP No. 93349 promulgated on May 29, 2007, and its Resolution promulgated on August 9, 2007. The Decision of the Court of Appeals affirmed the Resolutions of the Civil Service Commission (CSC) dated July 20, 2004 and December 13, 2005, dismissing petitioner Rash C. Roque from the public service for grave misconduct.

This case arose from an alleged anomaly in the procurement of various supplies, materials or equipment for the Fourth Quarter of Calendar Year (CY) 2002 of the Bureau of Fire Protection-National Capital Region (BFP-NCR).

On December 16, 2002, the BFP-NCR Prequalifications, Bids and Awards Committee (PBAC) issued several resolutions supposedly pursuant to a sealed canvass bidding, recommending the award and contract to deliver various supplies, materials and equipment to the purported winning bidders. Petitioner Roque, as the Regional Director of the BFP-NCR, approved the awards and issued the corresponding Notices of Award to the following bidders:

- Rakish General Merchandise for P420,000 worth of battery solution and for P475,900.15 worth of barricade tapes;
- Mitoni Business Ventures for P473,661.82 worth of computer units and spare parts and for P477,989.28 worth of various office supplies;
- Rich River Commercial for P478,282.91 worth of Good Year tires;
- Lubhag Enterprises for P208,707.25 worth of various electrical supplies and for P405,235.98 worth of janitorial supplies;
- A. Rouge Printing Corporation for P459,798.55 worth of computer units and accessories; and
- Miralles Trading for P473,695.04 worth of computer supplies.[2]

Chief Inspector Rolando Biazon of the Logistics Section issued the corresponding Purchase Orders to the suppliers after he inspected and accepted the delivery of supplies. The checks in payments for these supplies were signed by petitioner and the Chief of Finance Service Unit, Danilo dela Peña, and were given to the suppliers who, in turn, negotiated said checks with the Land Bank of the Philippines, Cubao Branch, on December 27, 2002, January 3, 2003 and January 6, 2003.

On January 2, 2003, complainants Supt. Ariel A. Barayuga, District Fire Marshal; Supt. Ramon O. Giron, Chief of Administrative Branch; and Ruben U. Pascua, Regional Supply Accountable Officer, who are all officers of the BFP-NCR, reported to Fire Chief Francisco Senot that there was an anomaly in the purchase of supplies for the fourth quarter of CY 2002.

The complainants alleged that the BFP-NCR Regional Office received an Advice Sub-Allotment and a Notice of Transfer of Cash Allocation from the BFP Central Office only sometime in the second week of December 2002, but by December 27, 2002, the bidding was completed and the purported winning bidders were able to encash their checks in payment of their products.

They further alleged that SFO2 Cabungcal, OIC Regional Supply Accountable Officer, was authorized to sign the documents relative to the procurement of supplies for the fourth quarter of CY 2002, in lieu of complainant Pascua. Moreover, complainants were intrigued by the fact that the fourth quarter operational support fund was released to BFP-NCR ahead of the third quarter operational fund, which remained unliquidated.

Lastly, complainants alleged that petitioner authorized Biazon to pay in advance the funds for minor maintenance of fire trucks in the amount of more or less P750,000.

Fire Chief Senot immediately acted on the complaint and issued an order creating an investigation and inventory team to inspect the BFP-NCR stockroom where the supplies were stored. Upon learning about the Order, petitioner requested that the ocular inspection be held in abeyance until verification of Pascua's motive in filing the complaint against him. Petitioner alleged that Pascua had a personal grudge against him because he discovered Pascua's gross deficits in gasoline, diesel and other petroleum products.

On January 5, 2003, the team proceeded to inspect the stockroom, but Biazon refused to open it allegedly upon petitioner's instruction. However, when no team member was around, Biazon surreptitiously tried to open the stockroom using the keys in his possession. In order to preserve the contents of the stockroom, a monitoring team from the Central Office was detailed to watch the stockroom around the clock.

On January 21, 2003, Department of Interior and Local Government (DILG) Undersecretary Marius Corpus instructed Senior Superintendent Romero, Chief of Internal Affairs Services, to open the stockroom despite Biazon's refusal. Eventually, the stockroom was opened with the help of Cabungcal.

After an inventory, the team discovered that twelve (12) computer units were delivered to the BFP-NCR which were reportedly inspected and accepted by Biazon on December 23, 2002. Biazon explained that payments were made prior to delivery of the items and he submitted the corresponding delivery receipts to the team. It was discovered that the delivered units were withdrawn several days after the delivery.

On January 22, 2003, Sr. Supt. Romero sent a radio message directing all district, city, and municipal fire marshals under petitioner's supervision to submit on or before January 23, 2003 the list of supplies, materials and equipment received by their respective offices for the fourth quarter of CY 2002, indicating the respective dates of delivery. On January 23, 2003, Fire Chief Senot relayed the radio message to the Office of the Regional Fire Marshal with a note that the same was for strict compliance.

On the other hand, petitioner issued a memorandum canceling the directives on the list of inventory sent to him. He also issued another memorandum directing his staff and the district, city, and municipal fire marshals under his supervision to hold in abeyance compliance with the radio messages. He further issued a memorandum directing complainant Giron to refrain from further issuing any memorandum or radio message without his approval. He sought the court's intercession by filing a petition for prohibition with a prayer for the issuance of a temporary restraining order to stop Sr. Supt. Romero from further conducting an investigation.

On January 27, 2003, DILG Secretary Jose D. Lina, Jr. issued Department Order No. 2003-59 relieving petitioner as Regional Fire Marshal/Assistant Regional Director (RFM/ARD) and placing him on "DS" at Headquarters Service Support Unit, BFP-National Office, in the exigency of the service.

On February 12, 2003, the team reported the result of the investigation finding, thus:

- No actual bidding transpired in the procurement of the supplies.
- Petitioner merely directed the members of the PBAC to sign the resolutions and the abstracts of Canvass/Bid.
- The Commission on Audit was not notified of the supposed bidding.
- Petitioner entered into contract with the suppliers wherein the supplies were overpriced by more or less P1,067,025.50 to the prejudice of the government.
- The electrical supplies, barricade tapes and computer parts which were reported to have been paid and delivered were not in the stockroom.

The team recommended that petitioner and other BFP officials involved in the anomaly be charged with grave misconduct for violation of the rules on procurement of supplies, for deliberate disobedience to the lawful order of higher authorities and for suppression of evidence.

On February 14, 2003, DILG Secretary Lina issued Department Order No. 2003-146 creating a committee to conduct a preliminary investigation of the case against petitioner, Danilo D. Mayuga, Ester P. Adordionicio, Danilo V. Pinion, Marco M. Manaois, Rolando G. Biazon, Willie G. Cabungcal, Efren P. Guardiano, Danilo C. dela Peña, Fennimore V. Jaudian, Sixto C. Bautista and Edgardo P. Antonio, who are all employees of the BFP-NCR.

The committee directed the respondents to submit their counter-affidavits within 15 days from receipt of notice.

In his counter-affidavit, petitioner denied the allegations against him and elected the conduct of a formal investigation. He alleged that it was presumed that the members of the PBAC regularly performed their duties relative to the conduct of a public bidding, such as the issuance of a resolution recommending the award of contracts to the successful bidders. As head of BFP-NCR, he had the authority to award the contracts to the winning bidders pursuant to the PBAC resolution. He stated that the allegation that the supplies were overpriced was based on suspicion, surmise and conjecture. He justified his approval of the payment of the supplies on the basis of supporting certifications of proper authorities and stated that even though the signature of the accountant did not appear on some checks, the accountant's signature on all other papers sufficed. He denied that there was suppression of evidence, that he refused to allow the team to open the stockroom and that he instructed Biazon not to open it.

DILG Secretary Lina found a prima facie case against petitioner. On June 30, 2003, petitioner was charged with grave misconduct in that he:

- Caused the procurement of supplies, materials and equipment intended for the BFP, NCR for the Fourth Quarter (2002) in violation of law and rules on procurement;
- Made it appear that a sealed bidding was conducted when there was none;
- Directed the members of the PBAC to sign resolutions and abstract of bids in his office;
- Failed to notify the COA of the alleged opening of the bids;
- Signed the Notice of Awards;

- Approved the payment of supplies, materials and equipment when he knew that there was no Certification of Supply Availability Inquiry and Certification of Availability of Funds issued by the Regional Accountant and that the items were not yet fully delivered;
- Disobeyed orders of superiors and countermanded the same; and
- Suppressed evidence.[3]

Petitioner was directed to submit his Answer within ten days from receipt of the Order, but he did not file an Answer.

On November 24, 2003, the committee issued an order setting the case for preliminary hearing on December 2, 2003. The order was received by petitioner's counsel on November 25, 2003, but neither petitioner nor his counsel appeared on the date set. The preliminary hearing was reset to December 9, 2003. The Order was received by petitioner's counsel on December 3, 2003, but again neither petitioner nor his counsel appeared. Hence, petitioner was declared to have waived his right to present evidence.

On December 11, 2003, the counsel for complainant filed a motion for early resolution of petitioner's case.

On January 21, 2004, Secretary Lina issued a decision finding petitioner guilty of grave misconduct for all the acts he was charged to have committed, and dismissing him from the service. Petitioner's motion for reconsideration was denied.

Petitioner appealed DILG Secretary Lina's decision to the CSC. On July 20, 2005, the CSC issued Resolution No. 050947 finding petitioner guilty of grave misconduct for approving the payment of supplies without a certification from the Accountant that funds were available and for disobeying and/or countermanding the lawful orders of his superiors.

The dispositive portion of Resolution No. 050947 reads:

WHEREFORE, the appeal of Rash C. Roque is hereby DISMISSED. Accordingly, the Decision of Department of the Interior and Local Government Secretary Jose D. Lina dated January 21, 2004 finding Roque GUILTY of Grave Misconduct with a penalty of dismissal from the service is AFFIRMED. Roque is also imposed the accessory penalties of perpetual disqualification from re-entering the government service, forfeiture of retirement benefits and cancellation of Civil Service eligibility pursuant to the Uniform Rules on Administrative Cases in the Civil Service.

Let a copy of this Resolution be forwarded to the Office of the Ombudsman for its appropriate action and the GSIS for the implementation of the accessory penalty of forfeiture of retirement benefits.[4]

Petitioner's motion for reconsideration was denied by the CSC in Resolution No. 051850 dated December 13, 2005.

Petitioner filed a petition for review of the CSC decision before the Court of Appeals. On May 29, 2007, the Court of Appeals rendered a decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the instant petition is DISMISSED and the assailed Resolution Nos. 05-0947 and 05-1850 dated July 20, 2004 and December 13, 2005, respectively, of public respondent commission are AFFIRMED.[5]

Petitioner's motion for reconsideration was denied for lack of merit by the Court of Appeals in a Resolution dated August 9, 2007.

Hence, this petition.

The issues are:

- Whether or not the Court of Appeals erred in sustaining the Decision of the Civil Service Commission as petitioner's constitutional right to due process of law was allegedly violated.
- Whether or not petitioner committed grave misconduct warranting his dismissal from the service.

Petitioner contends that the Decision of the DILG Secretary did not take into consideration his counter-affidavit which should have been adopted as his Answer; hence, the decision of the DILG, which was upheld by the CSC and the Court of Appeals, dismissing him from the service is null and void for depriving him of his constitutional right to due process of law.

Petitioner also alleges that the Decision of the DILG Secretary was based on the documents attached to the charge, and there is no showing that they were identified, much less formally offered in evidence. Hence, they cannot be considered competent evidence to support a valid decision.

Petitioner further argues that considering the gravity of the penalty which is dismissal from the service of one who has rendered faithful service to the government for decades, the decision should have been immediately set aside if only to afford him a full opportunity to properly defend himself. However, the CSC simply adopted the dismissal order of the DILG Secretary, and the Court of Appeals affirmed the decision of the CSC.

The arguments of petitioner lack merit.

As a rule, the uniform finding of fact of the CSC and the Court of Appeals is conclusive upon this Court. Our task in an appeal by petition for review on certiorari as a jurisdictional matter, is limited to reviewing errors of law that might have been committed by the Court of Appeals.[6]

The Court agrees with the finding of the Court of Appeals that petitioner was not denied due process of law, thus:

. . . [P]etitioner cannot successfully invoke denial of due process since he was given the opportunity to be heard. The facts obtaining in the case at bar sufficiently show that petitioner was given ample opportunity to be heard. The then Secretary Lina ordered petitioner to file his answer [to] the formal charge within ten (10) days from receipt thereof and to state whether he elects to have a formal investigation. Further, petitioner was advised that he may avail of the assistance of the counsel of his choice and was apprised that his failure to submit an answer would be construed as a waiver thereof. Petitioner opted not to file his answer on the ground that the formal charge did not allege new matters and to re-submit his counter-affidavit in the complaint, BFP-NCR 4[th] Quarter Anomalies Transaction would only be repetitious and redundant. When the case was set for preliminary conferences, on December 2, 2003 and December 9, 2003, neither petitioner nor his counsel appeared despite receipt of notices.

Obviously, petitioner was not denied of due process. In administrative proceedings, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusation against him constitute the minimum requirements of due process. The opportunity to defend his interests in due course was given to petitioner but [he] failed to do so; hence, petitioner has no reason to complain for it is this opportunity to be heard that makes up the essence of due process.

The non-submission of [an] answer by the petitioner to the formal charge does not mean the he [was] denied due process. It bears stressing that the Investigative Committee accepted the counter-affidavit of petitioner to the complaint albeit the same was belatedly filed. The acceptance is in accord with the basic rule of administrative law that technical rules of procedure are liberally applied to administrative agencies exercising quasi-judicial functions. As such, the counter-affidavit formed part of the records of the case which can be considered by the deciding authority.

A perusal of the rollo of the case shows that the committee has indeed considered the counter-affidavit but unfortunately the committee found that the allegations therein were not enough to controvert the factual matters found by the committee that led to the administrative charge for grave misconduct. There is no doubt Secretary Joey Lina considered the counter-affidavit. This can be gleaned from his decision to wit:

After evaluating the xxx Fact Finding Report which has remained uncontroverted, together with the other pertinent documents attached to the records of the case, this Office finds Respondent Roque culpable of the administrative offense of Grave Misconduct xxx.

In affirming the decision of Secretary Joey Lina, public respondent commission likewise took into consideration the counter-affidavit, but again, public respondent commission found that the contentions of petitioner failed to controvert the fact finding report of the committee. On our part, the counter-affidavit is pure denial. The Supreme Court in a litany of cases has ruled that denial, if unsubstantiated by clear and convincing evidence is a self-serving assertion that deserves no weight in law.[7]

The Court of Appeals also correctly sustained the CSC's Decision finding petitioner guilty of grave misconduct for violating the procedure for the procurement of supplies, and for approving the Disbursement Vouchers without the certification from the Accountant. The CSC Decision stated:

. . . [T]he Commission finds Roque guilty of Grave Misconduct for approving the payment of supplies without a Certification from the Accountant that funds are available. As provided in the Local Government Code of 1991, the General Appropriations Act and other pertinent laws and rules, the procurement of supplies is dependent on the availability of funds evidenced by the issuance of an Advice of Sub-Allotment and Notice of Transfer of Cash Allocation by the Central Finance Office of the agency to the procuring unit. Upon the establishment of fund availability, the basic procedures for the procurement of supplies are, as follows:

1) Preparation of Purchase Request. The Head of Office needing the supplies prepares a Purchase Request certifying the necessity of the purchase for official use and specifying the project where the supplies are to be used. Every Purchase Request must be accompanied by a certificate signed by the local Budget Officer, the local Accountant, and the local Treasurer showing that an appropriation therefor exists, that the estimated amount of such expenditure has been obligated, and that the funds are available for the purpose, respectively.

2) Approval of the Purchase Request. The Head of Office or department concerned who has administrative control of the appropriation against which the proposed expenditure is chargeable approves the Purchase Request.

3) Endorsement of the PBAC for bidding. The PBAC advertises the invitation to bid and the notice or prequalification, conducts the opening of bids, prepares the Abstract of Bids, conducts the evaluation of bids, undertakes post-qualification proceedings, and recommends to the Head of Office the award of contracts to the successful bidder. The Head of Office issues the Notice of Award.

4) Preparation of Certificate of Availability of Funds. The Chief Accountant certifies that funds have been duly appropriated/allotted for the purpose of entering into a contract involving expenditures of public funds and that the amount necessary to cover the proposed contract for the current fiscal year is available.

5) Preparation of Purchase Order. The Head of Office approves the Purchase Order which is a document evidencing a transaction for the purchase of supplies.

6) Delivery of Purchase Order. The Purchase Order is delivered to the supplier within a reasonable time after its approval.

7) Delivery of Items. The supplier delivers the supplies in accordance with the specifications, terms and conditions provided in the Purchase Order.

8) Inspection of Items. The inspector inspects and verifies the purchases made by the agency for conformity

with the specifications in the order.

9) Preparation of Certificate of Acceptance. Acceptance of deliveries may be made only if the supplies and materials delivered conform to the standards and specification stated in the contract.

10) Preparation of the Voucher. The Budget Officer, the Accountant and the Treasurer certify that all documents are complete and proper. The Head of Office approves the Disbursement Voucher for the release of check for payment.

As can be gleaned from the foregoing procedures, the participation of the Head of Office consists in the approval of the Purchase Request, Purchase Order, and the Disbursement Voucher and in the award of the contract to the successful bidder. As Head of the Regional Office, Roque has authority to approve and sign the Notice of Award based on the PBAC Resolution and the Disbursement Voucher upon certification of the Budget officer, the Accountant and that Treasurer that all supporting documents are complete and proper.

Roque claims good faith since his approval of the Disbursement Vouchers, though without the signature of the Accountant, is supported by papers bearing the signature of the Accountant. This is devoid of merit. The authority of the Head of Office to approve the Disbursement Voucher is dependent on the certifications of the Budget Officer, the Accountant and the Treasurer on the principle that it would be improbable for the Head of Office to check all the details and conduct physical inspection and verification of all papers considering the voluminous paperwork attendant to his office. Without the certification, the Head of Office is duty-bound to inspect the voluminous records to verify the contents of the documents needing his approval. It needs emphasis that the approval of the Disbursement Voucher means the release of public funds, as in this case, for payment of the supplies to the supplier. In the instant case, Roque approved the Disbursement Vouchers despite the lack of the Accountant's certification. He failed to perform his duty of ascertaining whether it is proper for him to approve the Disbursement Vouchers before he approves the same. This is not a mere oversight which the Commission may easily disregard. His act constitutes Grave Misconduct which warrants his dismissal from the service. [8]

Misconduct is "a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer." [9] The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law or to disregard established rules, which must be established by substantial evidence.[10] Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[11]

The Court agrees with the Court of Appeals that there is substantial evidence that petitioner's act constituted grave misconduct, as petitioner voluntarily disregarded established rules in the procurement of supplies. The Court of Appeals found, thus:

. . . [T]here is no showing that petitioner conducted verifications on the supporting papers of the Disbursement Vouchers. Instead, he claimed that he was in good faith in approving them as the supporting papers bore the signature of the Accountant. . . This Court is of the opinion that the approval of more than one disbursement voucher without the necessary certification of the accountant casts doubt on the claim of petitioner that he was in good faith. . . Unmistakably, the intent to violate the law or flagrant disregard of established rule is manifest in the matter under consideration. It could have been different if only one disbursement voucher is involved.[12]

As regards petitioner's acts of disobeying and/or countermanding the lawful orders of his superiors, the Court agrees with the Court of Appeals that such acts can be classified as gross insubordination punishable with suspension for six months and one day to one year for the first offense, and dismissal for the second offense.

In fine, the Court of Appeals correctly found petitioner guilty of grave misconduct for manifest intent to disregard

established rules in the procurement of supplies. Under Sec. 22, Rule IV of the Omnibus Civil Service Rules and Regulations, grave misconduct is classified as a grave offense and penalized with dismissal for the first offense. The penalty of dismissal carries with it forfeiture of retirement benefits excluding leave credits,[13] and disqualification from reemployment in the government service. Despite dismissal from the service, petitioner, as a government employee, is entitled to the leave credits that he has earned during the period of his employment.[14]

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. SP No. 93349 promulgated on May 29, 2007 and its Resolution promulgated on August 9, 2007 are hereby AFFIRMED.

No costs.

SO ORDERED.

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

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

[2] CA Decision, rollo, p. 203.

[3] Rollo, pp. 68-69.

[4] Id . at 146.

[5] Id . at 214.

[6] Dadulo v. Court of Appeals, G.R. No. 175451, April 13, 2007, 521 SCRA 357.

[7] Rollo, pp. 208-210.

[8] Id . at 143-145.

[9] Civil Service Commission v. Ledesma, G.R. No. 154521, September 30, 2005.

[10] Ibid.

[11] Supra, note 6.

[12] Rollo, pp. 212-213.

[13] Igoy v. Soraino, A.M. No. 2001-9-SC, July 14, 2005, 495 SCRA 1.

[14] Id . at 6.

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.