

DEPARTMENT OF LABOR AND EMPLOYMENT (DOLE) AND NATIONAL MARITIME POLYTECHNIC (NMP), PETITIONERS, VS. RUBEN Y. MACEDA, RESPONDENT.

G.R. No. 185112. January 18, 2010

Ponente: ABAD, J.

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ABAD, J.:

This case pertains to the importance of complying with the prescribed qualification standards, and the appropriate mode of assailing a decision of the Civil Service Commission (CSC).

The Facts and the Case

On June 28, 1989 respondent Ruben Y. Maceda, a deck marine officer, joined the National Maritime Polytechnic (NMP), a government school, with a permanent appointment as Instructor I. He rose to the permanent positions of Assistant Professor I and later Associate Professor I. He studied law in the meantime and passed the bar in 1996. He was later designated as Officer-in-Charge (OIC) of the Maritime Training Division and as NMP's legal counsel.

In 1998, the NMP again promoted respondent Maceda to the rank of Professor I but this time under a mere temporary appointment. He subsequently wrote the NMP Executive Director, submitting justifications for changing his temporary status to a permanent one. In 1999 the International Maritime Law sponsored his studies in the IMO-International Maritime Law Institute in Malta. He finished his master's degree in 2000. He later developed a module in maritime law for Marine Officers of the NMP and started teaching the subject in May 2004.

Yearly, from January 7, 2000 to January 7, 2003, the NMP renewed respondent Maceda's temporary appointment as Professor I. In 2001 he resigned from his position as NMP legal counsel. In 2002 the NMP completed the revision of the Qualification Standard (QS) for its staff. Maceda claimed, however, that nothing has since been heard of that revised QS after the NMP submitted the same to the CSC for approval.

On February 13, 2003 the Human Resources Management Section of NMP wrote respondent Maceda, advising him that the school would be putting him under contractual employment from January 7 to June 30, 2003 or until such time as the CSC shall have already approved the NMP Maritime Training Revised Qualification Standard.

On March 20, 2003 the NMP Executive Director, Noriel Devanadera, wrote respondent Maceda, informing him that his temporary appointment as Professor I was being renewed effective on April 1, 2003 and that the succeeding renewal of his appointment would be subject to his meeting the requirements of the position. The NMP considered Maceda first priority for the Shipboard Rotation Scheme for 2003 and for holding the 3rd Officer position on board ship. He answered the letter, making a number of requests, so he could avail of the Shipboard Rotation Scheme. But the NMP did not act on his letter.

Meanwhile, Maceda applied from 2001 to 2003 for the position of Administrative Officer V which then remained vacant. But an OIC was instead appointed to that position.

In 2001 the NMP advised all employees occupying next-in-rank positions to the Deputy Executive Director (DED) III to submit their updated Personal Data Sheets (PDS) for evaluation as candidates to that position until May 15, 2001. On May 28, 2001 Maceda belatedly submitted his updated PDS for evaluation.

On December 23, 2003, the NMP OIC wrote respondent Maceda, informing him that his appointment as Professor I would be renewed on contractual status effective from January 5 to June 30, 2004. Maceda agreed and signed a contract of employment on January 5, 2004. On the same date, however, Maceda filed a complaint with the CSC regarding his demotion in employment status. The Administrative Officer of the CSC regional office convinced him, however, that the renewal of the appointments of temporary employees is a prerogative of the head of the agency.

On June 30, 2004 the NMP OIC informed respondent Maceda that, on instructions from Devanadera, he was not to report for work anymore on the following day. On July 13, 2004, however, Devanadera asked Maceda to be a guest lecturer in Maritime Law, thus acknowledging the need for his services and his expertise on the subject.

On June 2, 2004 respondent Maceda wrote to the members of the Board of Trustees of NMP about his illegal termination as professor and Devanadera's mismanagement of the school's affairs. Further, Maceda charged Devanadera and NMP before the Department of Labor and Employment (DOLE) of oppression leading to his illegal termination. On October 21, 2004, the DOLE Secretary dismissed his complaint.

On November 2, 2004 respondent Maceda appealed his case to the CSC but the latter dismissed the same for lack of jurisdiction, pointing out that, since Devanadera was a presidential appointee, the power to discipline him belonged to the President. Maceda filed a motion for reconsideration but on March 7, 2007 the CSC denied the same. The CSC held that, as a holder of a temporary and contractual employment, Maceda did not enjoy security of tenure. The CSC further held that it was his fault that he did not take steps to remedy his deficiency, namely, a shipboard experience on license, after holding the position of Professor I for five years. This prompted Maceda to seek recourse by special civil action of certiorari with the Court of Appeals (CA) in CA-G.R. SP 99539.

On May 28, 2008 the CA rendered a decision, granting the petition, ordering the NMP to reinstate Maceda to his previous position as Professor I, and directing it to pay his salary and other benefits from July 1, 2004 until he is reinstated. The DOLE and the NMP moved for reconsideration of the decision but the CA denied the same, hence, this petition.

The Issues Presented

Petitioners raise two issues for this Court's resolution:

- Whether or not the CA correctly gave due course to Maceda's special civil action of certiorari for the correction of the alleged errors in the rulings of the CSC; and
- Whether or not the NMP illegally terminated Maceda from employment as professor.

The Rulings of the Court

One. The CA ruled that there was nothing novel about a petition for certiorari being filed with that court when the act or omission complained of involved grave abuse of discretion or excess of jurisdiction. This Court must disagree.

In determining whether the proper remedy is a special civil action for certiorari or a petition for review, it is not so

much the nature of the question or questions that would be raised that matters. With very rare exceptions, what is decisive is whether or not the challenged order is a final order that disposes of the merit of the case.[1]

The Court held in *Metropolitan Manila Development Authority v. Jancom Environmental Corp.*[2] that the remedy for seeking the reversal or modification of a judgment rendered on the merits of the case is appeal. This is true even if the error imputed to the officer, body, or tribunal constitutes alleged lack of jurisdiction over the subject matter of the case or grave abuse of discretion in making its or his findings of fact or of law. The Court cannot countenance the blurring of the distinction between a special civil action for certiorari and a petition for review.[3]

Besides, it cannot be said that the CSC gravely abused its discretion in dismissing respondent Maceda's complaint. Grave abuse of discretion exists where the public respondent acts in a manner so patent and gross that it amounts to an evasion of a positive duty or a virtual refusal to do what the law enjoins on him. It is not sufficient that the CA disagreed with the findings of the CSC or considered them in error; it had to determine that the CSC's findings had run berserk, prompted by passion and personal hostility rather than by reason.[4] The CA did not make this determination.

Two. At any rate, even if the Court were to disregard the important distinction between a special civil action of certiorari and a petition for review, it still cannot uphold the CA's decision. For instance, it points out that the NMP ignored Maceda's solid work, expertise, and experience when it said that he was not qualified to become a permanent professor. But Maceda's so-called accomplishments cannot count for much where, as in this case, they do not in fact meet the uniform standards set by the school for its permanent professors.

Nor can it be said that the NMP did not give respondent Maceda sufficient leeway to meet those standards. The CA's finding that the NMP disregarded Maceda's request[5] that he be allowed to avail himself of the school's training privileges, so he could comply with the requirements of the Shipboard Rotation Scheme, is not supported by evidence. Devanadera approved Maceda's request through his OED Memorandum Order 303-2003[6] dated August 5, 2003. Maceda simply did not avail himself of the school's Shipboard Rotation Scheme nor submit the papers needed under that program.

The CA also faults the NMP for not appointing Maceda as Administrative Officer V or DED III if he could not be given a permanent appointment as professor. But the power to appoint rests essentially on free choice. The appointing authority has the right to decide who best fits the job from among those who meet the minimum requirements for it. As an outsider, quite remote from the day-to-day problems of a government agency such as NMP, no court of law can presume to have the wisdom needed to make a better judgment respecting staff appointments.[7]

Lastly, the CA assumed the power and discretion to declare Maceda's 15 years of teaching experience sufficient compliance with the "shipboard experience on license" requirement of the NMP. But under the relevant NMP QS then in force, a Professor I, who was a Marine Merchant Officer with a rank of a 3rd Mate Officer, must possess a two-year sea experience (on license) and three years of teaching experience.[8] Maceda had sufficient teaching experience but he did not have the required shipboard experience. In fact, he did not board any vessel as a licensed 3rd Mate Officer.

The records show that, despite the repeated efforts of the NMP Human Resource Management Section to get him on board, respondent Maceda still did not bother to complete the required shipboard experience.[9] Because of this, the NMP could only give him temporary appointment that did not provide any security of tenure.[10] Such appointment is of course terminable at the pleasure of the appointing power with or without a cause.[11]

Maceda contends that the NMP demoted him from a temporary to a contractual position. But, as both the DOLE and the CSC uniformly held, no such demotion took place since a contractual appointment is of the same nature as a temporary appointment. Thus, when the NMP did not further renew Maceda's contractual appointment, the same cannot be regarded as a dismissal but an expiration of his term.[12]

The Court acknowledges respondent Maceda's numerous achievements here and abroad as well as his part in teaching Filipino seafarers. But these cannot replace the need for him to meet the prescribed qualification standard for the position of Professor I.[13] Such standard is a mix of the formal education, experience, training, civil service eligibility, physical health, and attitude that the job requires.[14] They need to be met by those who seek the position. Maceda did not.

ACCORDINGLY, the Court GRANTS the petition, REVERSES the decision dated May 28, 2008 and resolution dated October 29, 2008 of the Court of Appeals in CA-G.R. SP 99539, and REINSTATES Resolution 070433 dated March 7, 2007 of the Civil Service Commission.

SO ORDERED.

Carpio, Brion, Del Castillo, and Perez, JJ., concur.

[1] Del Pozo v. Penaco, G.R. No. L-48302, November 23, 1988, 167 SCRA 577, 589.

[2] 425 Phil. 961, 973 (2002).

[3] Id.

[4] Toyota Autoparts, Phils., Inc. v. The Director of Bureau of Labor Relations, 363 Phil. 437, 446 (1999).

[5] CA rollo, pp. 95-96.

[6] Rollo, p. 33.

[7] Salles v. Francisco, G.R. No. 95425, February 26, 1992, 206 SCRA 621, 627-628.

[8] Rollo, pp. 28-29.

[9] CA rollo, p. 185.

[10] House of Representatives v. Loanzon, G.R. No. 168267, February 16, 2006, 482 SCRA 533, 539.

[11] Pabu-aya v. Court of Appeals, 408 Phil. 782, 790 (2001).

[12] CA rollo, p. 39.

[13] Mathay, Jr. v. Civil Service Commission, 371 Phil. 17, 29 (1999).

[14] Section 2, Rule IV, Omnibus Rules Implementing Book V of Executive Order No. 292 or the Administrative Code of 1987.

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